

STATUTORY INSTRUMENTS

2017 No. 571

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

PART 7

Restrictions of grants of permission

New simplified planning zone schemes or enterprise zone orders

31. No—

- (a) adoption or approval of a simplified planning zone scheme ^{M1};
- (b) order designating an enterprise zone made ^{M2}; or
- (c) approval of a modified scheme in relation to an enterprise zone,

shall grant planning permission for EIA development, but it may grant planning permission for Schedule 2 development where that grant is made subject to the prior adoption of a screening opinion or to the prior making of a screening direction that the particular proposed development is not EIA development.

Marginal Citations

M1 See section 83 of, and Schedule 7 to, the 1990 Act.

M2 See sections 88 and 89 of the 1990 Act, and Schedule 32 to the [Local Government, Planning and Land Act 1980 \(c. 65\)](#).

Local development orders

32.—(1) This regulation applies in relation to Schedule 2 development for which a local planning authority proposes to grant planning permission by local development order.

(2) Where this regulation applies, the local planning authority must not make a local development order unless it has prepared the information referred to in regulation 6(2) in accordance with regulation 6(4) and adopted a screening opinion, or the Secretary of State has made a screening direction; and regulation 5 shall apply in relation to that screening with the following modifications.

(3) In regulation 5—

- (a) paragraph (2)(a) shall not apply;
- (b) in paragraph (2)(b) for “relevant” substitute “local”;
- (c) in paragraph (4)(a) for “provided by the applicant” substitute “prepared by the local planning authority in accordance with regulation 32(2)”;
- (d) in paragraph [F1(12)] for “relevant” substitute “local”;

(4) Paragraphs (5) and (6) apply where—

- (a) the local planning authority adopts a screening opinion; or
 - (b) the Secretary of State makes a screening direction under these Regulations,
- to the effect that the development is EIA development.
- (5) The local planning authority must not make a local development order which would grant planning permission for EIA development unless—
- (a) an environmental statement has been prepared in relation to that development; and
 - (b) the EIA has been carried out in respect of that development.
- (6) In a case to which this regulation applies these Regulations apply subject to the following modifications—
- (a) in regulation 2(1), in the definition of “any other information” for “applicant or the appellant as the case may be” substitute “ local planning authority ”;
 - (b) regulations 3, 6 to 14, 17, 21 and 22 shall not apply;
 - (c) in regulation 15—
 - (i) for paragraph (1) substitute—

“(1) Where a proposed local development order is EIA development, the local planning authority may state in writing its opinion as to the scope and level of detail of the information to be provided in the environmental statement (“a scoping opinion”).”;
 - (ii) in paragraph (2) for “A request under paragraph (1) must include—” substitute “ Before issuing an opinion in accordance with paragraph (1) the local planning authority must prepare— ”;
 - (iii) in paragraph (2)(a) omit “in relation to an application for planning permission—”;
 - (iv) omit paragraph (2)(b);
 - (v) omit paragraph (3);
 - (vi) for paragraph (4) substitute—

“(4) An authority must not adopt a scoping opinion until they have consulted the consultation bodies.”;
 - (vii) omit paragraph (5);
 - (viii) in paragraph (6)(a), for “provided by the applicant” substitute “ prepared by the local planning authority in accordance with paragraph (2) ”;
 - (ix) for paragraph (7) substitute—

“(7) A local planning authority may under regulation 16(1) ask the Secretary of State to make a direction as to the information to be provided in the environmental statement (a “scoping direction”)”; and
 - (x) omit paragraphs (8) and (9);
 - (d) in regulation 16—
 - (i) for paragraph (1) substitute—

“(1) A request made under this paragraph pursuant to regulation 15(7) must include—

 - (a) the information referred to in regulation 15(2)(a); and
 - (b) any representations that the local planning authority making the request wishes to make.”;
 - (ii) omit paragraph (2);

- (iii) in paragraph (3)—
 - (aa) for “person” substitute “ local planning authority ”; and
 - (bb) omit “; and may request the relevant planning authority to provide such information as they can on any of those points.”;
- (iv) in paragraph (4)(b) for “person who made the [F²scoping direction] request and to the relevant” substitute “ local ”;
- (e) in regulation 18—
 - (i) omit paragraphs (1) and (2); and
 - (ii) in paragraph (5)(a) and (b) for “developer” substitute “ local planning authority ”;
- (f) for regulation 19 substitute—

“Procedure where an environmental statement is prepared in relation to a local development order

19.—(1) Where a statement, referred to as an “environmental statement” for the purposes of these Regulations, has been prepared in relation to EIA development for which a local planning authority proposes to grant planning permission by a local development order, the local planning authority must—

- (a) send a copy of the statement to the consultation bodies and inform them that they may make representations; and
- (b) notify any particular person of whom the authority is aware, who 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, of an address in the locality in which the land is situated where a copy of the statement may be obtained and the address to which representations may be sent.

(2) The local planning authority must not make the local development order until the expiry of 30 days from the last date on which a copy of the statement was served in accordance with this regulation.”;

- (g) in regulation 20—
 - (i) omit paragraph (1);
 - (ii) for paragraph (2) substitute—

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

 - (a) the name and address of the local planning authority;
 - (b) the address or location and the nature of the development referred to in the proposed local development order;
 - (c) that a copy of the draft local development order and of any plan or other documents accompanying it together with a copy of the environmental statement may be inspected by members of the public at all reasonable hours;
 - (d) 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);
 - (e) details of a website maintained by or on behalf of the authority on which those documents 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);
- (f) an address (whether or not the same as that given under sub-paragraph (d)) in the locality in which the land is situated at which copies of the statement may be obtained;
- (g) that copies of the statement may be obtained there so long as stocks last;
- (h) if a charge is to be made for a copy of the statement, the amount of the charge; and
- (i) that any person wishing to make representations about the local development order should make them in writing, before the latest date named in accordance with sub-paragraph (d) or (e), to the local planning authority.”;
- (iii) omit paragraph (3);
- (iv) in paragraph (4), for “applicant”, in each place, substitute “ local planning authority ”; and
- (v) omit paragraphs (6) to (10);
- (h) for regulation 23 substitute—

“Availability of copies of environmental statements

- 23.** The local planning authority must ensure that—
- (a) a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to EIA development for which the authority proposes to grant planning permission by a local development order are available at—
 - (i) their principal office during normal office hours; and
 - (ii) such other places within their area as they consider appropriate; and
 - (b) the environmental statement can be accessed at the website referred to in the notice required under regulation 20(2)(f).”;
- (i) in regulation 25—
- (i) for paragraph (1) substitute—

“(1) Where an environmental statement has been submitted and the local planning authority is of the opinion, in order to satisfy the requirements of regulation 18(3) and (4), 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 local planning authority must ensure that additional information is provided and such information provided is referred to in these Regulations as “further information”.”;
 - (ii) for paragraph (3) substitute—

“(3) The local planning authority must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

 - (a) the name and address of the local planning authority;
 - (b) the address or location and the nature of the development referred to in the proposed local development order;

- (c) that further information is available in relation to an environmental statement which has already been provided;
 - (d) that a copy of the further information 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 the further 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);
 - (f) details of a website maintained by or on behalf of the 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);
 - (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 further information may be obtained;
 - (h) that copies of the further information may be obtained there so long as stocks last;
 - (i) if a charge is to be made for a copy of the further information, the amount of the charge;
 - (j) that any person wishing to make representations about the further information should make them in writing, before the latest date specified in accordance with sub-paragraph (e) or (f), to the local planning authority; and
 - (k) the address to which representations should be sent.”;
- (iii) for paragraph (4) substitute—
- “(4) The local planning authority must send a copy of the further information to each person to whom, in accordance with these Regulations, the statement to which it relates was sent and to the Secretary of State.”;
- (iv) omit paragraphs (5) and (6);
- (v) for paragraph (7) substitute—
- “(7) Where information is provided under paragraph (1) the local planning authority must not make the local development order 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.”;
- (vi) in paragraph (8)—
- (aa) for “The applicant or appellant who provides further information or any other information, in accordance with paragraph (1)” substitute “ The local planning authority ”;
 - (bb) in sub-paragraph (a) after “number of copies of the” insert “ further or other ”;
 - (cc) in sub-paragraph (b) omit “required by the relevant planning authority”;
- (vii) in paragraph (9), for “relevant” substitute “ local ”; and

- (viii) omit paragraph (11);
- (j) in regulation 26(1) for “an application or appeal” substitute “ whether to make a local development order ”;
- (k) in regulation 28—
 - (i) for paragraph (1) substitute—

“(1) Where particulars of a draft local development order are placed on Part 3 of the register, the local planning authority must take steps to secure that there is also placed on that Part a copy of any relevant—

 - (a) scoping opinion;
 - (b) screening opinion;
 - (c) screening direction;
 - (d) direction under regulation 63;
 - (e) the statement referred to as the environmental statement including any further information;
 - (f) statement of reasons accompanying any of the above.”;
 - (ii) in paragraph (2)—
 - (aa) for “relevant planning authority” substitute “ local planning authority ” in both places; and
 - (bb) for “an application is made for planning permission or subsequent consent for the development in question” substitute “ particulars of a draft local development order are placed on Part 3 of the register ”;
- (l) in regulation 29—
 - (i) for paragraph (1) substitute—

“(1) Where a local planning authority makes a local development order granting permission for development which constitutes EIA development it must prepare a statement setting out the information specified in paragraph (2)(a).”;
 - (ii) omit paragraph (2)(b);
- (m) in regulation 30—
 - (i) in paragraph (1) for “Where an EIA application is determined by a local planning authority” substitute “ Where a local planning authority makes a local development order granting permission for development which constitutes EIA development ”; and
 - (ii) omit paragraphs (2) and (3); and
- (n) in regulation 58—
 - (i) in paragraph (1) for sub-paragraph (a) substitute—

“(a) it comes to the attention of the Secretary of State that EIA development proposed to be carried out in England for which a local planning authority proposes to grant planning permission by a local development order is likely to have significant effects on the environment in [F3an] EEA state; or”;
 - (ii) in paragraphs (3) and (6) for “application” substitute “ proposed local development order ”.

Textual Amendments

- F1** Word in reg. 32(3)(d) substituted (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(4)(a)**
- F2** Words in reg. 32(6)(d)(iv) 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(4)(b)**
- F3** Word in reg. 32(6)(n)(i) substituted (31.12.2020) by [The Environmental Assessments and Miscellaneous Planning \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1232\)](#), regs. 1(2), **6(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Neighbourhood development orders

33.—(1) This regulation applies to Schedule 2 development for which an order proposal is submitted under paragraph 1 of Schedule 4B to the Act ^{M3}.

(2) Paragraphs (3) and (4) apply where—

- (a) the local planning authority adopts a screening opinion; or
- (b) the Secretary of State makes a screening direction under these Regulations,

to the effect that the proposed development is Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location, and regulation 5 shall apply in relation to that screening with the modifications set out in paragraph (3).

(3) In regulation 5—

(i) for paragraph (2)(a), substitute—

“(a) the submission by a qualifying body in relation to that development of a statement referred to by the qualifying body as an environmental statement for the purposes of these Regulations; or”;

(ii) in paragraph (4)(a) for “applicant” substitute “qualifying body”; and

(iii) in paragraph (5)(c), for “person” substitute “qualifying body”.

(4) No referendum may be held under paragraph 12(4) of Schedule 4B to the Act on the making of a neighbourhood development order which would grant planning permission for Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location unless—

- (a) an environmental statement has been prepared in relation to that development;
- (b) the local planning authority is satisfied that the basic condition prescribed by paragraph 2 of Schedule 3 to the Neighbourhood Planning (General) Regulations 2012 ^{M4} is met; and
- (c) the EIA has been carried out in respect of that development and the local planning authority has taken the environmental information into consideration.

(5) In a case to which this paragraph applies these Regulations have effect subject to the following modifications—

- (a) in regulation 2(1), in the definition of “any other information” for “applicant or the appellant as the case may be” substitute “qualifying body”;
- (b) regulation 3 shall not apply;
- (c) in regulation 6—
 - (i) for paragraph (1), substitute—

- “(1) A qualifying body which is minded to submit an order proposal may request the relevant local planning authority to adopt a screening opinion.”;
- (ii) in paragraph (2), for “A person making a request for a screening opinion in relation to development where an application for planning permission has been or is proposed to be submitted” substitute “ A qualifying body making a request for a screening opinion ”;
- (iii) omit paragraph (3); and
- (iv) in paragraphs (4) to (7) and (9) to (11) for each reference to “person” substitute “ qualifying body ”;
- (d) in regulation 7 for each reference to “person” substitute “ qualifying body ”;
- (e) in regulation 8—
- (i) for paragraph (1)(a) substitute—
- “(a) an order proposal which has been submitted to them under paragraph 1 of Schedule 4B to the Act relates to Schedule 2 development.”;
- (ii) in paragraph (1)(c)—
- (aa) for “application” substitute “ order proposal ”; and
- (bb) for “applicant” substitute “ qualifying body ”;
- (iii) in paragraph ^{F4}...(1) for “or lodging of the proposal” substitute “ of the order proposal ”; and
- (iv) in paragraph ^{F5}...(2) for “developer” substitute “ qualifying body ”;
- (f) omit regulations 9 and 10;
- (g) in regulation 11—
- (i) for paragraph (1) substitute—
- “(1) Where a qualifying body submits an EIA order proposal which is not accompanied by a statement referred to by the qualifying body as an environmental statement for the purposes of these Regulations, the authority must notify the qualifying body in writing that the submission of an environmental statement is required.”;
- (ii) in paragraph (2)—
- (aa) for “application” substitute “ order proposal ”; and
- (bb) for “applicant” substitute “ qualifying body ”;
- (iii) in paragraph (3)—
- (aa) for each reference to “applicant” substitute “ qualifying body ”; and
- (bb) for “application” substitute “ order proposal ”;
- (iv) for paragraphs (4) to (7) substitute—
- “(4) A qualifying body 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 it accepts their view and is providing an environmental statement; or
- (b) unless the condition referred to in paragraph (5) is satisfied, that it is writing to the Secretary of State to request a screening direction.
- (5) For the purpose of paragraph (4)(b) the condition is that the Secretary of State has made a screening direction in respect of the development.

(6) If the qualifying body does not write to the authority in accordance with paragraph (4), unless the condition referred to in paragraph (7) is satisfied, at the end of the 3 week period the relevant planning authority must decline to consider the order proposal.

(7) For the purpose of paragraph (6) the condition is that the Secretary of State has made a screening direction to the effect that the development is not EIA development.”;

(v) in paragraph (8) for “determine the relevant application only by refusing planning permission or subsequent consent if the applicant” substitute “ decline to consider the order proposal of the qualifying body [“if the qualifying body]”; and

(vi) in paragraph (9)—

(aa) for each reference to “person” substitute “ qualifying body ”;

(bb) in sub-paragraphs (c) and (d) for each reference to “application” substitute “ order proposal ”;

(cc) in sub-paragraph (e) for “applicant” substitute “ qualifying body ”;

(dd) omit sub-paragraphs (f) and (g);

(h) omit regulations 12 to 14;

(i) in regulation 15—

(i) for paragraphs (1) and (2) substitute—

“(1) A qualifying body which is minded to submit an order proposal in respect of EIA development may ask the relevant planning authority to state in writing their opinion as to the information to be provided in the environmental statement (“a scoping opinion”).

(2) A request under paragraph (1) must include—

(a) a plan sufficient to identify the land;

(b) a brief description of the nature and purpose of the development, including its location and technical capacity;

(c) an explanation of the likely significant effects of the proposed development on the environment; and

(d) such other information or representations as the qualifying body may wish to provide or make.”;

(ii) in paragraphs (3) to (5) and (7), for each reference to “person” substitute “ qualifying body ”;

(iii) in paragraph (6) for “applicant” substitute “ qualifying body ”; and

(iv) for paragraph (9) substitute—

“(9) An authority which has adopted a scoping opinion in response to a request under paragraph (1) shall not be precluded from requiring additional information from the qualifying body in connection with any statement that may be submitted as an environmental statement in connection with any order proposal that relates to the same development as was referred to in the request.”;

(j) in regulation 16—

(i) for each reference to “person” substitute “ qualifying body ”; and

(ii) for paragraph (6) substitute—

“(6) Neither the Secretary of State who has made a scoping direction in response to a request under paragraph (1) nor the relevant planning authority shall be precluded from requiring additional information from the qualifying body in connection with any statement that may be submitted as an environmental statement in connection with any order proposal that relates to the same development as was referred to in the request.”;

(k) in regulation 17—

- (i) for each reference to “person” substitute “qualifying body”; and
- (ii) in paragraph (3), omit “12(6), 13(6) or 14(7)”;

(l) in regulation 18—

- (i) omit paragraphs (1) and (2); and
- (ii) in paragraph (5) for “developer” substitute “qualifying body”;

(m) in regulation 19—

- (i) in paragraph (1) for “An applicant who makes an EIA application” substitute “A qualifying body which makes an EIA order proposal”;
- (ii) in paragraphs (2) to (4), for each reference to “applicant” substitute “qualifying body”;
- (iii) in paragraphs (2), (3) and (6) for each reference to “application” substitute “order proposal”; and
- (iv) for paragraph (5) substitute—

“(5) The local planning authority must not submit the order proposal for independent examination under paragraph 7 of Schedule 4B to the Act until the expiry of 30 days from the last date on which a copy of the statement was served in accordance with this regulation.”;

(n) in regulation 20—

- (i) for paragraphs (1) and (2)(a) and (b) substitute—

“Publicity where an environmental statement is submitted after the order proposal

20.—(1) Where a qualifying body has submitted an order proposal without an environmental statement and the qualifying body later proposes to submit such a statement, it must, before submitting it, comply with paragraphs (2) to (5).

(2) The qualifying body must publish in a local newspaper circulating in the locality in which the land to which the order proposal relates is situated a notice stating—

- (a) the qualifying body's name, that an order proposal has been submitted, and the name and address of the relevant planning authority;
- (b) the date on which the order proposal was submitted;”;

- (ii) in paragraph (2)(d)(i) for “application” substitute “order proposal”;
- (iii) omit paragraph (2)(d)(ii);
- (iv) for paragraph (2)(j) substitute—

- “(j) that any person wishing to make representations about the order proposal should make them in writing, before the latest date named in accordance with sub-paragraph (e) or (f), to the relevant planning authority.”;
- (v) in paragraph (3)—
 - (aa) for “An applicant who” substitute “ A qualifying body which ”;
 - (bb) omit “12(5), 13(5) or 14(6)”;
- (vi) in paragraphs (4) and (6) for each reference to “applicant” substitute “ qualifying body ”;
- (vii) for paragraph (8) substitute—
 - “(8) Where a qualifying body indicates that it intends to provide a statement in the circumstances mentioned in paragraph (1), the relevant planning authority must not consider the order proposal further until 30 days beginning with the last date on which the statement and other documents so mentioned are published in accordance with this regulation.”; and
- (viii) omit paragraph (9);
- (o) omit regulations 21 and 22;
- (p) for regulation 23 substitute—

“Availability of copies of environmental statements

- 23.** A qualifying body which submits an environmental statement in connection with an order proposal 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 regulation 23(2) of the Neighbourhood Planning (General) Regulations 2012 ^{M5} or regulation 20 as the address at which such copies may be obtained.”;
- (q) in regulation 25—
 - (i) for paragraph (1) substitute—
 - “(1) Where a relevant planning authority or independent examiner dealing with an order proposal in relation to which a qualifying body has submitted an environmental statement is of the opinion that, in order to satisfy the requirements of [F7regulation 18(3) and (4)], 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 proposed in order to be an environmental statement, the authority or the examiner, as the case may be, must notify the qualifying body in writing accordingly, and the qualifying body must provide that additional information; and such information provided by the qualifying body is referred to in these Regulations as “further information”.”;
 - (ii) for paragraph (3)(a) substitute—
 - “(a) the name of the qualifying body and the name and address of the relevant planning authority.”;
 - (iii) for paragraph (3)(b) substitute—
 - “(b) the date on which the order proposal was submitted.”;
 - (iv) omit paragraph (3)(c);
 - (v) in paragraph (3)(f) for “[F8application for] planning permission or subsequent application” substitute “ order proposal ”;

- (vi) in paragraph (3)(l) for “, the Secretary of State or the inspector (as the case may be)” substitute “ or independent examiner ”;
- (vii) in paragraph (6) for “applicant or appellant” substitute “ qualifying body ”;
- (viii) for paragraph (7), substitute—
 - “(7) Where information is requested under paragraph (1) or any other information is provided—
 - (a) the relevant planning authority must not consider the proposal further until 30 days following the receipt of the statement and of the other documents so mentioned;
 - (b) the independent examiner must not make their report until 30 days following the receipt of the statement and of the other documents so mentioned.”;
- (ix) in paragraph (8) for “applicant or appellant” substitute “ qualifying body ”; and
- (x) for paragraph (11) substitute—
 - “(11) The relevant planning authority or independent examiner may in writing require a qualifying body to produce such evidence as they may reasonably call for to verify any information in the environmental statement.”;
- (r) in regulation 26—
 - (i) in paragraph (1)—
 - (aa) for “an application or appeal” substitute “ whether to hold a referendum under paragraph 12(4) of Schedule 4B to the Act on the making of a neighbourhood development order ”;
 - (bb) omit “the Secretary of State or an inspector, as the case may be,” and
 - (cc) in sub-paragraphs (c) and (d) for “planning permission or subsequent consent is to be granted” substitute “ a referendum is to be held ”; and
 - (ii) in paragraph (2)—
 - (aa) for “grant planning permission or subsequent consent for EIA [F⁹development]” substitute “ make an EIA order proposal subject to a referendum ”; and
 - (bb) omit “^{F10}...the Secretary of State or inspector, as the case may be,” in both places;
- (s) in regulation 28—
 - (i) for the opening words in paragraph (1) substitute—
 - “(1) Where particulars of an order proposal are placed on the register, the relevant planning authority must take steps to secure that there is also placed on the register a copy of any relevant—”;
 - (ii) in paragraph (1)(e) for “11(2), 12(5), 13(5) or 14(6)”, substitute “ 11(2) ”; and
 - (iii) in paragraph (2) for “application is made for planning permission or subsequent consent” substitute “ order proposal is submitted by a qualifying body ”;
- (t) in regulation 29—
 - (i) in paragraph (1)—
 - (aa) for “Where an EIA application or appeal in relation to which an environmental statement has been submitted is determined by a relevant planning authority, the Secretary of State or an inspector, as the case may be,

- the person making that determination ,” substitute “ As soon as possible after making a decision to make the neighbourhood development order under section 61E(4) of the Act or to refuse to make it under section 61E(8) of the Act, the relevant planning authority ”; and
- (bb) for “developer” substitute “ qualifying body ”;
- (ii) in paragraph (2)—
- (aa) in sub-paragraph (b)(i) for “grant planning permission or subsequent consent” substitute “ make the order ”; and
- (bb) in sub-paragraph (b)(ii) for “refuse planning permission or subsequent consent” substitute “ not make the order ”;
- (u) in regulation 30—
- (i) in paragraph (1), for “EIA application is determined by the local planning authority”, substitute, “authority decides to make the neighbourhood development order under section 61E(4) or to refuse to make it under section 61E(8)”;
- (ii) omit paragraph (2);
- (v) omit Parts 7, 9 and 10 (except regulation 58); and
- (w) in regulation 58—
- (i) in paragraph (1)(a) for “proposed to be carried out in England is the subject of an EIA application” substitute “ in England for which an order proposal has been submitted may be EIA development ”;
- (ii) in paragraph (3) for each reference to “application” substitute “ order proposal ”;
- (iii) in paragraph (4) for “before development consent for the development is granted” substitute “ before a decision is made under paragraph 12(4) of Schedule 4B to the Act that the draft order meets the basic conditions ”; and
- (iv) in paragraph (6) for “on the determination of the application concerned” substitute “ on a decision being made under paragraph 12(4) of Schedule 4B to the Act that the draft order meets the basic conditions ”.

Textual Amendments

- F4** Word in reg. 33(5)(e)(iii) omitted (1.10.2018) by virtue of [The Town and Country Planning and Infrastructure Planning \(Environmental Impact Assessment\) \(Amendment\) Regulations 2018 \(S.I. 2018/695\)](#), regs. 1, **2(5)(a)**
- F5** Word in reg. 33(5)(e)(iv) omitted (1.10.2018) by virtue of [The Town and Country Planning and Infrastructure Planning \(Environmental Impact Assessment\) \(Amendment\) Regulations 2018 \(S.I. 2018/695\)](#), regs. 1, **2(5)(b)**
- F6** Words in reg. 33(5)(g)(v) 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(5)(c)**
- F7** Words in reg. 33(5)(q)(i) substituted (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(5)(d)**
- F8** Words in reg. 33(5)(q)(v) 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(5)(e)**
- F9** Word in reg. 33(5)(r)(ii)(aa) 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(5)(f)**

F10 Word in reg. 33(5)(r)(ii)(bb) omitted (1.10.2018) by virtue of [The Town and Country Planning and Infrastructure Planning \(Environmental Impact Assessment\) \(Amendment\) Regulations 2018 \(S.I. 2018/695\)](#), regs. 1, **2(5)(g)**

Marginal Citations

- M3** Schedule 4B to the Act was inserted by section 116 of, and Schedule 10 to, the Localism Act 2011 and amended by sections 140 and 141 of the Housing and Planning Act 2016.
- M4** [S.I. 2012/637](#) which was amended by [S.I. 2015/20](#) and [2016/873](#).
- M5** [S.I. 2012/637](#) which was amended by [S.I. 2015/20](#) and [2016/873](#).

[F11] Other orders made by a local planning authority

33A.—(1) This regulation applies where, in relation to Schedule 1 or Schedule 2 development, a local planning authority proposes to grant or modify a planning permission by making an order under section 97 or 102 of, or paragraph 1 of Schedule 9 to, the Act (“an EIA order”).

(2) In a case to which this regulation applies regulation 32 shall apply with the following modifications—

- (a) references to a local development order were references to an EIA order; and
- (b) references to grant planning permission include the modification of planning permission.

Textual Amendments

F11 Regs. 33A, 33B 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(6)**

Miscellaneous orders and notices made by the Secretary of State

33B.—(1) This regulation applies where, in relation to Schedule 1 or Schedule 2 development, the Secretary of State proposes to grant or modify a planning permission—

- (a) under section 98(6), 103(2) or 141(2) of the Act; or
- (b) by making an order under section 100(1) or 104(1) of the Act,

(“an EIA permission”).

(2) Where this regulation applies the Secretary of State must not make an EIA permission unless the local planning authority in whose area the development will be situated has prepared the information referred to in regulation 6(2) in accordance with regulation 6(4) and adopted a screening opinion, or the Secretary of State has made a screening direction; and regulation 5 shall apply in relation to that screening with the modifications provided for in regulation 32(3).

(3) Paragraphs (4) and (5) apply where—

- (a) the local planning authority adopts a screening opinion; or
- (b) the Secretary of State makes a screening direction under these Regulations,

to the effect that the development is EIA development.

(4) The Secretary of State must not make an EIA permission unless—

- (a) an environmental statement has been prepared in relation to that development; and
- (b) the EIA has been carried out in respect of that development.

(5) In a case to which this regulation applies these Regulations apply subject to the following modifications—

- (a) in regulation 2(1)—
 - (i) after the definition of “EIA order proposal” insert—

““EIA permission” has the meaning given in regulation 33B(1);”;
 - (ii) in the definition of “any other information” for “applicant or the appellant as the case may be” substitute “local planning authority”;
- (b) regulations 3, 6(10) and (11), 8 to 14, 16, 17, 21, 22 and 25 shall not apply;
- (c) in regulation 7(1) the words “pursuant to regulation 6(10)” were omitted;
- (d) in regulation 15—
 - (i) for paragraph (1) substitute—

“(1) Where a proposed EIA permission is EIA development, the Secretary of State may state in writing his opinion as to the scope and level of detail of the information to be provided in the environmental statement (“a scoping direction”) and the Secretary of State must not adopt a scoping direction before he has consulted the consultation bodies.”;
 - (ii) omit paragraphs (2) to (5) and sub-paragraph (a) of paragraph (6);
 - (iii) for paragraph (7) substitute—

“(7) A local planning authority may ask the Secretary of State to make a scoping direction as to the information to be provided in the environmental statement.”;
 - (iv) omit paragraphs (8) and (9);
- (e) in regulation 18—
 - (i) omit paragraphs (1) and (2); and
 - (ii) in paragraphs (3)(d) and (5)(a) and (b) for “the developer” substitute “the Secretary of State”;
- (f) for regulation 19 substitute the modified version of regulation 19 provided in regulation 32(6)(f) with the following modifications—
 - (i) for references to local planning authority substitute the Secretary of State;
 - (ii) for references to a local development order substitute an EIA permission; and
 - (iii) for references to grant planning permission include modify planning permission.
- (g) for regulation 23 substitute—

“Availability of copies of environmental statements

- 23.** The Secretary of State must ensure that—
 - (a) a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to EIA development for the EIA permission are available at his principal office during normal office hours; and
 - (b) the environmental statement can be accessed at the website referred to in the notice required under regulation 20(2)(f).”;
- (h) in regulation 26(1) for “an application or appeal” substitute “whether to make an EIA permission”;
- (i) in regulation 28—
 - (i) in paragraph (1) for “Where particulars of an application for planning permission or of a subsequent application are placed on Part 1 of the register, the relevant planning authority” substitute “Each local planning authority must keep a record on

the appropriate part of the register of any EIA permission relating to land in their area, and the authority”;

(ii) for paragraph (2) substitute—

“(2) Where the local planning authority adopts a screening opinion or scoping opinion, or receives a request under regulation 15(1), a copy of a screening direction, scoping direction, or direction under regulation 63 before an EIA permission is made, the authority must take steps to secure that a copy of the opinion, request, or direction and any accompanying statement of reasons is made available for public inspection at all reasonable hours at the place where the appropriate register (or relevant part of that register) is kept, and copies of those documents must remain so available for a period of 2 years.”.

(j) in regulation 29 for paragraph (1) substitute—

“(1) Where the Secretary of State makes an EIA permission he must prepare a statement setting out the information specified in paragraph (2).”;

(k) for regulation 30 substitute—

“Duty to inform the public of final decisions

30. Where the Secretary of State makes an EIA permission he must—

- (a) notify the local planning authority;
- (b) inform the public of the decision, by local advertisement, or by such other means as are reasonable in the circumstances; and
- (c) make available for public inspection, at his principal office during normal office hours, a statement containing—
 - (i) the content of the decision and any conditions attached to it;
 - (ii) the main reasons and considerations on which the decision is based;
 - (iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development permitted; and
 - (iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.”.

(1) in regulation 58—

(i) in paragraph (1), for sub-paragraph (a) substitute—

“(a) it comes to the attention of the Secretary of State that EIA development proposed to be carried out in England for which an EIA permission is proposed to be granted is likely to have significant effects on the environment in another EEA state; or”;

(ii) in paragraphs (3) and (6) for “application” substitute “proposed EIA permission”.]

Textual Amendments

F11 Regs. 33A, 33B 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(6)**

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, PART 7.