

SCHEDULE 2

Requirements

PART 2

Applications made under requirements

24.—(1) Where an application has been made to a discharging authority for any consent, agreement or approval under a requirement, the discharging authority must give notice to the undertaker of its decision on the application within a period of 56 days beginning with—

- (a) where no further information is requested under requirement 25, the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under requirement 25, the day immediately following that on which further information has been supplied by the undertaker; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) In the event that the discharging authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period unless otherwise agreed in writing.

Multiple discharging authorities

25. Where an application is required to be made to more than one discharging authority for any single consent, agreement or approval under a requirement, the undertaker may submit a request for comments in respect of its proposed application to each discharging authority and, where it does so, each discharging authority must provide its comments in writing on the proposed application within a period of 20 days beginning with the day immediately following that on which the request is received by the authority, or such longer period as may be agreed in writing by the undertaker and the relevant authority or authorities, so as to enable the undertaker to prepare a consolidated application to each discharging authority in respect of the consent, agreement or approval required by the requirement.

Further information

26.—(1) Where an application has been made under requirement 22 the discharging authority may, subject to complying with the requirements of this paragraph, request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(2) If the discharging authority considers further information is necessary and the requirement does not specify that consultation with a requirement consultee is required, the discharging authority must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement specifies that consultation with a requirement consultee is required, the discharging authority must issue the consultation to the requirement consultee within 10 days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 10 days of receipt of such a request and in any event within 21 days of receipt of the application.

(4) If the discharging authority does not give the notification mentioned in sub-paragraphs (2) or (3) or such longer period as may be agreed in writing by the undertaker and the relevant authority, or otherwise fails to request any further information within the timescales provided for in this

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paragraph, it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

Fees

27.—(1) Where an application or a request for comments is made to a relevant planning authority for any consent, agreement or approval required by a requirement, a fee must be paid to the relevant planning authority as follows—

- (a) such fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission); or
 - (b) a fee of £117 per application or request.
- (2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of—
- (a) the application or request being rejected as invalidly made; or
 - (b) the relevant planning authority failing to determine the application or to provide written comments within 56 days from the date on which the application is received, or such longer period as may be agreed in writing under requirement 23, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application or a future request for comments.

Appeals

28.—(1) The undertaker may appeal if—

- (a) the discharging authority refuses an application for—
 - (i) any consent, agreement or approval required by a requirement or any document referred to in any requirement; or
 - (ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;
 - (b) having received a request for further information under requirement 25 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
 - (c) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.
- (2) The procedure for appeals is as follows—
- (a) the undertaker must submit to the Secretary of State, a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
 - (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
 - (c) within 28 days of receiving the appeals documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;
 - (d) the discharging authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies

of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

- (e) the appeal parties may make any counter-submissions to the appointed person within 10 business days beginning with the first day immediately following the date of receipt of written representations pursuant to sub-paragraph (d) above; and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.

(6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).

Outcome of appeals

29.—(1) On an appeal under requirement 28, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person under requirement 28. Been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(3) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the appointed person's decision.

(4) Any consent, agreement or approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of Part 1 of Schedule 2 (Requirements) as if it had been given by the discharging authority.

(5) The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(6) Except where a direction is given pursuant to sub-paragraph (7) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(7) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

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Interpretation

30. In this part;

“the appeal parties” means the discharging authority, the requirement consultee and the undertaker.

“discharging authority” means the body responsible for giving a consent, agreement or approval

under this schedule; and

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that requirement.