EXPLANATORY MEMORANDUM TO

THE CROSSRAIL (PLANNING APPEALS) (WRITTEN REPRESENTATIONS PROCEDURE) (ENGLAND) (AMENDMENT) REGULATIONS 2009

2009 No. 1312

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

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2.1. These Regulations correct an error in the Appeal Questionnaire to be completed by a local planning authority as prescribed by Schedule 2 to the Crossrail (Planning Appeals) (Written Representations Procedure) (England) Regulations 2008 ("the 2008 Regulations"). The 2008 Regulations prescribe the procedures for the determination of appeals by the Crossrail project nominated undertakers against a decision of a local planning authority.

2.2. At paragraph A5 of the Appeal Questionnaire the local authority is asked to indicate what kind of request for approval the appeal relates to? Four classes of requests for approval are listed, namely:

- 5(a) Detailed plans and specifications;
- 5(b) A scheme of construction arrangements;
- 5(c) A mitigation scheme; and
- 5(d) Site restoration.

2.3. The local authority is also required to list any additional requests for approval under paragraph 8, 11, 17 and 23 of Schedule 7 to the Crossrail Act 2008. However, there is no need for the local planning authority to provide this information because:

- paragraphs 8 and 23 relate to requests for approval for site restoration schemes and so are included in paragraph A5(c);
- paragraph 11 does not concern requests for approval; and
- paragraph 17 relates to requests for approval for mitigation schemes and so is included in paragraph A5(d).

2.4. Accordingly, the final sentence of paragraph A5 of Schedule 2 to the 2008 Regulations is otiose and should be deleted from the Appeal Questionnaire.

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

3.1. By letter dated 10 December 2008 the Committee asked the Department for Transport to explain the reference in paragraph A5 of the Appeal Questionnaire in Schedule 2 to any requests for approval under paragraph 11 of Schedule 7 to the Crossrail Act 2008.

3.2. The Department accepted the reference to paragraph 11 of Schedule 7 was incorrect. However, in reviewing paragraph A5 of the Appeal Questionnaire the Department concluded that none of the other paragraphs of Schedule 7 referred to in the final sentence of paragraph A5 of the Appeal Questionnaire concerned any additional requests for approval not otherwise captured by the provisions of paragraph A5.

4. Legislative Background

4.1. The proposed Crossrail (Planning Appeals) (Written Representations) (England) (Amendment) Regulations 2009 (the "amending Regulations") are being made to correct an error in the 2008 Regulations.

5. Territorial Extent and Application

5.1. This instrument applies to England only.

6. European Convention on Human Rights

6.1 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 amending Regulations are required to correct an error in the Appeal Questionnaire in Schedule 2 to the 2008 Regulations.

8. Consultation outcome

8.1. No consultation is necessary. The amending Regulations will be issued free of charge with the 2008 Regulations which were made with an error.

9. Guidance

None.

10. Impact

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

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

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

11. Regulating small business

11.1. The legislation does not apply to small business.

12. Monitoring and Review

12.1. Non necessary.

13. Contact

13.1. Becky Wood at the Department for Transport Tel: 020 7944 2495 or email: Becky.Wood@dft.gsi.gov.uk can answer any queries regarding the instrument.