
STATUTORY INSTRUMENTS

2010 No. 2184

The Town and Country Planning (Development Management Procedure) (England) Order 2010

PART 6

Miscellaneous

Certificate of lawful use or development

35.—(1) An application for a certificate under section 191(1) or 192(1) of the 1990 Act (certificates of lawfulness of existing or proposed use or development)⁽¹⁾ shall be made on a form published by the Secretary of State (or a form substantially to the like effect) and shall, in addition to specifying the land and describing the use, operations or other matter in question in accordance with those sections, include the particulars specified or referred to in the form.

(2) An application to which paragraph (1) applies shall be accompanied by—

- (a) a plan identifying the land to which the application relates drawn to an identified scale and showing the direction of North;
- (b) such evidence verifying the information included in the application as the applicant can provide; and
- (c) a statement setting out the applicant's interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such other person has been notified of the application.

(3) Where an application for a certificate under section 192(1) of the 1990 Act is made in respect of Crown land, it shall, in addition to the documents required by paragraph (2), be accompanied by—

- (a) a statement that the application is made in respect of Crown land; and
- (b) where the application is made by a person authorised in writing by the appropriate authority, a copy of that authorisation.

(4) Where such an application specifies 2 or more uses, operations or other matters, the plan which accompanies the application shall indicate to which part of the land each such use, operation or matter relates.

(5) Where an application is made using electronic communications to transmit a form to the local planning authority, the applicant shall be taken to have agreed—

- (a) to the use of such communications by the local planning authority for the purposes of the application;
- (b) that the applicant's address for those purposes is the address incorporated into, or otherwise logically associated with, the application; and

(1) Sections 191 and 192 were substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34).

- (c) that the applicant's deemed agreement under this paragraph shall subsist until notice is given in writing of the withdrawal of the applicant's consent to the use of electronic communications under article 40.
- (6) Articles 10(1) and 29(6) shall apply to an application for a certificate to which paragraph (1) applies as they apply to an application for planning permission.
- (7) When the local planning authority receive an application which complies with the requirements of paragraphs (1) to (4) and any fee required to be paid with respect to the application, they shall, as soon as reasonably practicable, send to the applicant an acknowledgement of the application in the terms (or substantially in the terms) set out in Schedule 1.
- (8) Where, after sending an acknowledgement as required by paragraph (7), the local planning authority consider that the application is invalid they shall, as soon as reasonably practicable, notify the applicant that the application is invalid.
- (9) The local planning authority may by notice in writing require the applicant to provide such further information as may be specified to enable them to deal with the application.
- (10) Where a valid application has been received, the local planning authority shall give the applicant written notice of their decision within—
- (a) the period of 8 weeks beginning with the day immediately following that on which the application is received; or
 - (b) unless the applicant has already given notice of appeal to the Secretary of State, within such extended period as may be agreed in writing between the applicant and the authority.
- (11) Where a fee due in respect of an application has been paid by a cheque which is subsequently dishonoured—
- (a) sub-paragraph (a) of paragraph (10) shall have effect as if, for “the application is received”, there were substituted “the authority are satisfied that they have received the full amount of the fee”; and
 - (b) sub-paragraph (b) of that paragraph shall have effect as if, at the end, there were added “once the authority are satisfied that they have received the full amount of the fee”.
- (12) In this article, “valid application” means an application which—
- (a) complies with the requirements of paragraphs (1) to (4); and
 - (b) is accompanied by the appropriate fee,
- and a valid application shall be taken to have been received when the application and all of the documents, particulars or evidence referred to in paragraphs (1) to (4) have been lodged with the appropriate authority mentioned in article 10(1) and the fee has been paid.
- (13) Where an application is refused, in whole or in part (including a case in which the authority modify the description of the use, operations or other matter in the application or substitute an alternative description for that description), the notice of decision shall state clearly and precisely the authority's full reasons for their decision and shall include a statement to the effect that if the applicant is aggrieved by the decision the applicant may appeal to the Secretary of State under section 195 of the 1990 Act (appeals against refusal or failure to give decision on application)(2).
- (14) A certificate under section 191 or 192 of the 1990 Act shall be in the form set out in Schedule 8, or in a form substantially to the like effect.
- (15) Where a local planning authority propose to revoke a certificate issued under section 191 or 192 of the 1990 Act in accordance with section 193(7) of the 1990 Act (certificates under sections

(2) Section 195 was amended by paragraph 32 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34) and paragraphs 1 and 3 of Schedule 11 to the Planning Act 2008 (c. 29) and is to be amended by paragraphs 1 and 7 of Schedule 10 to the Planning Act 2008 on a date to be appointed.

191 and 192: supplementary provisions)(3), they shall, before they revoke the certificate, give notice of that proposal to—

- (a) the owner of the land affected;
- (b) the occupier of the land affected;
- (c) any other person who will in their opinion be affected by the revocation; and
- (d) in the case of a certificate issued by the Secretary of State under section 195 of the 1990 Act, the Secretary of State.

(16) A notice issued under paragraph (15) shall invite the person on whom the notice is served to make representations on the proposal to the authority within 14 days of service of the notice and the authority shall not revoke the certificate until all such periods allowed for making representations have expired.

(17) An authority shall give written notice of any revocation under section 193(7) of the 1990 Act to every person on whom notice of the proposed revocation was served under paragraph (15).