

## SCHEDULES

### SCHEDULE 6

Section 9.

#### PLANNING CONDITIONS

#### PART I

#### QUALIFYING AUTHORITIES

##### *Specification*

- 1 (1) As soon after the day on which this Act is passed as the Secretary of State considers reasonably practicable, he shall, by order made by statutory instrument, specify every relevant local authority which—
  - (a) had, on or before the day on which the Bill for this Act was reported from Select Committee in the House of Lords, given him undertakings with respect to the handling of planning matters arising under this Schedule which he considered satisfactory, and
  - (b) has not subsequently been released from its undertakings.
- (2) Subject to the following provisions of this paragraph, an authority which is specified under sub-paragraph (1) above is a qualifying authority for the purposes of this Schedule.
- (3) The Secretary of State may, if he considers it expedient to do so, by order made by statutory instrument provide that an authority shall cease to be a qualifying authority for the purposes of this Schedule.
- (4) If, in relation to a relevant local authority which is not a qualifying authority for the purposes of this Schedule, the Secretary of State considers that the way in which the authority carries out its functions has been significantly affected by a change of circumstances occurring since the relevant day, he may by order made by statutory instrument provide that the authority shall be a qualifying authority for the purposes of this Schedule.
- (5) Before making an order under sub-paragraph (3) or (4) above, the Secretary of State shall consult—
  - (a) the nominated undertaker, and
  - (b) unless the authority concerned has requested him to make the order, that authority.
- (6) A statutory instrument containing an order under sub-paragraph (3) or (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In sub-paragraph (4) above, the reference to the relevant day is—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) in relation to an authority which has never been a qualifying authority for the purposes of this Schedule, to the day mentioned in sub-paragraph (1)(a) above, and
  - (b) in relation to an authority which has been a qualifying authority for the purposes of this Schedule, to the day on which it ceased, or last ceased, to be such an authority.
- (8) For the purposes of this paragraph, a local authority is a relevant local authority if it has functions under Part II or III of this Schedule in relation to the giving of approval.

#### *Transition*

- 2 (1) An order under paragraph 1 above may contain such transitional provision and savings as the Secretary of State thinks fit.
- (2) Without prejudice to the generality of sub-paragraph (1) above, provision under that sub-paragraph may include provision with respect to the effect, in a case where the nominated undertaker has obtained, or requested, approval under this Schedule, of the authority which granted the approval, or to which the request has been made, ceasing to be, or becoming, a qualifying authority for the purposes of this Schedule.
- (3) The Secretary of State may by agreement fetter the exercise of his discretion under sub-paragraph (1) above.

## **PART II**

### DEVELOPMENT IN GREATER LONDON

#### *Introductory*

- 3 This Part of this Schedule has effect in relation to development in Greater London.

#### *Planning regimes*

- 4 (1) The requirement set out in paragraph 5 below shall be a condition of the deemed planning permission, so far as relating to relevant development in the area of a London borough council which is not a qualifying authority for the purposes of this Schedule.
- (2) For the purposes of sub-paragraph (1) above, development is relevant development to the extent that it consists of or includes—
- (a) the erection, construction, alteration or extension of any building, or
  - (b) the formation, laying out or alteration of any means of access to any highway used by vehicular traffic.
- (3) The requirements set out in paragraphs 6 to 10 below shall be conditions of the deemed planning permission, so far as relating to development in the area of a London borough council which is a qualifying authority for the purposes of this Schedule.
- (4) The requirements set out in paragraph 11 below shall be conditions of the deemed planning permission so far as relating to development in the area of any London borough council.

---

*Status: This is the original version (as it was originally enacted).*

---

*Conditions: non-qualifying authority*

- 5
- (1) Development shall be carried out in accordance with plans and specifications for the time being approved by the local planning authority at the request of the nominated undertaker.
  - (2) The local planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
  - (3) Where the local planning authority exercises the power conferred by sub-paragraph (2) above, the plans and specifications in accordance with which the development is required under sub-paragraph (1) above to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
  - (4) The only ground on which the local planning authority may refuse to approve plans or specifications for the purposes of this paragraph is—
    - (a) that the development to which they relate ought to, and could reasonably, be carried out elsewhere on land within the relevant limits, or
    - (b) that the design or external appearance of any building to which they relate ought to be modified to preserve the local environment or local amenity and is reasonably capable of being so modified.
  - (5) The ground mentioned in sub-paragraph (4)(a) above shall not apply in relation to development consisting of the provision of, or the carrying out of works to, a dam.

*Conditions: qualifying authority*

- 6
- (1) To the extent that development consists of any operation or work mentioned in the left-hand column of the table in sub-paragraph (4) below, it shall be carried out in accordance with plans and specifications for the time being approved by the local planning authority at the request of the nominated undertaker.
  - (2) The local planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
  - (3) Where the local planning authority exercises the power conferred by sub-paragraph (2) above, the plans and specifications in accordance with which the development is required under sub-paragraph (1) above to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
  - (4) The only ground on which the local planning authority may refuse to approve for the purposes of this paragraph plans or specifications of any operation or work mentioned in the following table is a ground specified in relation to it in the right-hand column of that table.

---

*Status: This is the original version (as it was originally enacted).*

---

## THE TABLE

<i>Operation or work</i>	<i>Grounds</i>
<p>1. <i>Construction works</i></p> <p>(a) The erection, construction, alteration or extension of any building (except for anything within (b) or (c) below or item 2 or 6) or road vehicle park.</p> <p>(b) The construction, alteration or extension of any terracing, cuttings, embankments or other earth works.</p> <p>(c) The erection, construction, alteration or extension of any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression.</p>	<p>That the design or external appearance of the works ought to be modified—</p> <p>(a) to preserve the local environment or local amenity,</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</p> <p>(c) to preserve a site of archaeological or historic interest or nature conservation value,</p> <p>and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably, be carried out elsewhere within the limits of the land on which the works of which it forms part may be carried out under this Part of this Act.</p>
<p>2. <i>Minor construction works</i></p> <p>The erection, construction, alteration or extension of any transformers, telecommunications masts or pedestrian accesses to the railway line.</p>	<p>That the design or external appearance of the works ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably, be carried out on land elsewhere within the relevant limits.</p>
<p>3. <i>Fences and walls</i></p> <p>The erection, construction, alteration or extension of any fences or walls (except for anything within item 1(c) above).</p>	<p>That the development ought to, and could reasonably, be carried out on land elsewhere within the relevant limits.</p>
<p>4. <i>Highway access</i></p> <p>The formation, laying out or alteration of any means of access to a highway used, or proposed highway proposed to be used, by vehicular traffic.</p>	<p>That the development ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and is reasonably capable of being so modified.</p>
<p>5. <i>Gantries and overhead line supports</i></p> <p>The erection or construction of any gantries or overhead line supports for so much of</p>	<p>That the design or external appearance of the work ought to be modified to preserve the</p>

*Note:*

1. In the case of items 1(b) and (c) and 6, the second of the grounds specified does not apply in relation to development which forms part of a scheduled work.
  2. In the case of items 7 and 8, the second of the grounds specified does not apply in relation to development which—
    - (a) is within the limits of deviation for the scheduled works, or
    - (b) consists of the use of land specified in columns (1) and (2) of Part I of Schedule 4 for a purpose specified in relation to the land in column (3) of that Part.
  3. Any reference in the left-hand column of the table to a description of works does not include works of that description of a temporary nature.
-

*Status: This is the original version (as it was originally enacted).*

<i>Operation or work</i>	<i>Grounds</i>
any railway comprised in Work No. 1 as lies between the northern end of the roof over St. Pancras station, as it is at the time of erection or construction, and the northern abutment of the existing bridge over the Regent's Canal.	local environment or local amenity, and is reasonably capable of being so modified.
<i>6. Artificial lighting</i> The erection, construction or installation of lighting equipment.	<p>That the design of the equipment, with respect to the emission of light, ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably, be carried out elsewhere within the limits of land on which the works of which it forms part may be carried out under this Part of this Act.</p>
<i>7. Waste and spoil disposal</i> The disposal of waste or spoil.	<p>That—</p> <ul style="list-style-type: none"><li>(a) the design or external appearance of disposal sites on land within the relevant limits,</li><li>(b) the methods by which such sites are worked, or</li><li>(c) the noise, dust, vibration or screening arrangements during the operation of such sites,</li></ul> <p>ought to be modified and are reasonably capable of being modified.</p> <p>That—</p> <ul style="list-style-type: none"><li>(a) to preserve the local environment or local amenity,</li><li>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</li><li>(c) to preserve a site of archaeological or historic interest or nature conservation value,</li></ul> <p>the development ought to be carried out on land elsewhere within the relevant limits, and is reasonably capable of being so carried out.</p>
<i>8. Borrow pits</i>	That—

*Note:*

1. In the case of items 1(b) and (c) and 6, the second of the grounds specified does not apply in relation to development which forms part of a scheduled work.
2. In the case of items 7 and 8, the second of the grounds specified does not apply in relation to development which—
  - (a) is within the limits of deviation for the scheduled works, or
  - (b) consists of the use of land specified in columns (1) and (2) of Part I of Schedule 4 for a purpose specified in relation to the land in column (3) of that Part.
3. Any reference in the left-hand column of the table to a description of works does not include works of that description of a temporary nature.

---

*Status: This is the original version (as it was originally enacted).*

---

<i>Operation or work</i>	<i>Grounds</i>
The excavation of bulk materials from borrow pits.	(a) the design or external appearance of borrow pits on land within the relevant limits, (b) the methods by which such pits are worked, or (c) the noise, dust, vibration or screening arrangements during the operation of such pits, ought to be modified and are reasonably capable of being modified.  That— (a) to preserve the local environment or local amenity, (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or (c) to preserve a site of archaeological or historic interest or nature conservation value, the development ought to be carried out on land elsewhere within the relevant limits, and is reasonably capable of being so carried out.

*Note:*

1. In the case of items 1(b) and (c) and 6, the second of the grounds specified does not apply in relation to development which forms part of a scheduled work.
2. In the case of items 7 and 8, the second of the grounds specified does not apply in relation to development which—
  - (a) is within the limits of deviation for the scheduled works, or
  - (b) consists of the use of land specified in columns (1) and (2) of Part I of Schedule 4 for a purpose specified in relation to the land in column (3) of that Part.
3. Any reference in the left-hand column of the table to a description of works does not include works of that description of a temporary nature.

- (5) Sub-paragraph (4) above shall apply in relation to the imposition of conditions on approval as it applies in relation to the refusal of approval.
- 7
  - (1) Development shall be carried out in accordance with arrangements approved by the local planning authority at the request of the nominated undertaker with respect to the matters mentioned in the left-hand column of the table in sub-paragraph (2) below.
  - (2) The only ground on which the local planning authority may refuse to approve for the purposes of this paragraph arrangements with respect to a matter mentioned in the following table is—
    - (a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority's area, or
    - (b) the ground specified in relation to the matter in the right-hand column of the table.

*Status: This is the original version (as it was originally enacted).*

## THE TABLE

<i>Matters</i>	<i>Grounds</i>
<p>1. <i>Road transport</i> Means and routes by which anything is to be transported on a highway by large goods vehicle to a working or storage site, a site where it will be re-used or a waste disposal site.</p>	<p>That the arrangements ought to be modified—</p> <p>(a) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,</p> <p>and are reasonably capable of being so modified.</p>
<p>2. <i>Handling of re-useable spoil and top soil</i> Handling during removal, storage and re-use of any spoil or top soil removed during the course of carrying out the development.</p>	<p>That the arrangements ought to be modified to ensure that the spoil or top soil remain in good condition and are reasonably capable of being so modified.</p>
<p>3. <i>Storage sites</i> Sites on land within the relevant limits at which—</p> <p>(a) minerals, aggregates or other construction materials required for the development, or</p> <p>(b) spoil or top soil,</p> <p>are to be stored until used or re-used in carrying out the development or disposed of as waste.</p>	<p>That the arrangements ought to be modified—</p> <p>(a) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,</p> <p>and are reasonably capable of being so modified.</p>
<p>4. <i>Construction camps</i> Sites on land within the relevant limits which are to be used for the residential accommodation of persons engaged in carrying out the development.</p>	<p>As item 3.</p>
<p>5. <i>Screening</i> Provision where necessary on land within the relevant limits of any screening for working sites on such land required for the purpose of carrying out the development.</p>	<p>As item 3.</p>
<p>6. <i>Hours of working</i> The hours and days of the week during which work on the development on</p>	<p>That the arrangements ought to be modified to preserve the local environment or local amenity, and are reasonably capable of being so modified.</p>

---

*Status: This is the original version (as it was originally enacted).*

---

<i>Matters</i>	<i>Grounds</i>
land within the relevant limits is to be carried out.	
<p><i>7. Artificial lighting</i> The use of artificial lighting on land within the relevant limits for the purpose of carrying out the development.</p>	As item 6.
<p><i>8. Suppression of noise, dust and vibration</i> The suppression of noise, dust and vibration caused by construction operations carried on on land within the relevant limits for the purpose of carrying out the development.</p>	As item 6.
<p><i>9. Mud on highway</i> Measures to be taken on land within the relevant limits to prevent mud being carried onto any public highway as a result of carrying on the development.</p>	<p>That the arrangements ought to be modified—</p> <p>(a) to preserve the local environment or local amenity, or</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,</p> <p>and are reasonably capable of being so modified.</p>
<p><i>10. Highway access</i> The formation, laying out or alteration of any means of access to any highway used, or proposed highway proposed to be used, on a temporary basis by vehicular traffic to serve a construction site or camp.</p>	That the arrangements ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.

- (3) The local planning authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker.
- (4) In this paragraph, “large goods vehicle” has the same meaning as in Part IV of the Road Traffic Act 1988.
- 8 (1) To the extent that development consists of—
- (a) the disposal of waste or spoil, or
  - (b) the excavation of bulk materials from borrow pits,
- it shall not be begun unless the local planning authority has, at the request of the nominated undertaker, approved a scheme for the restoration of the land on which the development is to be carried out.
- (2) The only ground on which the local planning authority may refuse to approve, or impose conditions on the approval of, a scheme for the purposes of this paragraph is that the scheme ought to be modified and is reasonably capable of being modified.



---

*Status: This is the original version (as it was originally enacted).*

---

- (3) The nominated undertaker shall carry out a scheme approved for the purposes of this paragraph once it has completed its use of the land to which the scheme relates for the purpose of carrying out development of a kind to which sub-paragraph (1) above applies.
- (4) In sub-paragraph (1) above, the reference to restoration includes a reference to restoration in the longer term; and, accordingly, a scheme for the restoration of land may include provision about aftercare.
- 9 (1) No work to which this paragraph applies shall be brought into use without the approval of the local planning authority.
- (2) The works to which this paragraph applies are—
- (a) any scheduled work,
  - (b) any station constructed in exercise of the powers conferred by this Part of this Act, and
  - (c) any depot constructed in exercise of those powers for use for or in connection with the maintenance of railway vehicles or track, whether or not constructed for use also for other purposes.
- (3) The local planning authority shall, at the request of the nominated undertaker, grant approval for the purposes of sub-paragraph (1) above if—
- (a) it considers that there are no reasonably practicable measures which need to be taken for the purpose of mitigating the effect of the work or its operation on the local environment or local amenity, or
  - (b) it has approved, at the request of the nominated undertaker, a scheme consisting of provision with respect to the taking of measures for that purpose.
- (4) The local planning authority shall not refuse to approve, nor impose conditions on the approval of, a scheme submitted for the purposes of sub-paragraph (3)(b) above unless it is satisfied that it is expedient to do so on the ground that the scheme ought to be modified—
- (a) to preserve the local environment or local amenity,
  - (b) to preserve a site of archaeological or historic interest, or
  - (c) in the interests of nature conservation,
- and that the scheme is reasonably capable of being so modified.
- (5) In this paragraph, “railway vehicle” and “track” have the same meanings as in Part I of the Railways Act 1993.
- 10 —Where the local planning authority approves a scheme for the purposes of paragraph 9(3)(b) above, the nominated undertaker shall be required—
- (a) to carry out the scheme, and
  - (b) to comply with any condition subject to which the scheme is approved.

*Conditions: general*

- 11 (1) Where development consists of or includes the carrying out on any site of operations ancillary to the construction of any of the scheduled works, those operations shall be discontinued as soon as reasonably practicable after the completion of the relevant scheduled work or works.

---

*Status: This is the original version (as it was originally enacted).*

---

- (2) The nominated undertaker shall, following discontinuation of the use of any site for carrying out operations ancillary to the construction of any of the scheduled works, restore the site in accordance with a scheme agreed with the local planning authority.
- (3) If, in relation to a site used for carrying out operations ancillary to the construction of any of the scheduled works, no scheme has been agreed for the purposes of sub-paragraph (2) above within 6 months of the completion of the relevant scheduled work or works, the scheme shall be such as the appropriate Ministers may determine after consultation with the nominated undertaker and the local planning authority.
- (4) Where, independently of any consultation under sub-paragraph (3) above, the appropriate Ministers ask the local planning authority for assistance in connection with the carrying out by them of their function under sub-paragraph (3) above, they may require the nominated undertaker to reimburse to the planning authority any expenses which it reasonably incurs in meeting the request.
- (5) Sub-paragraph (2) above shall not apply to a site to the extent that it consists of land to which a scheme under paragraph 8 above applies.
- (6) Sub-paragraph (2) above shall not apply where the site is one in relation to which the nominated undertaker is subject to an obligation under paragraph 2(1) of Schedule 5 above.
- (7) In this paragraph, references to the relevant scheduled work or works, in relation to any site, are to the scheduled work or works to which the operations carried out on that site were ancillary.

### PART III

#### DEVELOPMENT IN ESSEX OR KENT

##### *Introductory*

- 12 This Part of this Schedule has effect in relation to development in Essex or Kent.

##### *Planning regimes: district councils*

- 13 (1) The requirement set out in paragraph 14 below shall be a condition of the deemed planning permission, so far as relating to relevant development in the area of a district council which is not a qualifying authority for the purposes of this Schedule.
- (2) For the purposes of sub-paragraph (1) above, development is relevant development to the extent that it consists of or includes—
- (a) the erection, construction, alteration or extension of any building, or
  - (b) the formation, laying out or alteration, otherwise than in connection with an excepted matter, of any means of access to any highway used by vehicular traffic.
- (3) The requirements set out in paragraphs 15 and 16 below shall be conditions of the deemed planning permission, so far as relating to development, other than excepted development, in the area of a district council which is a qualifying authority for the purposes of this Schedule.

---

*Status: This is the original version (as it was originally enacted).*

---

- (4) For the purposes of sub-paragraph (3) above, excepted development is development consisting of—
  - (a) the formation, laying out or alteration, in connection with an excepted matter, of any means of access to any highway used by vehicular traffic,
  - (b) the disposal of waste or spoil, or
  - (c) the excavation of bulk materials from borrow pits.
- (5) The requirements set out in paragraphs 17 and 18 below shall be conditions of the deemed planning permission, so far as relating to development in the area of a district council which is a qualifying authority for the purposes of this Schedule.
- (6) The requirements set out in paragraph 19 below shall be conditions of the deemed planning permission, so far as relating to development in the area of any district council.
- (7) For the purposes of this paragraph, the following are excepted matters—
  - (a) the transport of minerals,
  - (b) the transport of surplus spoil or top soil,
  - (c) the disposal of waste or spoil, and
  - (d) the excavation of bulk materials from borrow pits.

*District conditions: non-qualifying authority*

- 14 (1) Development shall be carried out in accordance with plans and specifications for the time being approved by the district planning authority at the request of the nominated undertaker.
- (2) The district planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
- (3) Where the district planning authority exercises the power conferred by sub-paragraph (2) above, the plans and specifications in accordance with which the development is required under sub-paragraph (1) above to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
- (4) The only ground on which the district planning authority may refuse to approve plans or specifications for the purposes of this paragraph is—
  - (a) that the development to which they relate ought to, and could reasonably, be carried out elsewhere on land within the relevant limits, or
  - (b) that the design or external appearance of any building to which they relate ought to be modified to preserve the local environment or local amenity and is reasonably capable of being so modified.

*District conditions: qualifying authority*

- 15 (1) To the extent that development consists of any operation or work mentioned in the left-hand column of the table in sub-paragraph (4) below, it shall be carried out in accordance with plans and specifications for the time being approved by the district planning authority at the request of the nominated undertaker.

---

*Status: This is the original version (as it was originally enacted).*

---

- (2) The district planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
- (3) Where the district planning authority exercises the power conferred by sub-paragraph (2) above, the plans and specifications in accordance with which the development is required under sub-paragraph (1) above to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
- (4) The only ground on which the district planning authority may refuse to approve for the purposes of this paragraph plans or specifications of any operation or work mentioned in the following table is a ground specified in relation to it in the right-hand column of that table.

THE TABLE

<i>Operation or work</i>	<i>Grounds</i>
<p>1. <i>Construction works</i></p> <p>(a) The erection, construction, alteration or extension of any building (except for anything within (b) or (c) below or item 2 or 6) or road vehicle park.</p> <p>(b) The construction, alteration or extension of any terracing, cuttings, embankments or other earth works.</p> <p>(c) The erection, construction, alteration or extension of any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression.</p>	<p>That the design or external appearance of the works ought to be modified—</p> <p>(a) to preserve the local environment or local amenity,</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</p> <p>(c) to preserve a site of archaeological or historic interest or nature conservation value,</p> <p>and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably, be carried out elsewhere within the limits of the land on which the works of which it forms part may be carried out under this Part of this Act.</p>
<p>2. <i>Minor construction works</i></p> <p>The erection, construction, alteration or extension of any transformers, telecommunications masts or pedestrian accesses to the railway line.</p>	<p>That the design or external appearance of the works ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably, be carried out on land elsewhere within the relevant limits.</p>
<p>3. <i>Fences and walls</i></p>	<p>That the development ought to, and could reasonably, be carried out on land elsewhere within the relevant limits.</p>
<p><i>Note:</i></p> <p>1. In the case of items 1(b) and (c) and 6, the second of the grounds specified does not apply in relation to development which forms part of a scheduled work.</p> <p>2. Any reference in the left-hand column of the table to a description of works does not include works of that description of a temporary nature.</p>	

*Status: This is the original version (as it was originally enacted).*

<i>Operation or work</i>	<i>Grounds</i>
The erection, construction, alteration or extension of any fences or walls (except for anything within item 1(c) above).	
<i>4. Highway access</i> The formation, laying out or alteration of any means of access to a highway used, or proposed highway proposed to be used, by vehicular traffic.	That the development ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and is reasonably capable of being so modified.
<i>5. Gantries and overhead line supports</i> The erection or construction of any gantries or overhead line supports for so much of the railway comprised in Work No. 13 as lies between 1,000 and 2,400 metres from its western end.	That the design or external appearance of the work ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.
<i>6. Artificial lighting</i> The erection, construction or installation of lighting equipment.	That the design of the equipment, with respect to the emission of light, ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.  That the development ought to, and could reasonably be, carried out elsewhere within the limits of land on which the works of which it forms part may be carried out under this Part of this Act.

*Note:*

1. In the case of items 1(b) and (c) and 6, the second of the grounds specified does not apply in relation to development which forms part of a scheduled work.
2. Any reference in the left-hand column of the table to a description of works does not include works of that description of a temporary nature.

- (5) Sub-paragraph (4) above shall apply in relation to the imposition of conditions on approval as it applies in relation to the refusal of approval.
- 16 (1) Development shall be carried out in accordance with arrangements approved by the district planning authority at the request of the nominated undertaker with respect to the matters mentioned in the left-hand column of the table in sub-paragraph (2) below.
- (2) The only ground on which the district planning authority may refuse to approve for the purposes of this paragraph arrangements with respect to a matter mentioned in the following table is—
- (a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority's area, or
  - (b) the ground specified in relation to the matter in the right-hand column of the table.

---

*Status: This is the original version (as it was originally enacted).*

---

THE TABLE

<i>Matters</i>	<i>Grounds</i>
<p>1. <i>Handling of re-useable spoil and top soil</i> Handling during removal, storage and re-use of any spoil or top soil removed during the course of carrying out the development.</p>	That the arrangements ought to be modified to ensure that the spoil or top soil remains in good condition and are reasonably capable of being so modified.
<p>2. <i>Storage sites</i> Sites on land within the relevant limits at which—            (a) minerals, aggregates or other construction materials required for the development, or            (b) spoil or top soil,            are to be stored until used or re-used in carrying out the development or disposed of as waste.</p>	<p>That the arrangements ought to be modified—            (a) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or            (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,            and are reasonably capable of being so modified.</p>
<p>3. <i>Construction camps</i> Sites on land within the relevant limits which are to be used for the residential accommodation of persons engaged in carrying out the development.</p>	As item 2.
<p>4. <i>Screening</i> Provision where necessary on land within the relevant limits of any screening for working sites on such land required for the purpose of carrying out the development.</p>	As item 2.
<p>5. <i>Hours of working</i> The hours and days of the week during which work on the development on land within the relevant limits is to be carried out.</p>	That the arrangements ought to be modified to preserve the local environment or local amenity, and are reasonably capable of being so modified.
<p>6. <i>Artificial lighting</i> The use of artificial lighting on land within the relevant limits for the purpose of carrying out the development.</p>	As item 5.
<p>7. <i>Suppression of noise, dust and vibration</i> The suppression of noise, dust and vibration caused by construction operations carried on on land within</p>	As item 5.

*Status: This is the original version (as it was originally enacted).*

<i>Matters</i>	<i>Grounds</i>
the relevant limits for the purpose of carrying out the development.	
8. <i>Mud on highway</i> Measures to be taken on land within the relevant limits to prevent mud being carried onto any public highway as a result of carrying on the development.	That the arrangements ought to be modified— (a) to preserve the local environment or local amenity, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.
9. <i>Highway access</i> The formation, laying out or alteration of any means of access to any highway used, or proposed highway proposed to be used, on a temporary basis by vehicular traffic to serve a construction site or camp.	That the arrangements ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.
(3) The district planning authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker.	
17 (1) No work to which this paragraph applies shall be brought into use without the approval of the district planning authority.	
(2) The works to which this paragraph applies are—	
(a) any scheduled work,	
(b) any station constructed in exercise of the powers conferred by this Part of this Act, and	
(c) any depot constructed in exercise of those powers for use for or in connection with the maintenance of railway vehicles or track, whether or not constructed for use also for other purposes.	
(3) The district planning authority shall, at the request of the nominated undertaker, grant approval for the purposes of sub-paragraph (1) above if—	
(a) it considers that there are no reasonably practicable measures which need to be taken for the purpose of mitigating the effect of the work or its operation on the local environment or local amenity, or	
(b) it has approved, at the request of the nominated undertaker, a scheme consisting of provision with respect to the taking of measures for that purpose.	
(4) The district planning authority shall not refuse to approve, nor impose conditions on the approval of, a scheme submitted for the purposes of sub-paragraph (3)(b) above unless it is satisfied that it is expedient to do so on the ground that the scheme ought to be modified—	
(a) to preserve the local environment or local amenity,	
(b) to preserve a site of archaeological or historic interest, or	
(c) in the interests of nature conservation,	

---

*Status: This is the original version (as it was originally enacted).*

---

and that the scheme is reasonably capable of being so modified.

- (5) In this paragraph, “railway vehicle” and “track” have the same meanings as in Part I of the Railways Act 1993.
- 18 Where the district planning authority approves a scheme for the purposes of paragraph 17(3)(b) above, the nominated undertaker shall be required—
- (a) to carry out the scheme, and
  - (b) to comply with any condition subject to which the scheme is approved.

*District conditions: general*

- 19 (1) Where development consists of or includes the carrying out on any site of operations ancillary to the construction of any of the scheduled works, those operations shall be discontinued as soon as reasonably practicable after the completion of the relevant scheduled work or works.
- (2) The nominated undertaker shall, following discontinuation of the use of any site for carrying out operations ancillary to the construction of any of the scheduled works, restore the site in accordance with a scheme agreed with the district planning authority.
- (3) If, in relation to a site used for carrying out operations ancillary to the construction of any of the scheduled works, no scheme has been agreed for the purposes of sub-paragraph (2) above within 6 months of the completion of the relevant scheduled work or works, the scheme shall be such as the appropriate Ministers may determine after consultation with the nominated undertaker and the district planning authority.
- (4) Where, independently of any consultation under sub-paragraph (3) above, the appropriate Ministers ask the district planning authority for assistance in connection with the carrying out by them of their function under sub-paragraph (3) above, they may require the nominated undertaker to reimburse to the planning authority any expenses which it reasonably incurs in meeting the request.
- (5) Sub-paragraph (2) above shall not apply to a site to the extent that it consists of land to which a scheme under paragraph 24 below applies.
- (6) Sub-paragraph (2) above shall not apply where the site is one in relation to which the nominated undertaker is subject to an obligation under paragraph 2(1) of Schedule 5 above.
- (7) In this paragraph, references to the relevant scheduled work or works, in relation to any site, are to the scheduled work or works to which the operations carried out on that site were ancillary.

*Planning regimes: county councils*

- 20 (1) The requirement set out in paragraph 21 below shall be a condition of the deemed planning permission, so far as relating to relevant development in the area of a county council which is not a qualifying authority for the purposes of this Schedule.
- (2) For the purposes of sub-paragraph (1) above, relevant development is development consisting of the formation, laying out or alteration, in connection with an excepted matter, of any means of access to a highway used by vehicular traffic.



---

*Status: This is the original version (as it was originally enacted).*

---

- (3) The requirements set out in paragraphs 22, 23 and 24 below shall be conditions of the deemed planning permission, so far as relating to relevant development in the area of a county council which is a qualifying authority for the purposes of this Schedule.
- (4) For the purposes of sub-paragraph (3) above, relevant development is development consisting of—
  - (a) the formation, laying out or alteration, in connection with an excepted matter, of any means of access to a highway used by vehicular traffic,
  - (b) the disposal of waste or spoil, or
  - (c) the excavation of bulk materials from borrow pits.
- (5) The requirement set out in paragraph 25 below shall be a condition of the deemed planning permission, so far as relating to development in the area of a county council which is a qualifying authority for the purposes of this Schedule.
- (6) For the purposes of this paragraph, the following are excepted matters—
  - (a) the transport of minerals,
  - (b) the transport of surplus spoil or top soil,
  - (c) the disposal of waste or spoil, and
  - (d) the excavation of bulk materials from borrow pits.

*County conditions: non-qualifying authority*

- 21
- (1) Development shall be carried out in accordance with plans and specifications for the time being approved by the county planning authority at the request of the nominated undertaker.
  - (2) The county planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
  - (3) Where the county planning authority exercises the power conferred by sub-paragraph (2) above, the plans and specifications in accordance with which the development is required under sub-paragraph (1) above to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
  - (4) The only ground on which the county planning authority may refuse to approve plans or specifications for the purposes of this paragraph is that the development to which they relate ought to, and could reasonably, be carried out elsewhere on land within the relevant limits.

*County conditions: qualifying authority*

- 22
- (1) To the extent that development consists of any operation or work mentioned in the left-hand column of the table in sub-paragraph (4) below, it shall be carried out in accordance with plans and specifications for the time being approved by the county planning authority at the request of the nominated undertaker.
  - (2) The county planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) Where the county planning authority exercises the power conferred by sub-paragraph (2) above, the plans and specifications in accordance with which the development is required under sub-paragraph (1) above to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
- (4) The only ground on which the county planning authority may refuse to approve for the purposes of this paragraph plans or specifications of any operation or work mentioned in the following table is a ground specified in relation to it in the right-hand column of that table.

THE TABLE

<i>Operation or work</i>	<i>Grounds</i>
<p>1. <i>Highway access</i> The formation, laying out or alteration of any means of access to a highway used, or proposed highway proposed to be used, by vehicular traffic.</p>	That the development ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and is reasonably capable of being so modified.
<p>2. <i>Waste and spoil disposal</i> The disposal of waste or spoil.</p>	<p>That—</p> <ul style="list-style-type: none"> <li>(a) the design or external appearance of disposal sites on land within the relevant limits,</li> <li>(b) the methods by which such sites are worked, or</li> <li>(c) the noise, dust, vibration or screening arrangements during the operation of such sites, ought to be modified and are reasonably capable of being modified.</li> </ul> <p>That—</p> <ul style="list-style-type: none"> <li>(a) to preserve the local environment or local amenity,</li> <li>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</li> <li>(c) to preserve a site of archaeological or historic interest or nature conservation value,</li> </ul> <p>the development ought to be carried out on land elsewhere within the relevant limits, and is reasonably capable of being so carried out.</p>
<p>3. <i>Borrow pits</i> The excavation of bulk materials from borrow pits.</p>	<p>That—</p> <ul style="list-style-type: none"> <li>(a) the design or external appearance of borrow pits on land within the relevant limits,</li> <li>(b) the methods by which such pits are worked, or</li> </ul>

*Note:* In the case of items 2 and 3, the second of the grounds specified does not apply in relation to development which—

- (a) is within the limits of deviation for the scheduled works, or
  - (b) consists of the use of land specified in columns (1) and (2) of Part I of Schedule 4 for a purpose specified in relation to the land in column (3) of that Part.
-

*Status: This is the original version (as it was originally enacted).*

<i>Operation or work</i>	<i>Grounds</i>
	(c) the noise, dust, vibration or screening arrangements during the operation of such pits, ought to be modified and are reasonably capable of being modified. That— (a) to preserve the local environment or local amenity, (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or (c) to preserve a site of archaeological or historic interest or nature conservation value, the development ought to be carried out on land elsewhere within the relevant limits, and is reasonably capable of being so carried out.

*Note:* In the case of items 2 and 3, the second of the grounds specified does not apply in relation to development which—

- (a) is within the limits of deviation for the scheduled works, or
- (b) consists of the use of land specified in columns (1) and (2) of Part I of Schedule 4 for a purpose specified in relation to the land in column (3) of that Part.

- (5) Sub-paragraph (4) above shall apply in relation to the imposition of conditions on approval as it applies in relation to the refusal of approval.
- 23 (1) Development shall be carried out in accordance with arrangements approved by the county planning authority at the request of the nominated undertaker with respect to the matters mentioned in the left-hand column of the table in sub-paragraph (2) below.
- (2) The only ground on which the county planning authority may refuse to approve for the purposes of this paragraph arrangements with respect to a matter mentioned in the following table is—
- (a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority’s area, or
  - (b) the ground specified in relation to the matter in the right-hand column of the table.

#### THE TABLE

<i>Matters</i>	<i>Grounds</i>
1. <i>Handling of re-usable spoil and top soil</i> Handling during removal, storage, and re-use of any spoil or top soil removed during the course of carrying out the development.	That the arrangements ought to be modified to ensure that the spoil or top soil remains in good condition and are reasonably capable of being so modified.

---

*Status: This is the original version (as it was originally enacted).*

---

<i>Matters</i>	<i>Grounds</i>
<p><i>2. Storage sites</i>            Sites on land within the relevant limits at which—</p> <ul style="list-style-type: none"> <li>(a) minerals, aggregates or other construction materials required for the development, or</li> <li>(b) spoil or top soil, are to be stored until used or re-used in carrying out the development or disposed of as waste.</li> </ul>	<p>That the arrangements ought to be modified—</p> <ul style="list-style-type: none"> <li>(a) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or</li> <li>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,</li> </ul> <p>and are reasonably capable of being so modified.</p>
<p><i>3. Construction camps</i>            Sites on land within the relevant limits which are to be used for the residential accommodation of persons engaged in carrying out the development.</p>	<p>As item 2.</p>
<p><i>4. Screening</i>            Provision where necessary on land within the relevant limits of any screening for working sites on such land required for the purpose of carrying out the development.</p>	<p>As item 2.</p>
<p><i>5. Hours of working</i>            The hours and days of the week during which work on the development on land within the relevant limits is to be carried out.</p>	<p>That the arrangements ought to be modified to preserve the local environment or local amenity, and are reasonably capable of being so modified.</p>
<p><i>6. Artificial lighting</i>            The use of artificial lighting on land within the relevant limits for the purpose of carrying out the development.</p>	<p>As item 5.</p>
<p><i>7. Suppression of noise, dust and vibration</i>            The suppression of noise, dust and vibration caused by construction operations carried on on land within the relevant limits for the purpose of carrying out the development.</p>	<p>As item 5.</p>
<p><i>8. Mud on highway</i>            Measures to be taken on land within the relevant limits to prevent mud being carried onto any public highway as a result of carrying on the development.</p>	<p>That the arrangements ought to be modified—</p> <ul style="list-style-type: none"> <li>(a) to preserve the local environment or local amenity, or</li> <li>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,</li> </ul>

*Status: This is the original version (as it was originally enacted).*

<i>Matters</i>	<i>Grounds</i>
<p><i>9. Highway access</i> The formation, laying out or alteration of any means of access to any highway used, or proposed highway proposed to be used, on a temporary basis by vehicular traffic to serve a working site or camp.</p>	<p>and are reasonably capable of being so modified.</p> <p>That the arrangements ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.</p>
24	<p>(3) The county planning authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker.</p> <p>(1) To the extent that development consists of—</p> <ul style="list-style-type: none"><li>(a) the disposal of waste or spoil, or</li><li>(b) the excavation of bulk materials from borrow pits,</li></ul> <p>it shall not be begun unless the county planning authority has, at the request of the nominated undertaker, approved a scheme for the restoration of the land on which the development is to be carried out.</p> <p>(2) The only ground on which the county planning authority may refuse to approve, or impose conditions on the approval of, a scheme for the purposes of this paragraph is that the scheme ought to be modified and is reasonably capable of being modified.</p> <p>(3) The nominated undertaker shall carry out a scheme approved for the purposes of this paragraph once it has completed its use of the land to which the scheme relates for the purpose of carrying out development of a kind to which sub-paragraph (1) above applies.</p> <p>(4) In sub-paragraph (1) above, the reference to restoration includes a reference to restoration in the longer term; and, accordingly, a scheme for the restoration of land may include provision about aftercare.</p>
25	<p>(1) Development shall be carried out in accordance with arrangements approved by the county planning authority at the request of the nominated undertaker with respect to the means and routes by which anything is to be transported on a highway by large goods vehicle to a working or storage site, a site where it will be re-used or a waste disposal site.</p> <p>(2) The only ground on which the county planning authority may refuse to approve arrangements for the purposes of this paragraph is—</p> <ul style="list-style-type: none"><li>(a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority's area, or</li><li>(b) that the arrangements ought to be modified—<ul style="list-style-type: none"><li>(i) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or</li><li>(ii) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,</li></ul></li></ul> <p>and are reasonably capable of being so modified.</p>

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) The county planning authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker.
- (4) In this paragraph, “large goods vehicle” has the same meaning as in Part IV of the Road Traffic Act 1988.

## PART IV

### SUPPLEMENTARY

#### *Programming of requests for planning approvals*

- 26 A planning authority shall not be required to entertain a request for approval under Part II or III of this Schedule unless—
- (a) the nominated undertaker has deposited with the authority a document setting out its proposed programme with respect to the making of requests under that Part to the authority, and
  - (b) the request is accompanied by a document explaining how the matters to which the request relates fit into the overall scheme of the works authorised by this Part of this Act.

#### *Consultation*

- 27 (1) Where a planning authority considers that a request for approval under Part II or III of this Schedule relates to matters which may affect—
- (a) nature conservation,
  - (b) the conservation of the natural beauty or amenity of the countryside, or
  - (c) a site of archaeological or historic interest,
- it shall, within 5 days of receiving the request, invite the appropriate body or bodies to make representations.
- (2) Where under sub-paragraph (1) above a planning authority has invited a body to make representations about a request for approval under Part II or III of this Schedule, it shall not make any decision about the request until—
- (a) it has received representations from the body about the request,
  - (b) it has been informed by the body that it does not wish to make any representations about the request, or
  - (c) 21 days have elapsed since the date of the invitation.
- (3) An invitation under sub-paragraph (1) above shall specify the time limit for making representations.
- (4) For the purposes of this paragraph, the following are appropriate bodies in relation to the following matters—

<i>Matter</i>	<i>Body</i>
Nature conservation.	The Nature Conservancy Council for England.

*Status: This is the original version (as it was originally enacted).*

<i>Matter</i>	<i>Body</i>
Conservation of the natural beauty or amenity of the countryside.	The Countryside Commission.
Sites of archaeological or historic interest.	The Historic Buildings and Monuments Commission for England.

- 28 (1) Where a planning authority considers that a request for approval under Part II or III of this Schedule relates to matters which may affect—
- (a) the conservation of the natural beauty or amenity of inland or coastal waters or land associated with such waters,
  - (b) the conservation of flora or fauna which are dependent on an aquatic environment, or
  - (c) the use of such waters or land for recreational purposes,
- it shall, within 5 days of receiving the request, invite the Environment Agency to make representations.
- (2) Where under sub-paragraph (1) above a planning authority has invited the Environment Agency to make representations about a request for approval under Part II or III of this Schedule, it shall not make any decision about the request until—
- (a) it has received representations from the Agency about the request,
  - (b) it has been informed by the Agency that it does not wish to make any representations about the request, or
  - (c) 21 days have elapsed since the date of the invitation.
- (3) An invitation under sub-paragraph (1) above shall specify the time limit for making representations.
- 29 (1) Where a planning authority considers that a request for approval under Part II or III of this Schedule relates to matters which may affect the Lee Valley Regional Park, it shall, within 5 days of receiving the request, invite the Lee Valley Regional Park Authority to make representations.
- (2) Where under sub-paragraph (1) above a planning authority has invited the Lee Valley Regional Park Authority to make representations about a request for approval under Part II or III of this Schedule, it shall not make any decision about the request until—
- (a) it has received representations from the Authority about the request,
  - (b) it has been informed by the Authority that it does not wish to make any representations about the request, or
  - (c) 21 days have elapsed since the date of the invitation.
- (3) An invitation under sub-paragraph (1) above shall specify the time limit for making representations.

*Intervention by Secretary of State*

- 30 (1) The appropriate Ministers may by directions require a planning authority to refer any request for approval under Part II or III of this Schedule to them.
- (2) In determining a request referred to them under this paragraph, the appropriate Ministers shall have the same powers as the authority making the reference.
- (3) The determination by the appropriate Ministers of a request referred to them under this paragraph shall be final.

---

*Status: This is the original version (as it was originally enacted).*

---

- (4) Directions under this paragraph may—
- (a) be given in relation to a specified request or requests of a specified description, and
  - (b) cancel or vary previous directions under this paragraph.
- 31 (1) The appropriate Ministers may by directions restrict a planning authority's powers in relation to the grant of approval under Part II or III of this Schedule.
- (2) Directions under this paragraph may—
- (a) be given in relation to a specified approval or approvals of a specified description,
  - (b) be expressed to have effect without limit of time or during a specified period, and
  - (c) cancel or vary previous directions under this paragraph.

#### *Appeals*

- 32 (1) Where the nominated undertaker is aggrieved by a decision of a planning authority on a request for approval under Part II or III of this Schedule (including a decision under sub-paragraph (2) of paragraph 5, 6, 14, 15, 21 or 22 above), it may appeal to the appropriate Ministers by giving notice of the appeal in the prescribed form to them and the authority whose decision is appealed against within 28 days of notification of the decision.
- (2) On an appeal under this paragraph, the appropriate Ministers may allow or dismiss the appeal or vary the decision of the authority whose decision is appealed against, but may only make a determination involving the refusal of, or imposition of conditions on, approval on grounds open to that authority.
- (3) Where, following receipt by a planning authority of a request by the nominated undertaker for relevant approval, the authority does not notify the undertaker within the appropriate period—
- (a) of its decision on the request, or
  - (b) that the request has been referred to the appropriate Ministers in accordance with directions under paragraph 30 above,
- this paragraph shall apply as if the authority had refused the request and notified the undertaker of its decision on the last day of the appropriate period.
- (4) For the purposes of sub-paragraph (3) above, the appropriate period is the period of 8 weeks beginning with the date on which the request was received by the planning authority or such extended period as may at any time be agreed upon in writing between the authority and the nominated undertaker.
- (5) The appropriate Ministers may by regulations make provision for the extension of the appropriate period for the purposes of sub-paragraph (3) above in connection with the payment of fees by means of cheque.
- (6) The power to make regulations under sub-paragraph (5) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this paragraph, “prescribed” means prescribed by regulations made by the appropriate Ministers.



- 33 No appeal under section 78 of the Town and Country Planning Act 1990 (right to appeal against planning decisions and failure to take such decisions) may be made against a decision, or failure to notify a decision, in relation to which a right of appeal arises under paragraph 32 above.
- 34 (1) Unless the appropriate Ministers direct otherwise, their functions in relation to the determination of an appeal under paragraph 32 above shall, instead of being carried out by them, be carried out by a person appointed by them for the purpose.
- (2) The appropriate Ministers may by a further direction revoke a direction under sub-paragraph (1) above at any time before the determination of the appeal.
- (3) A direction under sub-paragraph (1) or (2) above shall be served on the nominated undertaker and the planning authority whose decision is appealed against.
- (4) At any time before the determination of an appeal by a person appointed for the purpose under this paragraph, the appropriate Ministers may revoke his appointment and appoint another person to determine the appeal instead.
- (5) Where the function of determining an appeal under paragraph 32 above is transferred from one person to another, the person to whom the function is transferred shall consider the matter afresh, but the fact that the function is transferred shall not entitle any person to make fresh representations or to modify or withdraw any representations already made.
- (6) If the appropriate Ministers determine an appeal which another person was previously appointed to determine, they may, in determining it, take into account any report made to them by that person.
- 35 The decision of the person appointed under paragraph 34 above, or, as the case may be, of the appropriate Ministers, on an appeal under paragraph 32 above shall be final.
- 36 (1) An appeal under paragraph 32 above shall be dealt with on the basis of written representations, unless the person deciding the appeal directs otherwise.
- (2) Subject to that, the appropriate Ministers may by regulations make such provision as they think fit about procedure in relation to appeals under paragraph 32 above.
- (3) Regulations under sub-paragraph (2) above may, in particular—
- (a) make provision for a time limit within which any person entitled to make representations must submit them in writing and any supporting documents,
- (b) empower the person deciding an appeal to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit, and
- (c) empower the person deciding an appeal, after giving written notice of his intention to do so to the nominated undertaker and the planning authority whose decision is appealed against, to proceed to a decision notwithstanding that no written representations were made within the time limit, if it appears to him that he has sufficient material before him to enable him to reach a decision on the merits of the case.
- (4) Regulations under sub-paragraph (2) above may, in relation to such a time limit as is mentioned in sub-paragraph (3)(a) above—
- (a) prescribe the time limit in the regulations, or

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) enable the appropriate Ministers to give directions setting the time limit in a particular case or class of case.
- 37 (1) Regulations under paragraph 32 or 36 above may make different provision for different cases.
- (2) The power to make regulations under paragraph 32 or 36 above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Interpretation*

- 38 (1) In this Schedule—
- “building” includes any structure, other than—
    - (a) anything in the nature of plant or machinery,
    - (b) any gate, fence, wall or other means of enclosure, or
    - (c) any tunnel, earthwork or railway track bed,but does not include anything temporary or, except where forming part of a station and intended for public use, anything underground;
  - “deemed planning permission” means the planning permission deemed by section 9 above to be granted;
  - “development” has the same meaning as in the Town and Country Planning Act 1990; and
  - “permitted development” means development to which the deemed planning permission relates.
- (2) In this Schedule—
- (a) references to the appropriate Ministers are to the Secretary of State for the Environment and the Secretary of State for Transport and, in relation to the carrying out of any function, are to those Ministers acting jointly, and
  - (b) references to land within the relevant limits are to land within the limits of deviation for the scheduled works or within the limits of land to be acquired or used.
- (3) For the purposes of this Schedule, spoil or top soil is surplus if it is not used for the purposes of any of the works authorised by this Part of this Act.