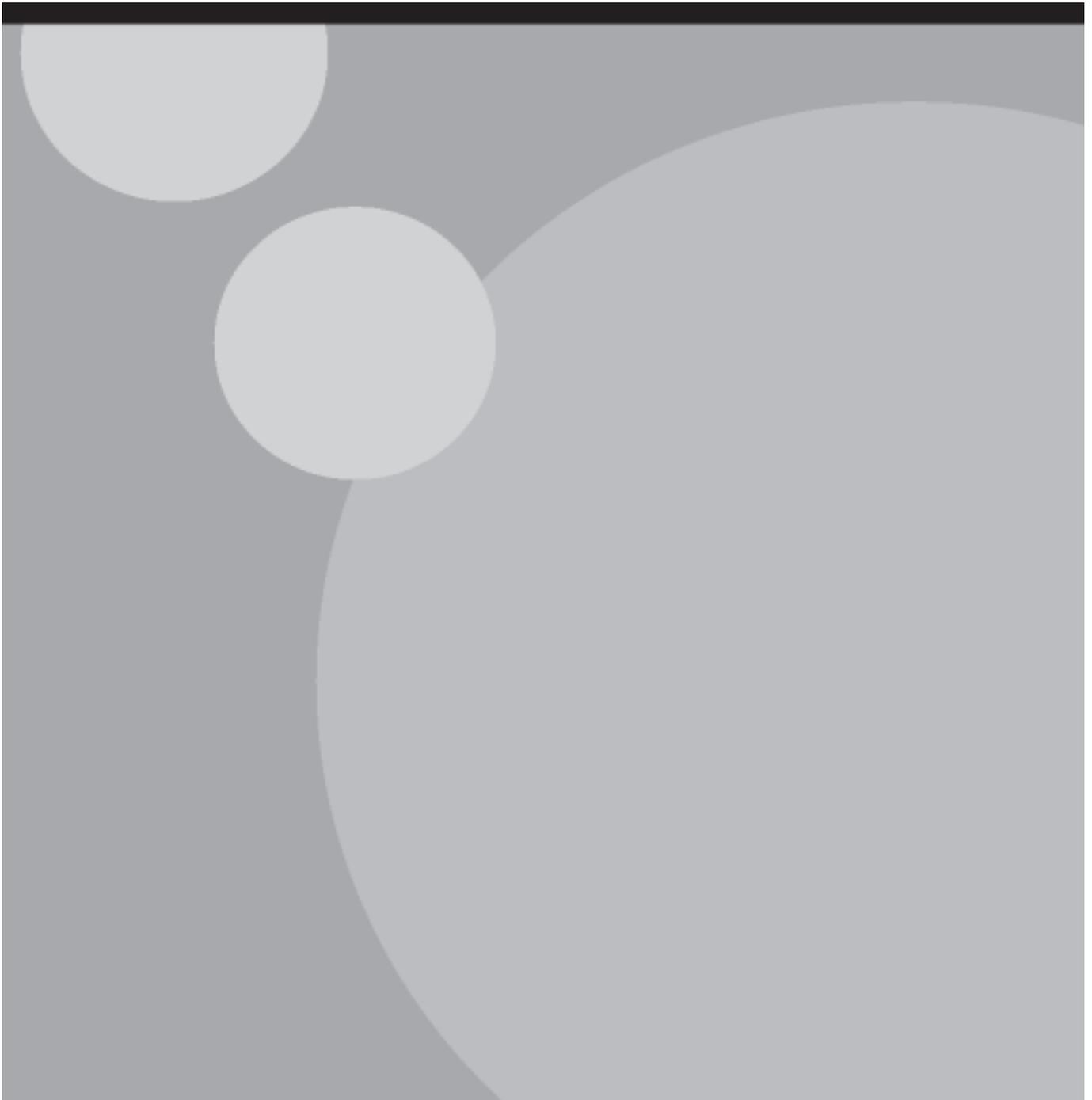




Planning Act 2008

Nationally significant infrastructure projects -
Application form guidance: Consultation





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Section 1

General issues

Application documents and information

1. The 2008 Planning Act (“the Planning Act”) created a new development consent regime for nationally significant infrastructure projects in the fields of energy, transport, water, waste water, and waste. These projects are commonly referred to as major infrastructure projects and will be termed as such throughout this document. Through the Localism Act 2011 (“the Localism Act”) the Government made significant changes to the regime by abolishing the Infrastructure Planning Commission and transferring responsibility for decision making to the Secretary of State¹.
2. Though the Secretary of State bears legal responsibility for it, the Government has made the decision to delegate responsibility for accepting and examining applications to the Planning Inspectorate (“the Inspectorate”), which will allocate appointed persons to act as the Examining Authority for individual applications. Where this guidance refers to the Secretary of State users should bear in mind that, in practice, the Inspectorate will carry out all functions on the Secretary of State’s behalf, except for decision-making and it is to the Inspectorate that all communication should be directed in the first instance. The relevant provisions of the Localism Act were commenced on 1 April 2012 and where this guidance refers to the Planning Act, unless otherwise stated, it should be read as the Planning Act as amended by the Localism Act
3. The Planning Act 2008 provides that an application for an order granting development consent must be made to the Secretary of State. Section 55 of the Act provides for the circumstances in which the Secretary of State may accept an application.
4. Section 37(3) of that Act requires the application to specify the development to which it relates, be made in the prescribed form, be accompanied by the consultation report, and be accompanied by documents and information of a prescribed description. The application must be of a standard which the Secretary of State considers satisfactory. The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 set out the prescribed form at Schedule 2, and prescribed documents and information at regulations 5 and 6.

¹ ‘Secretary of State’ in this document should be read as ‘the Secretary of State with responsibility for the relevant policy area’. Applications relating to energy projects will be decided by the Secretary of State for Energy and Climate Change; those relating to transport by the Secretary of State for Transport, hazardous waste by the Secretary of State for Communities and those for waste water and water supply will be a joint decision by the Secretary of State for Communities and the Secretary of State for the Environment.

5. In addition, it is important for applicants to bear in mind that national policy statements for particular types of infrastructure may also require applicants to provide the Secretary of State with other specified information. As the national policy statements will provide the principal basis for the Secretary of State's decision making, applicants must ensure that this specified information is also included within the application, and appropriately referenced on the application form. Failure to do this will risk the Secretary of State refusing to accept the application, if he or she considers the applicant has thereby not complied with the requirements of section 55. Applicants also risk the examination of an application being suspended until they submit further information, if the Examining authority appointed by the Secretary of State to examine the application considers that the original application contained insufficient information, for example in respect of the adequacy of information contained within an Environmental Statement.
6. The applicant may also wish to submit other information in support of its development proposal. For example, this may include information that the applicant might usually submit in support of its infrastructure development proposals under other consenting regimes, or that which has been suggested or asked for by respondents to the pre-application consultation and publicity and which the applicant has decided to include. Any such information must be appropriately referenced on the application form.
7. The application information must be provided to a sufficient degree of detail that will enable the Secretary of State (and all other interested parties) to appropriately consider the proposal. If the applicant considers it is infeasible to provide full and final details of any element of the proposal at the point of submitting the application, the applicant should clearly set out its reasoning for this. However, in such circumstances, the applicant should still submit sufficient information on those elements to enable them to be considered during the examination. The applicant should consider discussing this issue with the Planning Inspectorate in advance of submitting an application.
8. All applications must include two specific plans, namely a land plan and a works plan. The purpose of these is set out in regulations 5(2)(i) and (j) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 . Aside from these two, it is for the applicant to decide what plans it wishes to submit to address the other issues that are relevant to the application in question. It is acceptable for a plan to incorporate several issues, as long as there is sufficient clarity for each issue to be understood, and the plan and issues appropriately referenced throughout the application form. Consideration should be given to using appropriate forms of location referencing on the plans, such as Ordnance Survey map grid references. Where any plan consists of three or more separate sheets, the applicant must provide a key plan that shows the relationship between the different sheets.

Prescribed form

9. A standard application form is being used in order to ensure there is a consistent approach to the manner in which applications are made to the Secretary of State. It will assist the applicant in knowing what must be submitted and how. It will make it simpler for the Secretary of State to verify that the applicant has fulfilled its obligation of providing the prescribed documents and information. The completed form also acts as a high level summary of the proposed development with the level of detail entered in the relevant box being appropriate for this purpose. This will enable any interested party, including members of the public, to gain a basic overview of what is being proposed. To ensure it is easily understood by a range of audiences, the applicant must avoid the use of complex and technical terminology or unexplained acronyms, as far as possible, within the entries on this form.
10. To enable all of the documents and other information to be easily identified by the Secretary of State and all other interested persons, the applicant must ensure they are all given appropriate document references. These must be stated on the form in the relevant boxes. The submission of duplicated documents and information should be avoided. Instead, where a box requires the enclosure of information that the applicant has included in a document elsewhere, the box entry should state that document's reference number.

Format of application documents

11. The applicant should discuss with the Planning Inspectorate what the appropriate format for the application should be, for example in electronic format(s), paper copies, a combination of the two, etc. Regulation 5(2)(r) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 also provides that the Secretary of State may request the applicant to submit three paper copies of the application form and documents.

Section 2

Application form: information requirements

12. The numbered box references in this guidance correspond to the numbered boxes in the Application Form at Schedule 2 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

Box 1: Applicant

13. Enter the name and address of the organisation that is applying for the order to grant development consent. Include the name and contact details of a point of contact within that organisation for this application. (Separately from the application documents, the applicant may also wish to provide the Secretary of State with a more comprehensive list of contacts within its organisation).

Box 2: Agent

14. Where there is an agent acting on behalf of the applicant enter the equivalent information as for Box 1.

Box 3: Application fee payment

15. A fee is payable in respect of the Secretary of State's consideration of whether to accept the application for examination. This fee must be paid at the time of submitting the application. The manner in which the payment is being made must be described in Box 3. For example, whether by an electronic transfer (including the applicable transaction dates), or that a cheque is enclosed with the application, or description of any other arrangement that may have been made with the Planning Inspectorate for making this payment.

Box 4: Confirming why the application falls to be determined under the Planning Act 2008

16. Part 3 of the Planning Act 2008 sets out the circumstances in which an infrastructure development proposal requires development consent under the Planning Act 2008. In Box 4, the applicant must give a brief statement which explains why its proposal fulfills this criteria, including giving reference to the relevant section of Part 3 of the Act. Where applicable, the

statement should include the capacity of the proposed development, with respect to the relevant threshold requirements for that development which are set out in Part 3. For Harbour facilities, this must also include the appropriate equation as set out in section 24(5) of Part 3.

Box 5: Brief non-technical description of the development proposal

17. A brief, non-technical description of the proposed development must be entered in Box 5. The purpose of this statement is to enable any reader of the form to easily gain a basic overview of what would be granted consent through this application. Therefore, as well as being of use to the Secretary of State, this statement is for the benefit of any person or organisation that could be affected by, or is otherwise interested in, this application. This means it is important that the use of technical or otherwise complex terminology, descriptions and unexplained acronyms is avoided in this statement as much as possible. This requirement will ensure the statement is likely to be more understandable to any interested person, including members of the public. A detailed description of the location of the proposed development should be set out in Box 6. The pre-application consultation process is expected to have alerted people to a development proposal. However, it is anticipated that boxes 5 and 6 of this form will, together, be of use for any interested person, particularly members of the public, in deciding whether they wish to consider in more detail the final version of the application. This will assist with making representations regarding it to the Secretary of State and the Examining authority.

Box 6: Location or route of the development proposal

18. A brief statement must be given that clearly identifies the location of the application site, or the route if it is a linear scheme. Consideration should be given to the use of appropriate grid referencing, such as Ordnance Survey map grid references, latitude/longitude references, etc.

Box 7: Associated development

19. If the Secretary of State grants development consent for a major infrastructure project, the Planning Act also allows it to grant consent for development that is 'associated' with that project. If an application for development consent includes such associated development, this should be indicated in Box 7. The application information relating to the associated development must be clearly identified as such within the application documents, and referenced within Box 7.

Box 8(a): Consultation report

20. Part 5 of the Planning Act 2008 requires the applicant to produce a consultation report, and for this report to accompany the application. The report must include details of relevant responses received by the applicant.

Box 8(b): Copies of newspaper notices

21. Regulation 4 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 requires an applicant to publish newspaper notices in order to publicise a proposed application. Copies of all the notices must be submitted within the application.

Boxes 9 & 10: Draft Development Consent Order and Explanatory Memorandum

22. A draft Development Consent Order is to be prepared by the applicant. This is to contain the provisions relating to all the development work, associated development and ancillary matters the applicant intends to carry out. The Explanatory Memorandum is a document that helps to explain the purpose and effect of the provisions that are within the draft Development Consent Order.

Box 11: Land plan

23. All applications must be accompanied by a plan that is identified as a land plan. Regulation 5(2)(i) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 sets out what this plan is required to show. The main purpose is to identify the land that is required to be used for the proposed development, and land that would be affected by it. The applicant must also use this plan to show any land or rights that will be subject to compulsory acquisition, etc., and any replacement land or special category land. The applicant may also include other information on this plan if it so wishes.

Box 12: Works plan

24. All applications must be accompanied by a plan that is identified as a works plan. Regulation 5(2)(j) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 sets out what this plan is required to show. The purpose of this plan is to set out the proposed positioning of the development and works at the location or locations in question. The applicant may also set out other information on this plan if it so wishes.

Box 13: Compulsory acquisition of land or an interest in land or right over land

25. Where an applicant intends to compulsorily acquire land, an interest in land or rights over land, information relating to this must be set out within a statement of reasons, a funding statement and a book of reference. These documents must be submitted at the same time, and as part of, the application for an order to grant development consent.
26. The statement of reasons must set out the reasoning for why the compulsory acquisition, etc, being applied for is necessary to enable the proposed development to proceed. A funding statement must be included that contains sufficient information which will enable the Secretary of State to be satisfied that, if it was to grant the compulsory acquisition request, the proposed development is likely to be undertaken and not be prevented due to difficulties in sourcing the necessary funding.
27. The book of reference must be in the format, and contain the required information, that is set out in regulation 7 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. By producing the document in this format, and containing the addresses for service, it will aid the applicant in fulfilling its duties of notifying and engaging with the persons affected by the proposed compulsory acquisition. It also means the applicant will only have to submit further information about the affected persons to the Secretary of State, after the application has been accepted, if any of that information has changed since it was first submitted. This is because the Secretary of State will otherwise already be in receipt of the information it needs to then inform specified persons of their right to request a compulsory acquisition hearing. This obligation on the Secretary of State is set out in section 92 of the Planning Act.
28. Note that, unlike other infrastructure consent regimes, compulsory purchase order schedules are not to be used by the applicant. Instead, the applicant must submit a book of reference, as explained above. Provisions relating to an applicant's compulsory acquisition proposals are to be included within the draft Development Consent Order.

Box 14: Environmental impact assessment (EIA)

29. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 set out the procedures for determining whether a proposed development requires the applicant to undertake an Environmental Impact Assessment, and the Environmental Impact Assessment process that must be followed.

Boxes 14(a) Environmental statement

30. Where the proposed development is deemed to be Environmental Impact

Assessment development, the required Environmental Statement must be submitted as part of the application.

Box 14(b): Screening and scoping opinions

31. Reference must be made to whether the application has been the subject of screening and scoping opinions. Copies of the opinions received by the applicant must be enclosed.

Box 14(c): Publicity required under regulation 11 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

32. At the same time as publishing a notice of the proposed application, Regulation 11 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 requires an applicant to send a copy of that notice to the consultation bodies, and also to any person that the applicant has been notified about under regulation 9(1)(c).
32. In Box 14(c), the applicant must confirm that it has sent the notice to the consultation bodies and, if applicable, to the other persons.

Box 15: European sites (to which regulation 48 of the Conservation (Natural Habitats, & c.) Regulations Statutory Instrument 1994/No.2716 applies) or a Ramsar site

33. The applicant must submit to the Secretary of State a report that identifies any of these sites that may be affected by the proposed development, along with sufficient information that will enable the Secretary of State to make an appropriate assessment of the implications for the site in accordance with regulation 48(1) of Statutory Instrument 1994/No.2716.

Box 16: A plan, with accompanying information, relating to sites or features of nature conservation, habitats of protected species, etc.

34. Regulation 5(2)(l) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 sets out the information that should be referred to in Box 16. The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 require provision of information on 'any effects' - which is not limited to effects which are classed as 'significant' under the terms of European Directives - in order to give the Secretary of State a full account of how such sites or features could be affected by the proposal, and an indication of the scope of effects

which may need to be looked at during the examination phase.

35. The effects that are likely to be caused by the proposed development should be assessed at a level of detail that is appropriate for the circumstances. Where the effects are classed as 'significant effects' under the terms of European Directives, they will need to be assessed in accordance with those Directives and the relevant information must be set out within the environmental statement - this document should be cross-referenced in Box 16.
36. Any other effects that are not classed as significant under those Directives should also be addressed by the applicant, with details set out in Box 16. The level of assessment of these should be proportionate to those effects. For example, if the applicant believes the effect is relatively minor, the assessment could just be limited to a list of points or other form of brief account. Alternatively, for more substantial effects, the applicant may consider it appropriate to conduct a more substantial assessment. The applicant may wish to discuss its intended approach with relevant consultees. This information on other effects should be set out in a document that is separate from an environmental statement, and referenced in Box 16.

Box 17: A plan, with accompanying information, relating to sites or features of the historic environment

- 37 Regulation 5(2)(m) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 sets out the information that should be referred to in Box 17. The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 require provision of information on 'any effects' - which is not limited to effects which are classed as 'significant' under the terms of European Directives - in order to give the Secretary of State a full account of how such sites or features could be affected by the proposal, and an indication of the scope of effects which may need to be considered during the examination.
- 38 The effects that are likely to be caused by the proposed development should be assessed at a level of detail that is appropriate for the circumstances. Where the effects are classed as 'significant effects' under the terms of European Directives, they will need to be assessed in accordance with those Directives and the relevant information must be set out within the environmental statement. This document should be cross-referenced in Box 17.
39. Any other effects that are not classed as significant under those Directives should also be addressed by the applicant, with details set out in Box 17. The level of assessment of these should be proportionate to those effects. For example, if the applicant believes the effect is relatively minor, the assessment could just be limited to a list of points or other form of brief account. Alternatively, for more substantial effects, the applicant may consider it appropriate to

conduct a more substantial assessment. The applicant may wish to discuss its intended approach with relevant consultees. This information on other effects should be set out in a document that is separate from an environmental statement and referenced in Box 17.

Box 18: Flood risk assessment

40. Where a flood risk assessment is required for a proposed development, this must be submitted within the application.

Box 19: Matters set out in section 79(1) of the Environmental Protection Act 1990

41. The applicant should refer to section 79(1) of the Environmental Act 1990 in order to consider whether the development proposal would engage one or more of that section's issues relating to nuisance. If it does, the applicant's statement should set out its proposals for mitigating or limiting them.

Box 20: Crown land

42. Where any Crown land is likely to be affected by the proposed development, this should be identified within a plan and any accompanying information.

Box 21: Plan identifying new or altered means of access, etc

43. The information to be submitted refers to that which is set out in regulation 5(2)(k) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009..

Box 22: Additional information for specific types of infrastructure

44. Regulation 6 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 sets out the requirements for additional information to be submitted for specific types of infrastructure. A brief description of the information being submitted should be stated within Box 22, with any more detailed information being set out in an accompanying document, appropriately referenced. If this information is contained within other documents cited on this form, then those documents should be referred to in Box 22, rather than duplicating the information within additional documents.

Box 23: Other plans, drawings, etc to describe the development proposal, and any other documents, reports or information to support the application

45. The applicant must enclose documents, and give a brief description, of any other plans, drawings and sections that are being submitted with this application that have not already been referred to elsewhere on this form. Box 23 should be used to refer to documents containing information that is set out in regulation 5(2)(o) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, such as on the details of design, external appearance and the preferred layout of buildings, drainage, surface water management, means of vehicular and pedestrian access and means of landscaping, etc.
46. Box 23 should also identify the documents that are being submitted in accordance with regulation 5(2)(q). In particular, the national policy statement relevant to a particular type of infrastructure may explicitly require the Secretary of State to consider a particular issue, for example matters relating to climate change adaptation and mitigation measures, and how the development proposal would impact on the transport network, etc. The applicant should supply such documents as the Secretary of State needs in order to meet the requirements of the National Policy Statement, and these should be identified in Box 23.
47. The applicant should also use Box 23 to refer to any other information that the applicant has decided to submit in support of the application, but which has not been explicitly required by Regulations or national policy statements. For example, this may include information that the applicant might typically submit in support of its infrastructure development proposals under other consenting regimes, or that which has been suggested or asked for by respondents to the pre-application consultation and publicity and which the applicant wishes to include. Applicants should identify in Box 23 any relevant information about measures to mitigate noise impacts from the proposed development, unless this is fully covered elsewhere (e.g. Box 19). In doing this, applicants should have regard to the Noise Policy Statement for England.²

Box 24: Other consents / licences required under other legislation

² The Noise Policy Statement for England was published on 15 March 2010. It sets out the long term vision of government noise policy, to promote good health and a good quality of life through the management of noise. <http://www.defra.gov.uk/environment/quality/noise/npse>

48. Where the proposed development will also require other consents, licences, permits, etc, to enable it to be constructed or operational, and for which the Secretary of State is not the authorising body under the Planning Act, then the applicant must list and briefly describe these in Box 24. Reference should be given to any that have already been applied for, and a copy enclosed of any that the applicant may already be in the possession of. Such other consents could be required for controlling pollution, for example.

Box 25: Declaration

49. The form must be signed and dated by the applicant, or by a person authorised to do so by the applicant. In signing the form, that person is declaring, to the best of their knowledge, that the information given in the form and enclosed maps, plans and other documents (that together constitute the application) is true.