

EXPLANATORY MEMORANDUM TO
**THE TOWN AND COUNTRY PLANNING (FEES FOR APPLICATIONS,
DEEMED APPLICATIONS, REQUESTS AND SITE VISITS) (ENGLAND)**
(AMENDMENT) (No. 2) REGULATIONS 2014

2014 No. [XXXX]

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

2. Purpose of the instrument

2.1 These Regulations amend the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, (“the 2012 Regulations”).

2.2 These Regulations introduce a fee of £172 to be charged by a local planning authority for a new type of planning application which combines approval for a change of use with approval for building works.

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

3.1 None.

4. Legislative Context

4.1 The 2012 Regulations were made under section 303 of the Town and Country Planning Act 1990 (c.8), which was substituted by section 199 of the Planning Act 2008 (c.29).

Other related instruments

4.2 These Regulations are made following amendments made to the Town and Country Planning (General Permitted Development) Order 1995 SI 1995/418 by the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 SI 2014/564 (“the 2014 Order”). The effect of “permitted development” is that no application needs to be made to the local planning authority to obtain planning permission, although in some cases the permitted development right will require the local planning authority to approve certain matters (a process generally referred to as “prior approval”.) The 2014 Order introduced several new classes of permitted development rights for change of use. Two of those new classes allow, subject to a prior approval, change of use and include permission for limited building operations as part of that change. These Regulations allow a fee of £172 to be charged for those applications.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

6. European Convention on Human Rights

6.1 Nick Boles, Parliamentary under Secretary at the Department for Communities and Local Government, has made the following statement regarding Human Rights:

In my view the provisions of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) (No. 2) Regulations 2014 are compatible with the Convention rights.

7. Policy background

What is being done and why

7.1 7.1 An objective of government is to ensure that the threshold of where planning permission is required is set at the right level to minimise administrative burdens and that where permission is required, it can be obtained, where appropriate, in the easiest way possible. The permitted development regime is one mechanism through which this objective is achieved. On occasion, there are likely to be matters arising from a permitted development right for change of use where it is reasonable and appropriate for there to be an approval procedure by a local planning authority or the Secretary of State to deliver this objective. A fee is payable to meet the administrative costs of the authority considering the prior approval application for a change of use.

7.2 Permitted development rights introduced on 6 April 2014 by the 2014 Order allow the change of use from a shop, premises offering financial and professional services to visiting members of the public, and agricultural buildings to change use to a dwelling house. These rights include permission to carry out limited building works associated with the change of use subject to approval of the proposed design and external appearance of the building. The usual fee payable for a prior approval needed where there is a permitted development involving a change of use is £80. A higher fee of £172 is payable to meet the additional administrative costs of the authority considering the prior approval application for a change of use and associated building works.

Consolidation

7.9 There are no plans to consolidate the 2012 Regulations in the immediate future.

8. Consultation outcome

8.1 A consultation on changes to permitted development rights for change of use (*Greater flexibilities for change of use*) was carried out for 10 weeks from August to October 2013. This included consultation on a higher fee for the prior approval application of £172 where permitted development rights for change of use also allow for building works associated with the change of use. Over 850 responses were received from a range of parties. Responses which commented on the fees for prior approval applications noted the proposed higher fee of £172 for the additional administrative costs of considering the building works. A small number of authorities considered the level of fees would not compensate for loss of income from planning application fees and might not cover their administrative costs.

8.2 The Government's response to the consultation was published on 13 March 2014 and can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/291662/Greater_flexibilities_for_change_of_use_-_report_on_responses_to_the_consultation.pdf

Whilst the Government cannot guarantee that the figure of £172 will fully cover the costs of these applications, it considers that it is an appropriate level of fee having regard to the level of other prior approval fees. Fees income is not the only source of income for local authorities to undertake their planning functions. Local authorities also receive central government grants such as Revenue Support Grant.

9. Guidance

9.1 The Government intends to amend the existing fees Circular (4/2008) to prepare revised supporting planning practice guidance for inclusion on the Department for Communities and Local Government's planning practice guidance web-based resource. The review of the Circular is scheduled for June 2014.

10. Impact

10.1 The impact on business, charities or voluntary bodies is to reduce the cost of having to submit a planning application.

10.2 The impact on the public sector is that authorities will receive a fee for considering a prior approval application for a change of use and associated building works which reflects the administrative cost and will be less than the full planning application fee for that development

10.3 An Impact Assessment on the permitted development rights for change of use which were introduced on 6 April 2014 has been prepared in relation to the Regulations. It has been placed in the Library of each House of Parliament and copies may be obtained from the Department. It can also be viewed at <http://www.legislation.gov.uk>.

11. Regulating small business

11.1 The legislation applies to small businesses, including shop owners and farmers. It will have a small positive impact as it will result in payment of a fee which is less than that charged for a full planning application.

12. Monitoring & review

12.1 The Department will monitor progress and carry out a review of the April 2014 changes to permitted development rights for change of use in April 2019, which will include consideration of the fees for prior approval.

13. Contact

Helen Marks at the Department for Communities and Local Government Tel: 0303 444 3795 or email: helen.marks@communities.gsi.gov.uk can answer any queries regarding the instrument.