

*Draft Order laid before Parliament under section 59(3A) the Commons Act 2006, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**COMMONS, ENGLAND**

**The Commons (Town and Village Greens) (Trigger and Terminating Events) Order 2013**

*Made* - - - -

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*Coming into force in accordance with article 1*

A draft of this Order has been laid before and approved by Parliament in accordance with section 59(3A) of the Commons Act 2006(a).

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 15C(5)(a) and (7) and 59(1) of the Commons Act 2006(b), makes the following Order:

**Citation, commencement and application**

**1.**—(1) This Order may be cited as the Commons (Town and Village Greens) (Trigger and Terminating Events) Order 2013 and shall come into force on the day after the day on which this Order is made.

(2) The Order applies in relation to England only.

**Interpretation**

**2.** In this Order, “the 2006 Act” means the Commons Act 2006.

**Amendment of Schedule 1A (Exclusion of right under section 15) to the Commons Act 2006**

**3.**—(1) Schedule 1A(c) to the 2006 Act is amended as follows.

(2) In the second column of the Table, in the entry corresponding to the trigger event set out in paragraph 3, after paragraph (b) insert—

“(c) The period of two years beginning with the day on which the document is published for consultation expires.”

(3) In the second column of the Table, in the entry corresponding to the trigger event set out in paragraph 5, after paragraph (b) insert—

“(c) The period of two years beginning with the day on which the proposal is published for consultation expires.”

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(a) 2006 c. 26. Section 59(3A) was inserted by section 16(3) of the Growth and Infrastructure Act 2013 (c. 27).  
(b) Section 15C was inserted by section 16(1) of the Growth and Infrastructure Act 2013.  
(c) Schedule 1A was inserted by section 16(1) and (2) of, and Schedule 4 to, the Growth and Infrastructure Act 2013.

(4) After paragraph 7 insert—

“7A. A draft of a local development order under section 61A(2)(a) of the 1990 Act which would grant permission for operational development of the land is first published for consultation in accordance with provision included (by virtue of paragraph 1 of Schedule 4A to that Act(b)) in a development order made under section 59 of that Act.

7B. A local development order which grants permission for operational development of the land is adopted by resolution of the local planning authority (and, accordingly, comes into effect by virtue of paragraph 3 of Schedule 4A to the 1990 Act).

7C. A draft of a neighbourhood development order which would grant permission for operational development of the land is first published for consultation by a local planning authority in accordance with regulations made under paragraph 4(1) of Schedule 4B to the 1990 Act(f).

(a) The draft is withdrawn.

(b) The order is adopted by resolution of the local planning authority (and, accordingly, comes into effect by virtue of paragraph 3 of Schedule 4A to the 1990 Act) (but see paragraph 7B of this Table).

(c) The period of two years beginning with the day on which the draft is published for consultation expires.

(a) Where the order includes (by virtue of section 61C(1) of the 1990 Act(c)) provision which, however expressed, has the effect that the grant of permission ceases to apply on a particular day, that day passes.

(b) The order is revoked under section 61A(6) or 61B(8)(a) of that Act(d).

(c) A revision of the order prepared under paragraph 2 of Schedule 4A to that Act(e) which provides that operational development of the land is no longer permitted is adopted.

(d) A direction is given under provision included in the order by virtue of section 61C(2) of that Act specifying that the permission granted by the order does not apply in relation to the land.

(a) The draft is withdrawn under paragraph 2(1) of Schedule 4B to the 1990 Act or treated as so withdrawn by virtue of paragraph 2(2) of that Schedule.

(b) The order is made under section 61E(4) of that Act(g) (but see paragraph 7D of this Table).

(c) The period of two years beginning with the day on which the draft is published for consultation expires.

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(a) Section 61A was inserted by section 40 of the Planning and Compulsory Purchase Act 2004 (c. 5).

(b) Schedule 4A was inserted by section 40 of, and Schedule 1 to, the Planning and Compulsory Purchase Act 2004.

(c) Section 61C was inserted by section 40 of the Planning and Compulsory Purchase Act 2004.

(d) Section 61B was inserted by section 40 of the Planning and Compulsory Purchase Act 2004.

(e) Paragraph 2 of Schedule 4A was amended by sections 188 and 238 of, and Schedule 13 to, the Planning Act 2008 (c. 29).

(f) Schedule 4B was inserted by section 116 of, and Schedule 10 to, the Localism Act 2011 (c. 20).

(g) Section 61E was inserted by section 116 of, and paragraphs 1 and 2 of Schedule 9 to, the Localism Act 2011.

7D. A neighbourhood development order which grants permission for operational development of the land is made under section 61E(4) of the 1990 Act.

(a) Where the order includes (by virtue of section 61L(1) of the 1990 Act<sup>(a)</sup>) provision which, however expressed, has the effect that the grant of permission ceases to apply on a particular day, that day passes.

(b) Where the order provides (by virtue of section 61L(5) of that Act) that development permitted by the order must begin before the end of a specified period, that period expires without the development having been begun.

(c) The order is revoked under section 61M(1) or (2) of the 1990 Act<sup>(b)</sup>.”

(5) After paragraph 9 insert—

“10. A notice is published by virtue of section 6 of the Transport and Works Act 1992<sup>(c)</sup> that an application has been made under that section, in circumstances where the notice contains a statement that a direction for deemed planning permission in respect of the land under section 90(2A) of the 1990 Act<sup>(d)</sup> is being applied for.

(a) The application for a direction is withdrawn.

(b) In circumstances where the direction is refused, all means of challenging the refusal in legal proceedings in the United Kingdom are exhausted.

(c) In circumstances where the direction is given, the period within which the development to which the direction relates must be begun expires without the development having been begun.”

(6) In the definitions given under the cross-heading “Interpretation”, before the definition of “the 1990 Act” insert—

““operational development” means any development within the meaning of the 1990 Act other than development which consists only of the making of a material change in the use of any buildings or other land;”.

(7) In the notes to the Table, at the end insert—

“3. Paragraph (a) of the entry in the second column corresponding to paragraph 7B does not apply in circumstances where development of the land may be completed by virtue of provision made in the local development order under section 61C(1) of the 1990 Act.

4. Paragraphs (b) to (d) of the entry in the second column corresponding to paragraph 7B do not apply in circumstances where development of the land may be completed by virtue of provision made in the local development order under section 61D(1)(e) of the 1990 Act.

5. Paragraph (a) of the entry in the second column corresponding to paragraph 7D does not apply in circumstances where development of the land may be completed by virtue of provision made in the neighbourhood development order under section 61L(1) of the 1990 Act.

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(a) Section 61L was inserted by section 116 of, and paragraphs 1 and 2 of Schedule 9 to, the Localism Act 2011.  
(b) Section 61M was inserted by section 116 of, and paragraphs 1 and 2 of Schedule 9 to, the Localism Act 2011.  
(c) 1992 c. 42. Section 6 was amended by section 105 of, paragraph 136 of Schedule 11 to, and Schedule 12 to, the Natural Environment and Rural Communities Act 2006 (c. 16); regulation 2 of S.I. 1998/2226; and regulation 2 of S.I. 2006/958.  
(d) Section 90(2A) was inserted by section 16 of the Transport and Works Act 1992 (c. 42).  
(e) Section 61D was inserted by section 41 of the Planning and Compulsory Purchase Act 2004.

6. Paragraph (c) of the entry in the second column corresponding to paragraph 7D does not apply in circumstances where development of the land may be completed by virtue of section 61L(7) of the 1990 Act.”

**Application of the amendments made to Schedule 1A by article 3**

4.—(1) For the purposes of section 15C of the 2006 Act, it does not matter whether an event specified in Schedule 1A to that Act by virtue of the amendments made by this Order occurred before or on or after the day on which this Order comes into force.

(2) The amendments made by this Order do not apply in relation to an application under section 15(1) of the 2006 Act which is sent before the day on which this Order comes into force.

Signed by authority of the Secretary of State for Communities and Local Government

Date

*Name*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends Schedule 1A to the Commons Act 2006 (“the 2006 Act”) which sets out events which will exclude the right to apply for the designation of a town and village green under section 15(1) of that Act (“trigger events”) and corresponding events which will cause the exclusion to subsequently lift (“terminating events”).

Article 3 inserts into Schedule 1A to the 2006 Act additional trigger and terminating events in respect of the right to apply for a designation of a town or village green. Provision is made, in addition to the existing terminating events, for the exclusion of the right to apply for the designation of a town and village green from the date on which a draft development plan document or proposal for a neighbourhood development plan is published to lift 2 years from that date. Provision is made for the insertion of trigger and terminating events in respect of local development orders, neighbourhood development orders and requests for deemed planning permission under section 90(2A) of the Town and Country Planning Act 1990.

Article 3 also includes additional notes to Schedule 1A. These provide, where planning permission granted by a local development order or neighbourhood development order is withdrawn (howsoever this occurs), that none of the relevant terminating events is to be treated as having occurred if development may be completed by virtue, as appropriate, of provision in the relevant order or under statutory provision.

Article 4 provides that, for the purposes of the right under 15(1) of the 2006 Act, it does not matter whether the events inserted into Schedule 1A to that Act by this Order occurred before the date on which this Order comes into force. Article 4 also provides that the amendments made by the Order do not apply to applications under section 15(1) of the 2006 Act which have been sent before the date on which the Order comes into force.

An impact assessment has been prepared in relation to this Order. It will be placed in the library of each House of Parliament and on the website <https://www.gov.uk>

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