

CROSSRAIL ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SCHEDULES

Schedule 7 – Planning Conditions

Part 1 – Qualifying Authorities

194. *Paragraph 1* requires the Secretary of State, by means of an order, to name “qualifying authorities” for the purposes of Schedule 7. These are the eighteen local planning authorities which, by the time the Select Committee in the House of Lords had reported, had given the Secretary of State satisfactory undertakings about the handling of planning applications (set out in a Planning Memorandum developed with local authorities). A similar arrangement was adopted for the planning aspects of the Channel Tunnel Rail Link.
195. *Paragraph 1* also allows the Secretary of State to make orders revoking the conferring of “qualifying authority” status and to make subsequent naming orders in certain circumstances. Before making such an order, the Secretary of State is to consult the nominated undertaker and, if it is not the body requesting the order, the relevant local planning authority.
196. *Paragraph 2* allows for any order under paragraph 1 to set out any transitional arrangements that may be necessary (for example, were a local planning authority to cease to be a qualifying authority for the purposes of the Act whilst a number of undetermined planning applications were before it).

Part 2 – Development in the area of a unitary authority

197. *Paragraph 3* establishes Part 2 as the regime to apply in respect of development carried out in the area of unitary authorities (for example, those local planning authorities in London).
198. *Paragraph 4* establishes the circumstances in which the planning conditions for which the Part provides apply, different conditions applying, in general, according to whether the development is in the area of a non-qualifying or qualifying authority.
199. *Paragraph 5* provides for certain matters of detail to be the subject of requests for the approval of the non-qualifying unitary authorities and provides that the only grounds on which they can refuse a request is that the development to which it relates should and could reasonably be carried out elsewhere within Act limits, or that the design or external appearance of any building to which they relate ought to be modified to preserve the local environment or amenity, and is capable of being reasonably modified to do so.
200. *Paragraph 6* provides for certain matters of detail to be the subject of requests for the approval of the qualifying unitary authorities and sets out the grounds on which such authorities can refuse a request. The list of operations and works includes construction

works, minor constructions works, fences and walls, artificial lighting, waste and spoil disposal and borrow pits.

201. *Paragraph 7* sets out construction arrangements over which a qualifying unitary authority shall have some control, including road transport, the handling of re-useable spoil and top soil, storage sites, construction camps, screening, artificial lighting, the suppression of dust and mud on the highway.
202. *Paragraph 8* provides that for the disposal of waste or spoil, or the excavation of bulk materials from borrow pits, no disposal or excavation shall commence unless the nominated undertaker has first agreed with a qualifying unitary authority a scheme for the restoration of the land on which the disposal or excavation is to take place. The only ground on which the authority can refuse to agree such a scheme is that the scheme ought to be modified, and is reasonably capable of being so modified.
203. *Paragraphs 9 and 10* provide for a qualifying unitary authority to grant approval before any Crossrail works are brought into use, other than for stations, depots and the tunnelled sections of Crossrail. That approval is to be granted if the authority considers that no reasonably practicable measures to mitigate the effect on the local environment or amenity are necessary, or it has agreed a scheme for such measures.
204. *Paragraph 11* provides for any land used for construction purposes with respect to the scheduled works, where other restoration provisions of the Act do not apply to it, to be restored in accordance with a scheme agreed with the unitary authority. If no scheme is so agreed within 6 months of completion of the scheduled works concerned, the scheme is determined by the appropriate Ministers. This provision applies to both qualifying and non-qualifying unitary authorities.

Part 3 – Development not in the area of a unitary authority

205. *Paragraph 12* establishes Part 3 as the regime to apply to development carried out in non-unitary authority areas (for example, Essex). Responsibility for such development is split between district councils and the county council. The Part therefore provides for conditions which apply to the development for which district councils are responsible and conditions which apply to the development for which the county council is responsible.
206. *Paragraph 13* establishes the circumstances in which the district planning conditions for which the Part provides apply, different conditions applying, in general, according to whether the development is in the area of a non-qualifying district council or qualifying district council. Paragraph 14 and 15 apply do not apply in relation to certain development, referred to in this paragraph as “excepted development”. The development in question is development for which the county council is responsible (and in relation to which the corresponding conditions found in paragraphs 21 and 22 apply).
207. *Paragraph 14* provides for certain matters of detail to be the subject of requests for the approval of the non-qualifying district councils and the only grounds on which they can refuse a request is that the development to which it relates should and could reasonably be carried out elsewhere within Act limits, or that the design or external appearance of any building to which they relate ought to be modified to preserve the local environment or amenity, and is capable of being reasonably modified to do so.
208. *Paragraph 15* provides for certain matters of detail to be the subject of requests for the approval of the qualifying district council and sets out the grounds on which a qualifying district council can refuse a request. The list of operations and works includes construction works, minor constructions works, fences and walls and artificial lighting.
209. *Paragraph 16* sets out construction arrangements over which a qualifying district council shall have some control, including storage sites, construction camps, screening, artificial lighting, the suppression of dust and mud on the highway.

*These notes refer to the Crossrail Act 2008 (c.18)
which received Royal Assent on 22 July 2008*

210. *Paragraphs 17 and 18* provide for a qualifying district council to grant approval before any Crossrail works are brought into use, other than for stations, depots and the tunnelled sections of Crossrail. That approval is to be granted if the council considers that no reasonably practicable measures to mitigate the effect on the local environment or amenity are necessary, or it has agreed a scheme for such measures.
211. *Paragraph 19* provides for any land used for construction purposes with respect to the scheduled works, where other restoration provisions of the Act do not apply to it, to be restored in accordance with a scheme agreed with the district council. If no scheme is so agreed within 6 months of completion of the scheduled works concerned, the scheme is determined by the appropriate Ministers. This provision applies to both qualifying and non-qualifying district councils.
212. *Paragraph 20* establishes the circumstances in which the county planning conditions for which the Part provides apply. The conditions only apply if the county council concerned is a qualifying authority.
213. *Paragraph 21* sets out the conditions that may be applied to requests for the approval of details in respect of a qualifying county council for the disposal of waste or spoil, or the excavation of bulk materials from borrow pits.
214. *Paragraph 22* sets out construction arrangements over which a qualifying county council shall have some control, including storage sites, construction camps, screening, artificial lighting, the suppression of dust and mud on the highway.
215. *Paragraph 23* provides that for the disposal of waste or spoil, or the excavation of bulk materials from borrow pits, no disposal or excavation shall commence unless the nominated undertaker has first agreed with the qualifying county council a scheme for the restoration of the land on which the disposal or excavation is to take place. The only ground on which the council can refuse to agree such a scheme is that the scheme ought to be modified, and is reasonably capable of being so modified.
216. *Paragraph 24* provide for a qualifying county council to have some control over the routes by which heavy goods vehicles travel by road to and from working and storage sites, sites where material might be re-used, and waste disposal sites.

Part 4 – Supplementary

217. *Paragraph 25* provides that the local planning authority is not required to entertain a request for detailed planning permission unless the nominated undertaker has first submitted to that authority a programme of the permissions it intends to seek from the authority in question, and an explanation of how the matters dealt with in the permission sought fit into the wider Crossrail scheme.
218. *Paragraph 26* sets out a process for local planning authorities, where they consider a request for detailed planning permission relates to matters which may affect nature conservation, the conservation of the natural beauty or amenity of the countryside, or a site of archaeological or historic interest, to seek the views of Natural England or the Historic Buildings and Monuments Commission for England (commonly known as English Heritage), as appropriate. Those bodies are to have 21 days to comment on any such request.
219. *Paragraph 27* sets out a similar consultation provision in respect of the Environment Agency.
220. *Paragraphs 28 and 29* set out a mechanism for the Secretary of State for Transport, and the Secretary of State for Communities and Local Government, acting jointly, to issue directions either restricting a local planning authority's powers under the Schedule, or to "call-in" a particular request for approval under the Schedule.

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221. *Paragraphs 30-35* set out a mechanism for the nominated undertaker to appeal decisions by local planning authorities under the Schedule to the Secretary of State for Transport, and the Secretary of State for Communities and Local Government, acting jointly.
222. *Paragraph 36* empowers the Secretary of State, by order subject to negative resolution, to amend Schedule 7 to allow the Olympic Delivery Authority to become a “qualifying authority” in connection with Crossrail. A qualifying authority is a local planning authority which has given the Secretary of State undertakings concerning the handling of planning applications for Crossrail.