
STATUTORY INSTRUMENTS

2006 No. 2362

The Environmental Impact Assessment
(Agriculture) (England) Regulations 2006

PART 5

Appeals

Appeals against screening and consent decisions

33.—(1) The persons specified in paragraph (2) may appeal under this regulation to the Secretary of State.

(2) The persons referred to in paragraph (1) are—

- (a) a person who has applied for a screening decision in respect of a project which Natural England has decided is a significant project, or is deemed to have so decided, under regulation 9;
- (b) a person who has applied for consent for a significant project in respect of which consent has been refused or has been granted subject to conditions, other than those specified in regulation 19(2); and
- (c) a person who has been notified of a further decision under paragraph 3 of Schedule 4.

(3) An appeal against a relevant decision must be brought within 3 months of the date the person was notified of the relevant decision.

(4) A notice of appeal must—

- (a) describe the relevant decision;
- (b) state the grounds of appeal; and
- (c) state whether the appellant would like the appeal to be in the form of a hearing or local inquiry or to be disposed of on the basis of written representations.

(5) As soon as is reasonably practicable after receiving a notice of appeal against a relevant decision, the Secretary of State must serve a copy of the notice on Natural England.

(6) Natural England must, within 14 days of the date it receives the copy of the notice of appeal, provide the Secretary of State with sufficient information to identify the interested parties.

(7) The Secretary of State must serve copies of the notice on the interested parties as soon as is reasonably practicable after receiving that information.

(8) A person who is served with a copy of the notice under paragraph (7) may only make representations in respect of the appeal if he notifies the Secretary of State of his wish to do so within 21 days of the date he receives the copy of the notice.

(9) The Secretary of State must decide whether the appeal should be—

- (a) by hearing or local inquiry; or
- (b) conducted by written representations,

and the Secretary of State must notify his decision to the participants in the appeal.

(10) On determining the appeal, the Secretary of State may allow or dismiss the appeal, or reverse any part of the relevant decision, and may consider the appeal as if he were making a decision on the matter in question for the first time.

(11) The Secretary of State may appoint a person to exercise on his behalf, with or without payment, his function of determining the appeal or any matter involved in the appeal, and Schedule 5 has effect in relation to such an appointment.

(12) Subsections (2) to (5) of section 250 of the Local Government Act 1972⁽¹⁾ (power to direct inquiries) apply in relation to hearings or local inquiries held in accordance with regulation 35 as they apply to local inquiries under that section, but as if the references to the Minister were references to the Secretary of State and with the omission of references to a local authority.

(13) Section 322A of the Town and Country Planning Act 1990⁽²⁾ (orders as to costs: supplementary) applies in relation to a hearing or local inquiry under regulation 35 as it applies to a hearing or local inquiry referred to in that section.

(14) Except as otherwise provided by this regulation or by regulation 34 or 35, the Secretary of State must determine the procedure for deciding the appeal, and that procedure may include provision for site visits.

(15) Any representations, statement or other documents to be submitted to the Secretary of State under regulation 34 or 35 must be accompanied by as many copies as the Secretary of State specifies.

(16) In this regulation, “relevant decision” means—

- (a) a decision referred to in paragraph (2)(a);
- (b) a refusal of consent or a grant of consent subject to conditions referred to in paragraph (2)(b); or
- (c) a notification referred to in paragraph (2)(c).

(1) 1972 c. 70; section 250 was amended by the Criminal Justice Act 1982 (c. 48), sections 37, 38 and 46, the Housing and Planning Act 1986 (c. 63), section 49(2) and Schedule 12, Part 3 and by the Statute Law (Repeals) Act 1989 (c. 43), section 1 and the Schedule, Part 4.

(2) 1990 c. 8. Section 332A was inserted by the Planning and Compensation Act 1991 (c. 34), section 30(1).