
STATUTORY INSTRUMENTS

1994 No. 3293

The Town and Country Planning (General Development Procedure) (Scotland) Amendment (No.2) Order 1994

Notices to owners and agricultural tenants

3. For article 8 of the 1992 Order substitute—

“Notices to owners and agricultural tenants under section 24

8.—(1) Notice given by an applicant for the purposes of this article shall be in the appropriate form set out in Schedule 3.

(2) Subject to paragraph (3), an applicant for planning permission under article 3 or 4 shall give notice of the application—

- (a) by serving notice on every person (other than the applicant) who at the beginning of the prescribed period is the owner of any of the land to which the application relates, or an agricultural tenant, and whose name and address is known to the applicant; and
- (b) having taken reasonable steps to ascertain the name and address of every such person, but having been unable to do so, by local advertisement after the beginning of the prescribed period.

(3) In the case of a minerals application, instead of giving notice in the manner provided for by paragraph (2), the applicant shall give notice of the application—

- (a) by serving notice on every person (other than the applicant) whom the applicant knows is, at the beginning of the prescribed period, the owner of any of the land to which the application relates, or an agricultural tenant, and whose name and address is known to the applicant;
- (b) by local advertisement after the beginning of the prescribed period; and
- (c) by public notice in at least one place in the district of the planning authority to which the application is being made, leaving the notice in position for not less than 7 days in the period of 21 days immediately preceding the making of the application to the planning authority.

(4) The notice required by paragraph (3)(c) shall (in addition to any other matters required to be contained in it) name a place within the district of the planning authority to whom the application is made where a copy of the application for planning permission, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during such period as may be specified in the notice.

(5) At any time before determining a minerals application, the planning authority may in writing direct the applicant to give further notice by public notice in such places in its district not exceeding 4 in number as may be specified in the direction.

(6) Where a direction under paragraph (5) is given, the planning authority shall not grant the application until the applicant has provided the authority with a certificate stating—

- (a) that he has complied with the direction; and

- (b) that every notice required by the direction has been in position for not less than 7 days in the period of 21 days immediately preceding the date on which he lodged the certificate with the planning authority.
- (7) The applicant shall not be treated as having failed to satisfy the requirements of paragraphs (3)(c) or (6) if the notice is, without any fault or intention of his, removed, obscured or defaced before the period of 7 days referred to in those paragraphs has elapsed, if he has taken reasonable steps for its protection and, if need be, replacement.
- (8) The applicant shall issue a certificate in one of the forms set out in Schedule 1—
- (a) stating whether or not the land or part of the land to which the application relates constitutes or forms part of an agricultural holding; and
 - (b) stating, as appropriate—
 - (i) that at the beginning of the prescribed period no person (other than the applicant) was the owner of any of the land to which the application relates or an agricultural tenant;
 - (ii) that the applicant has served notice on every person (other than the applicant) who, at the beginning of the prescribed period, was the owner of any of the land to which the application relates or an agricultural tenant, setting out the name of every such person and the address at which and the date on which each notice was served;
 - (iii) that the applicant is unable to issue a certificate in accordance with the two preceding sub-paragraphs, that he has been unable to serve notice on any of the persons mentioned in the last preceding paragraph or, as the case may be, that he has served notice on such one or more of those persons as are specified in the certificate (setting out their names and the address at which and the date on which each notice was served), that he has taken reasonable steps (specifying them) to ascertain the names and addresses of those persons, or the remainder of them as the case may be, that he has been unable to do so and that he has given notice by local advertisement;
 - (iv) in the case of a minerals application—
 - (aa) that at beginning of the prescribed period no person (other than the applicant) was the owner of any of the land to which the application relates or an agricultural tenant;
 - (bb) that the applicant has served notice on every person (other than the applicant) whom the applicant knows was, at the beginning of the prescribed period, the owner of any of the land to which the application relates or an agricultural tenant, and whose name and address is known to him (setting out the name of every such person, and the address at which and the date on which each notice was served) and that he has not omitted to serve notice on any such person whose name and address is known to him;
 - (cc) that the applicant has complied with paragraphs (3)(b) and (c); and
 - (dd) where the applicant has cause to rely on paragraph (7), the relevant circumstances.
- (9) A planning authority shall, in determining an application for planning permission, take into account any representations by any person who satisfies them that he is an owner of any land to which the application relates or an agricultural tenant made, where any notice of the application has been—

- (a) served on an owner of any of the land to which the application relates or an agricultural tenant under paragraph (2)(a) or (3)(a), within 21 days beginning with the date when the notice was served on that person;
 - (b) given by local advertisement under paragraph (2)(b) or (3)(b), within 21 days beginning with the date on which the notice was published; or
 - (c) given by public notice under paragraphs (3)(c) or (5), within 21 days beginning with the date when the notice was first displayed by public notice.
- (10) A planning authority shall give notice of their decision to every person who has made representations which the authority are required to take into account in accordance with the preceding paragraph.
- (11) The applications prescribed for the purposes of paragraph (b) of the definition of “owner” in section 24(7) of the Act are minerals applications, and the minerals prescribed for the purposes of that paragraph are any minerals other than oil, gas, coal, gold or silver.
- (12) In this article—
- “agricultural holding” has the meaning given to it by section 24(7) of the Act;
 - “agricultural tenant” means the tenant of an agricultural holding any part of which is comprised in the land to which an application relates;
 - “minerals application” means an application for planning permission for development consisting of the winning and working of minerals by underground working;
 - “prescribed period” means the period of 21 days ending with the date of the application.”.