



Department for Transport *Environmental Impact Assessment: Technical Consultation (Transport Regulations) Transport and Works Act 1992, Harbours Act 1964, Highways Act 1980 (2017)*

Historic England Response

Historic England is the Government's statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 and sponsored by the Department for Culture, Media and Sport (DCMS). We champion and protect England's historic places, providing expert advice to local planning authorities, developers, owners and communities to help ensure our historic environment is properly understood, enjoyed and cared for.

The responses given below are provided to seek to ensure a consistent approach is taken to implementing the European Directive 2014/52/EU through the Transport and Works Act (1992) and procedures and rules made under that Act, the Highways Act 1980 and the Harbours Act 1964, whilst ensuring existing levels of heritage protection are maintained.

Q 1. Do you agree with our approach to transposing the requirements of the 2014 Directive into the Transport and Works Act 1992 and the procedure rules made under that Act, or have any other comments?

Para 2.11 We note that although rule 7(11) will continue to refer to the selection criteria set out in Annex III to the EIA Directive as being a matter which the Secretary of State must take into account when making a screening decision (which will now be the selection criteria as amended by the 2014 Directive) Annex III will not be transposed into the Applications and Objections Procedure itself. However, we feel that it would be helpful to adopt a consistent approach in implementing Annex III to all the legislation being considered within this consultation.

Para 2.12 The intention to retain the provision for the competent authority to consult relevant authorities on screening requests as provided by rule 7(8) and (9) of the AOPR is supported despite this not being a requirement in Article 4(5). We agree that this will enable the Secretary of State to make a well informed screening decision and assume Historic England will be such a relevant authority.

Para 2.20 We welcome the requirement in Article 5(3)(a) on a developer to ensure that the environmental statement is prepared by competent experts and Article 5(3)(b) that the competent authority has, or has access to, sufficient expertise to examine the environmental statement.

Para 2.21 The addition of the requirement to rule 11 of the AOPR that the environmental statement must be prepared by persons who, in the opinion of the Secretary of State,

have sufficient expertise to ensure the completeness and quality of the environmental statement; and that the environmental statement must contain a statement by or on behalf of the applicant setting out how that requirement has been complied with is viewed as a positive one.

Q 2. Do you agree with our approach to transposing the requirements of the 2014 Directive into the Harbours Act 1964, or have any other comments?

Para 3.24 and 3.25. We note the intention to reference the selection criteria from Annex III in the introductory section of HA64 Schedule 3, and include the key requirements elsewhere in HA64 where they are directly relevant. In response we refer you to our comments under Paragraph 2.11 above that a consistent approach in implementing Annex III to all the legislation being considered within this consultation would be helpful. Furthermore, we assume there will be a similar provision in HA64 for the competent authority to consult relevant authorities on screening requests as proposed for the Transport and Works Act 1992 – Para 2.12 above?

Para 3.48 – 3.50. This section deals with competent authorities and our comments under the Transport and Works Act 1992 (Paragraphs 2.20 and 2.21 above) similarly apply.

Q 3. Do you agree with our approach to transposing the requirements of the 2014 Directive into the Highways Act 1980, or have any other comments?

Para 4.12 – 4.15. There appear to be inconsistencies in approach with no mention of the provision set out in Para 2.12 of the Transport and Works Act above or how the selection criteria set out in Annex III to the EIA Directive are to be applied. We suggest this needs to be addressed.

Para 4.25 – 4.26. This section deals with competent authorities and our comments under the Transport and Works Act 1992 (paragraphs 2.20 and 2.21 above) also apply. It is assumed there will be a similar requirement as described for the Transport and Works Act 1992 and the Harbours Act 1964 for the environmental statement to include a statement by or on behalf of the applicant setting out how the requirement for sufficient expertise has been met.

Para 4.27. We note the reference under Section 105B(8)(b) to English Heritage which should be amended to Historic Buildings and Monuments Commission for England (Historic England).

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Historic England

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