STATUTORY INSTRUMENTS

2017 No. 571

TOWN AND COUNTRY PLANNING

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

Made - - - -	*18th April 2017*
Laid before Parliament	*19th April 2017*
Coming into force - -	*16th May 2017*

[F1][F2]The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the environment.

The Secretary of State in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and sections 71A(1) and (2) and 298A(2) of the Town and Country Planning Act 1990 [F3], and having taken into account the selection criteria in Annex III to Council Directive 2011/92/EU [F4], makes the following Regulations:

F1 S.I. 2008/301.

F2 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

F3 1990 c.8. Section 71A was inserted by section 15 of the 1991 Act, and was amended by paragraph 16 of Schedule 12 to the Housing and Planning Act 2016 (c. 22) and S.I. 2011/1043.

F4 OJ No. L 26, 28.1.2012, p.1.

Modifications etc. (not altering text)

C1 Instrument applied (with modifications) by The Town and Country Planning (Permission in Principle) Order 2017 (S.I. 2017/402), **art. 5B(2)-(4)** (as inserted (1.6.2018) by S.I. 2017/1309, arts. 1, 4)

C2 Regulations modified (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), **s. 55(1)**

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and come into force on 16th May 2017.

(2) Subject to paragraph (3), these Regulations apply in relation to England only.

(3) Regulations 60, 61 and 62 apply in relation to Scotland, Wales and Northern Ireland respectively [F5].

F5 Regulations 60 to 62 relate to the Secretary of State's power to direct that the Regulations shall not apply to development that constitutes or forms part of a project having national defence as its sole purpose. The decision as to whether a direction should be made in respect of projects situated in the devolved administrations will be taken by the Secretary of State.

Interpretation

2.—(1) In these Regulations—

"the 1991 Act" means the Planning and Compensation Act 1991 [F6];

"the 1995 Act" means the Environment Act 1995 [F7];

"the Act" means the Town and Country Planning Act 1990 [F8];

"appropriate register" means the register on which particulars of an application for planning permission for the relevant development or an application for subsequent consent have been placed or would fall to be placed if such an application were made;

"the consultation bodies" means—

(a) any body which the relevant planning authority is required to consult, or would, if an application for planning permission for the development in question were before them, be required to consult by virtue of article 18 (consultations before the grant of permission) of the Order or of any direction under that article;

(b) the Marine Management Organisation [F9], in any case where the proposed development would affect, or would be likely to affect, any of the following areas—

(i) waters in or adjacent to England up to the seaward limits of the territorial sea;

(ii) an exclusive economic zone [F10], except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;

(iii) a Renewable Energy Zone [F11], except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;

(iv) an area designated under section 1(7) of the Continental Shelf Act 1964 [F12], except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions; and

(c) the following bodies if not referred to in paragraph (a) or (b)—

(i) any principal council for the area where the land is situated, if not the relevant planning authority;

(ii) Natural England [F13];

(iii) the Environment Agency [F14];

(iv) other bodies designated by statutory provision as having specific environmental responsibilities and which the relevant planning authority or the Secretary of State, as the case may be, considers are likely to have an interest in the application;

[[F15]"coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);**]**

"the Directive" means Council Directive 2011/92/EU **[**[F16]as it had effect immediately before exit day**]**;

"EIA" has the meaning given by regulation 4;

"EIA application" means—

(a) an application for planning permission for EIA development; or

(b) a subsequent application in respect of EIA development;

"EIA development" means development which is either—

(a) Schedule 1 development; or

(b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

"EIA order proposal" means an order proposal which relates to EIA development;

"environmental information" means the environmental statement, including any further information and any other information, any representations made by any body required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development;

"environmental statement" has the meaning given by regulation 18;

"European site" means a site within the meaning of regulation 8 of **[**[F17]the Conservation of Habitats and Species Regulations 2017**]**;

[[F18]"EU environmental assessment" means an assessment of the effect of anything on the environment carried out under retained EU law other than any law of any part of the United Kingdom that implemented the Directive;**]**

"exempt development" means development in respect of which the Secretary of State has made a direction under regulation 63;

"further information" has the meaning given in regulation 25;

"inspector" means a person appointed by the Secretary of State pursuant to paragraph 1 of Schedule 6 [F19] to the Act to determine an appeal;

"the land" means the land on which the development would be carried out or, in relation to development already carried out, has been carried out;

"by local advertisement", in relation to a notice, means—

(a) by publication of the notice in a newspaper circulating in the locality in which the land to which the application or appeal relates is situated; and

(b) publication of the notice on a website maintained by or on behalf of the authority;

"local development order" means a local development order made pursuant to section 61A [F20] (Local development orders) of the Act;

"monitoring measure" means a provision requiring the monitoring of any significant adverse effects on the environment of proposed development including any measures contained in—

(a) a condition imposed on the grant of planning permission; or

(b) a planning obligation;

"neighbourhood development order" means a neighbourhood development order made pursuant to section 61E [F21] (Neighbourhood development orders) of the Act;

"the Order" means the Town and Country Planning (Development Management Procedure) (England) Order 2015 [F22];

"order proposal" means a proposal for the making of a neighbourhood development order by a qualifying body under paragraph 1 of Schedule 4B [F23] to the Act;

"any other information" means any other substantive information relating to the environmental statement and provided by the applicant or the appellant as the case may be;

"any particular person" includes any non-governmental organisation promoting environmental protection;

"principal council" has the meaning given by section 270(1) (general provisions as to interpretation) of the Local Government Act 1972 [F24];

"qualifying body" has the meaning given by section 61E(6) (Neighbourhood development Orders) of the Act;

"register" means a register kept pursuant to article 40 of the Order (register of applications) and references to a "Part" of the register are to be taken as references to the Parts of the register as described in article 40 of the Order;

"relevant mineral planning authority" means the body to whom it falls, fell, or would, but for a direction under—

(a) paragraph 7 of Schedule 2 (registration of old mining permissions) to the 1991 Act;

(b) paragraph 13 of Schedule 13 (review of old mineral planning permissions) to the 1995 Act; or

(c) paragraph 8 of Schedule 14 (periodic review of mineral planning permissions) to the 1995 Act,

fall to determine the ROMP application in question;

"relevant planning authority" means the body to whom it falls, fell, or would, but for an application made directly to the Secretary of State under section 62A [F25] of the Act (applications made directly to the Secretary of State) or a direction under section 77 [F26] of the Act (reference of applications to Secretary of State), fall to determine an application for planning permission for the development in question;

"ROMP application" means an application to a relevant mineral planning authority to determine the conditions to which a planning permission is to be subject under—

(a) paragraph 2(2) of Schedule 2 (registration of old mining permissions) to the 1991 Act;

(b) paragraph 9(1) of Schedule 13 (review of old mineral planning permissions) to the 1995 Act [F27]; or

(c) paragraph 6(1) of Schedule 14 (periodic review of mineral planning permissions) to the 1995 Act [F28];

"ROMP development" means development which has yet to be carried out and which is authorised by a planning permission in respect of which a ROMP application has been or is to be made;

"ROMP subsequent application" means an application for approval of a matter where the approval—

(a) is required by or under a condition to which a planning permission is subject following determination of a ROMP application; and

(b) must be obtained before all or part of the minerals development permitted by the planning permission may be begun or continued;

"ROMP subsequent consent" means consent granted pursuant to a ROMP subsequent application;

"Schedule 1 application" and "Schedule 2 application" mean an application for planning permission for Schedule 1 development and Schedule 2 development respectively;

"Schedule 1 development" means development, other than exempt development, of a description mentioned in Schedule 1;

"Schedule 2 development" means development, other than exempt development, of a description mentioned in column 1 of the table in Schedule 2 where—

(a) any part of that development is to be carried out in a sensitive area; or

(b) any applicable threshold or criterion in the corresponding part of column 2 of that table is respectively exceeded or met in relation to that development;

"scoping direction" and "scoping opinion" have the meanings given in regulation 15;

"screening direction" means a direction made by the Secretary of State as to whether development is EIA development;

"screening opinion" means a written statement of the opinion of the relevant planning authority as to whether development is EIA development;

"sensitive area" means any of the following—

(a) land notified under section 28(1) (sites of special scientific interest) of the Wildlife and Countryside Act 1981 [F29];

(b) a National Park within the meaning of the National Parks and Access to the Countryside Act 1949 [F30];

(c) the Broads [F31];

(d) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage [F32];

(e) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979 [F33];

(f) an area of outstanding natural beauty designated as such by an order made by Natural England under section 82(1) (areas of outstanding natural beauty) of the Countryside and Rights of Way Act 2000 [F34] as confirmed by the Secretary of State;

(g) a European site;

"subsequent application" means an application for approval of a matter where the approval—

(a) is required by or under a condition to which a planning permission is subject; and

(b) must be obtained before all or part of the development permitted by the planning permission may be begun;

"subsequent consent" means consent granted pursuant to a subsequent application;

"UK environmental assessment" means an assessment carried out in accordance with an obligation under the law of any part of the United Kingdom of the effect of anything on the environment.

(2) Subject to paragraph (3), expressions used both in these Regulations and in the Act have the same meaning for the purposes of these Regulations as they have for the purposes of the Act.