

Great Yarmouth Third River Crossing

Application for Development Consent Order

Document 6.2: Environmental Statement Volume II: Technical Appendix 18A: Legislation, Policy and Guidance

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (“APFP”)

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1 Legislation, Policy and Guidance

1.1.1 Tables 1.1 to 1.3 summarise the applicable legislation, policy and guidance to Chapter 18: Major Accidents and Disasters.

Table 1.1: Summary of Legislation

Legislation	Summary	Chapter Reference
Directive 2014/52/EU (Ref 18A.1)	<p>Recital 15 of the Directive states:</p> <p><i>“In order to ensure a high level of protection of the environment, precautionary actions need to be taken for certain projects which, because of their vulnerability to major accidents, and/or natural disasters (such as flooding, sea level rise, or earthquakes) are likely to have significant adverse effects on the environment. For such projects, it is important to consider their vulnerability (exposure and resilience) to major accidents and/or disasters, the risk of those accidents and/or disasters occurring and the implications for the likelihood of significant adverse effects on the environment”.</i></p>	<p>This is addressed through the production of this chapter and assessment, with particular relevance is the Significance Record (see Chapter 18: Major Accidents and Disasters, section 18.7).</p>
EIA Regulations (Ref 18A.2)	<p>Directive 2014/52/EU has been transposed into UK law under levant EIA legal framework surrounding MA&D. Schedule 4 Paragraph 8 of the regulations state:</p> <p><i>“A description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to EU legislation such as Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom or UK environmental assessments may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of</i></p>	<p>This is addressed through the reference to embedded mitigation measures in relation to the Scheme and the full assessment contained within the Significance Record (see Chapter 18: Major Accidents and Disasters, section 18.7) and consultation of the Cabinet Office National Risk Register.</p>

Legislation	Summary	Chapter Reference
	<i>such events on the environment and details of the preparedness for and proposed response to such emergencies”.</i>	
Health and Safety at Work Act (HSWA) 1974 (Ref 18A.3)	The act provides a framework for the regulation of health and safety (H&S) in the UK. It places general duties on employers, those in control of premises, manufacturers and employees. It provides a legal framework for the provision of safe plant and equipment, and prevention of harm to people from occupation hazards present in a workplace, including emergencies which may affect those offsite, or visiting the Application Site.	Embedded H&S Mitigation
Management of Health and Safety at Work Regulations 1999 (Ref 18A.4)	The regulations reinforce employer’s duties to manage H&S and apply such duty to all work activities. The assessment and management of H&S risks are required and, where required, procedures for dealing with emergencies, which would include major accidents.	Embedded H&S Mitigation
Occupier’s Liability Act 1984 (Ref 18A.5)	Provides a legal framework for the prevention of harm to people from occupational H&S hazards present on premises under the control of the occupier, including to those visiting the premises.	Embedded H&S Mitigation
The Supply of Machinery (Safety) Regulations 2008 (Ref 18A.6)	Risks identified in association with machinery used for the Scheme shall serve to eliminate or reduce the risk of MA&D events occurring during the construction, operation and maintenance phases of the Scheme.	Embedded H&S Mitigation
Construction (Design and Management) (CDM) Regulations 2015 (Ref 18A.7)	These regulations place legal duties on almost all parties involved in construction work. Under CDM the client, designers and contractors have to avoid foreseeable risks so far as is reasonably practicable by eliminated hazards associated with the design, construction, operation and maintenance aspects of the Scheme. The Regulations ensure that mechanisms are in	Embedded H&S Mitigation

Legislation	Summary	Chapter Reference
	place to continually identify, evaluate and manage safety risks.	
Control of Major Accident Hazards Regulations (COMAH) 2015 (Ref 18A.8)	<p>The purpose of the COMAH regulations is to prevent major accidents involving dangerous substances and limit the consequences to people and the environment of any accidents which do occur.</p> <p>The COMAH regulations do not apply to the Scheme but do apply to two sites directly adjacent to the Scheme. HSE has been consulted and provided notification of the presence of the two sites.</p>	Embedded H&S Mitigation

Table 1.2: Summary of Policy

Legislation	Summary	Chapter Reference
The National Planning Policy Framework (Ref 18A.9)	<p>Paragraph 45 states: <i>“Local planning authorities should consult the appropriate bodies when considering applications for the siting of, or changes to, major hazard sites, installations or pipelines, or for development around them”.</i> This is also relevant for the determination of other applications, such as a DCO.</p> <p>Paragraph 95 states: <i>“Planning policies and decision should promote public safety and take into account wider security and defence requirements by:</i> <i>(a) anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security”.</i></p>	The purpose of this assessment ensures the Scheme and subsequent decision adhere to the NPPF.

Legislation	Summary	Chapter Reference
Port Marine Safety Code: Marine Safety Management System (2016) Peel Ports Group Ref 18A.10)	Local Port Authority Marine Safety Management System detailing emergency preparedness, monitoring and risk assessments for management of vessels entering the port.	Embedded Mitigation

Table 1.3: Summary of Guidance

Legislation	Summary	Chapter Reference
The Cabinet Office National Risk Register (NRR) of Civil Emergencies (2017 Edition) (Ref 18A.11)	<p>A government produced document to provide information on events that would “... <i>cause widespread damage and would require some form of government response</i>” and provide guidance on how to prepare for said events. The document is divided into four sections; identifying risks included, describing consequences, details risks and management strategies and outlines a methodology for identifying, assessing and prioritising risks.</p> <p>The NRR is based on information from the National Risk Assessment, a classified assessment of risks to the UK over a five-year period.</p>	Used as the basis of potential MA&D events to be scoped (see Chapter 18: Major Accidents and Disasters, section 18.6) and assessed (see Chapter 18, section 18.7).
Defra (2011) ‘Guidelines for Environmental Risk Assessment and Management’ (Ref 18A.12)	Provides generic guidance for the assessment and management of environmental risks. A cyclical framework for risk management is provided which identifies four main components of risk assessment:	Guidance used to inform the methodology of the MA&D assessment (see Chapter 18: Major Accidents and Disasters, section 18.4)

Legislation	Summary	Chapter Reference
	<ul style="list-style-type: none"> • Formulating the problem; • Carrying out an assessment of the risk; • Identifying and appraising the management options available; and • Addressing the risk with a risk management strategy. <p>A source-pathway-receptor model is suggested as a tool to assist in risk screening and the following applied to prioritise significant hazards for further investigation:</p> <ul style="list-style-type: none"> • The plausibility of linkages between source of a hazard and a receptor; • The relative potency of a hazard, availability of a pathway, or vulnerability of a receptor; • The likelihood of an event, on the basis of historic occurrence or of changed circumstances; or • A view on the performance of current risk management measures that, if they were to fail, may increase the potential for future harm. 	
<p>The International Standards Organisation: ISO 31000: 2009 Risk Management – Principles and Guidelines (Ref 18A.13)</p>	<p>The Guidelines identify a number of principles that need to be satisfied to make risk management effective. If the standards are adopted and applied the management of any risk should help minimise losses, improve resilience, improve controls and improve the identification of opportunities and threats.</p> <p>The Guidelines state that when defining risk criteria, the following factors should be considered:</p>	<p>Guidance used to inform the methodology of the MA&D assessment (see Chapter 18: Major Accidents and Disasters, section 18.4)</p>

Legislation	Summary	Chapter Reference
	<ul style="list-style-type: none"> • The nature and types of causes and consequences that can occur and how they will be measured; • How likelihood will be defined; • The timeframes of the likelihood and/or consequences; • How the level of risk is to be determined; • The views of stakeholders; • The level at which risk becomes acceptable or tolerable; and • Whether combination of multiple risks should be taken into account and, if so, how and which combinations should be considered. 	
Planning Inspectorate Advice Note 11: Annex G – The Health and Safety Executive (Ref 18A.14)	<p>This Advice Note covers many of the generic points of interaction relevant to the Planning Inspectorate (PI) and the Health and Safety Executive (HSE). This annex helps applicants understand HSE’s particular role in infrastructure, explaining:</p> <ul style="list-style-type: none"> • What is HSE? • What HSE does; • What HSE’s role is in land use planning; • What is HSE’s role in NSIPs? • Risk Assessments; and • Contact with HSE. 	<p>Guidance used to inform the consideration of two COMAH sites identified by HSE for the MA&D assessment.</p>
A Guide to Good Practice on Port Marine Operations (2016) Department for Transport (Ref 18A.15)	<p>Document in support of the Port Marine Safety Code. It is designed to provide general guidance and examples on Risk Assessment, Safety Management, Security and Emergency Preparedness and Response. Signposting to relevant legislation is contained throughout the guidance.</p>	<p>Embedded mitigation</p>

References

Ref 18.A1: The European Parliament and the Council of the European Union (2014). Directive 2014/52/EU, amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.

Ref 18A.2: The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. The Stationary Office (2017)

Ref 18A.3: The Health and Safety at Work Act (HSWA) 1974; Harold Glover, Controller of her Majesty's Stationary Office and Queens Printer of Acts of Parliament.

Ref 18A.4: The Management of Health and Safety at Work Regulations 1999; The Stationary Office.

Ref 18A.5: The Occupier's Liability Act 1984; W.J Sharp, Controller of her Majesty's Stationary Office and Queens Printer of Acts of Parliament.

Ref 18A.6: The Supply of Machinery (Safety) Regulations 2008. The Stationary Office.

Ref 18A.7: The Construction (Design and Management) (CDM) Regulations 2015. The Stationary Office.

Ref 18A.8: Control of Major Accident Hazards Regulations (COMAH) 2015. The Stationary Office.

Ref 18A.9: Ministry of Housing, Communities & Local Government (2019). National Planning Policy Framework.

Ref 18A.10: Peel Ports Group (2016). Port Marine Safety Code: Marine Safety Management System.

Ref 18A.11: Cabinet Office (2017). National Risk Register of Civil Emergencies – 2017 Edition.

Ref 18A.12: Defra (2011). Guidelines for Environmental Risk Assessment and Management: Green Leaves III, Cranfield University and Department for Environment, Food and Rural Affairs.

Ref 18A.13: International Organization for Standardization. ISO 31000: 2009 Risk Management – Principles and guidelines.

Planning Inspectorate Advice Note 11: Annex G – The Health and Safety Executive

Ref 18A.14: The Planning Inspectorate (2017). Working with public bodies. Advice note eleven: Working with public bodies in the infrastructure planning process.

Ref 18A.15: Department for Transport, Maritime & Coastguard Agency (2016). A Guide to Good Practice on Port Marine Operations.