Appeal procedure

120.—(1) An appeal under this Part must—
   (a) be made in writing on a form obtained from the Secretary of State (or a form to substantially the same effect); and
   (b) include the particulars specified or referred to in the form.
(2) An appellant may withdraw an appeal at any time by giving notice in writing to the appointed person.
(3) The appointed person must, as soon as practicable after receipt of an appeal, send—
   (a) an acknowledgment of receipt to the appellant in writing, which must include—
      (i) the reference number allocated to the appeal, and
      (ii) the address to which written communications to the appointed person about the appeal are to be sent;
   (b) a copy of the acknowledgement mentioned in sub-paragraph (a) to each interested party together with—
      (i) a copy of the completed appeal form, and
      (ii) notice that written representations in relation to the appeal may be sent to the appointed person before the end of the representations period.
(4) The completed appeal form comprises the appellant’s representations in relation to the appeal.
(5) Any written representations from the interested parties in relation to the appeal must be received by the appointed person before the end of the representations period.
(6) On receipt of an interested party’s representations, the appointed person must, as soon as practicable, send a copy of those representations to the appellant and each of the other interested parties.
(7) The appellant and the interested parties must send any comments they have on each other’s representations to the appointed person in writing within 14 days of the end of the representations period; and the appointed person must, as soon as practicable after receipt, send a copy of those comments to each of the other parties to the appeal.
(8) The appointed person must consider any representations and comments made by the appellant and interested parties.
(9) The appointed person must notify the appellant and the interested parties in writing of—
   (a) the decision on the appeal; and
   (b) the reasons for the decision.

Costs

121. The appointed person may make orders as to the costs of the parties to the appeal and as to the parties by whom such costs are to be paid.

PART 11
PLANNING OBLIGATIONS

Limitation on use of planning obligations

122.—(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.

(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—
(a) necessary to make the development acceptable in planning terms;
(b) directly related to the development; and
(c) fairly and reasonably related in scale and kind to the development.

(3) In this regulation—

“planning obligation” means a planning obligation under section 106 of TCPA 1990 and includes a proposed planning obligation; and

“relevant determination” means a determination made on or after 6th April 2010—

(a) under section 70, 76A or 77 of TCPA 1990(a) of an application for planning permission which is not an application to which section 73 of TCPA 1990 applies; or
(b) under section 79 of TCPA 1990(b) of an appeal where the application which gives rise to the appeal is not one to which section 73 of TCPA 1990 applies.

Further limitations on use of planning obligations

123.—(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.

(2) A planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure.

(3) A planning obligation (“obligation A”) may not constitute a reason for granting planning permission to the extent that—

(a) obligation A provides for the funding or provision of an infrastructure project or type of infrastructure; and

(b) five or more separate planning obligations that—

(i) relate to planning permissions granted for development within the area of the charging authority; and

(ii) which provide for the funding or provision of that project, or type of infrastructure, have been entered into before the date that obligation A was entered into.

(4) In this regulation—

“charging authority” means the charging authority for the area in which the development will be situated;
“funding” in relation to the funding of infrastructure, means the provision of that infrastructure by way of funding;
“determination” means a determination—

(a) under section 70, 76A or 77 of TCPA 1990 of an application for planning permission which is not an application to which section 73 of TCPA 1990 applies, or

(b) under section 79 of TCPA 1990 of an appeal where the application which gives rise to the appeal is not one to which section 73 applies;

“planning obligation” means a planning obligation under section 106 of TCPA 1990 and includes a proposed planning obligation but does not include a planning obligation that relates to or is connected with the funding or provision of scheduled works within the meaning of Schedule 1 to the Crossrail Act 2008;
“relevant determination” means—

(a) Section 70 was amended by paragraph 14 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34). Section 76A was inserted by section 44 of the Planning and Compulsory Purchase Act 2004 (c. 5). Section 77 was amended by section 40(2)(d) of the Planning and Compulsory Purchase Act 2004, paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991 and paragraph 2 of Schedule 10 to the Planning Act 2008 (c. 29).
(b) Section 79 was amended by section 18 of the Planning and Compensation Act 1991 and paragraph 4 of Schedule 10 to the Planning Act 2008.