

**EXPLANATORY MEMORANDUM TO  
THE CROSSRAIL (PLANNING APPEALS) (WRITTEN REPRESENTATIONS  
PROCEDURE) (ENGLAND) REGULATIONS 2008**

**2008 No. 2908**

1. This explanatory memorandum has been prepared by the Department for Transport and the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1. Schedule 7 to the Crossrail Act 2008 (the “**Act**”) disapplies section 78 of the Town and Country Planning Act 1990 (right to appeal against planning decisions, or failure to take such decisions). In its place, the Act sets out mechanisms for the Crossrail project nominated undertakers (namely Cross London Rail Links Limited and – for two underground stations – London Underground Limited (together the “**Nominated Undertakers**”)) to appeal against a decision of a local planning authority. The Secretary of State for Transport and the Secretary of State for Communities and Local Government (hereinafter referred to as the “**appropriate Ministers**”) may make such regulations as they see fit about procedure in relation to appeals.

- 2.2. An appeal against a decision of a local planning authority by a Nominated Undertaker is made on a prescribed form to the appropriate Ministers. The right of appeal is specified by the Act to relate to:

- 2.2.1. a local planning authority’s decision to refuse a request for relevant approval;
- 2.2.2. the conditions imposed in granting approval; or
- 2.2.3. failure by the local planning authority to take a decision within the time period prescribed.

- 2.3. The Act provides that, unless the appropriate Ministers direct otherwise, they will appoint a person to determine the appeal. It is intended that the majority of appeals will be determined by Planning Inspectors. These procedures are governed by the proposed Regulations.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 None

#### **4. Legislative Context**

4.1 The proposed Crossrail (Planning Appeals) (Written Representations) (England) Regulations (the “**Regulations**”) are largely based on the Channel Tunnel Rail Link (Planning Appeals) Regulations (S.I. 1997/821) and the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000 (S.I. 2000/1628).

#### **5. Territorial Extent and Application**

5.1 This instrument applies to England only.

#### **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **7. Policy background**

7.1 The Regulations will assist the delivery of the Crossrail project by reducing unnecessary planning delay and increasing the predictability of the Crossrail project programme, the outcome of which will aid the Nominated Undertakers to bring the project in on time and in budget.

#### **8. Consultation outcome**

8.1 The Regulations are not controversial. They have been developed in partnership between Department for Communities and Local Government and Department for Transport officials. The proposed Regulations have also been developed following consultation with the Planning Inspectorate. Additionally, the Department for Transport consulted the eighteen qualifying authorities (local authorities that gave the Secretary of State for Transport satisfactory undertakings on arrangements to handle Crossrail planning). Only one authority responded, and the Regulations were changed to reflect the consultation response.

8.2 The change to the proposed regulations was brought about following a debate regarding timescales of comments made in new representations. Such comments by their nature could be more unpredictable and the initial proposed 7 day maximum response allowance for an authority to issue a response may have proved very challenge to local authorities. The Department for Transport consulted with the Planning Inspectorate of England and Wales, Communities and Local Government and Cross London Rail Links Limited. The result was to propose to extend the maximum period for a local planning authority to submit closing representations if a new matter has been raised from 7 to 14 days. This

was announced at the Planning Forum and well received by both the local authority that issued to consultation response and other qualifying authorities.

**9. Guidance**

None.

**10. Impact**

9.1 The impact on business, charities or voluntary bodies is none.

9.2 The impact on the public sector is as considered as part of the Impact Assessment completed in conjunction with the Act.

9.3 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

10.1 The legislation does not apply to small business.

**12. Monitoring and Review**

11.1 The success criteria for this instrument will be reduced unnecessary planning delay and increased predictability of the Crossrail project programme, measured by the extent to which the Nominated Undertakers bring the project in on time and in budget.

**13. Contact**

Nick Denton at the Department for Transport Tel: 020 7944 2504 or email: [Nick.Denton@dft.gsi.gov.uk](mailto:Nick.Denton@dft.gsi.gov.uk) can answer any queries regarding the instrument.