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STATUTORY INSTRUMENTS

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**2010 No. 2184**

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

**PART 2**

**Applications**

**Applications for outline planning permission**

4.—(1) Where an application is made to the local planning authority for outline planning permission, the authority may grant permission subject to a condition specifying reserved matters for the authority's subsequent approval.

(2) Where the authority who are to determine an application for outline planning permission are of the opinion that, in the circumstances of the case, the application ought not to be considered separately from all or any of the reserved matters, they shall within the period of 1 month beginning with the receipt of the application notify the applicant that they are unable to determine it unless further details are submitted, specifying the further details they require.

(3) Where layout is a reserved matter, the application for outline planning permission shall state the approximate location of buildings, routes and open spaces included in the development proposed.

(4) Where scale is a reserved matter, the application for outline planning permission shall state the upper and lower limit for the height, width and length of each building included in the development proposed.

(5) Where access is a reserved matter, the application for outline planning permission shall state the area or areas where access points to the development proposed will be situated.

**Applications for approval of reserved matters**

5. An application for approval of reserved matters—

- (a) shall be made in writing to the local planning authority and shall give sufficient information to enable the authority to identify the outline planning permission in respect of which it is made;
- (b) shall include such particulars, and be accompanied by such plans and drawings, as are necessary to deal with the matters reserved in the outline planning permission; and
- (c) except where the authority indicate that a lesser number is required, or where the application is made using electronic communications, shall be accompanied by 3 copies of the application and the plans and drawings submitted with it.

**Applications for planning permission**

6.—(1) Subject to the following provisions of this article, an application for planning permission shall—

- (a) be made in writing to the local planning authority on a form published by the Secretary of State (or a form to substantially the like effect);
  - (b) include the particulars specified or referred to in the form;
  - (c) except where the application is made pursuant to section 73 (determination of applications to develop land without conditions previously attached) or section 73A(2)(c) (planning permission for development already carried out) of the 1990 Act<sup>(1)</sup> or is an application of a kind referred to in article 18(1)(b) or (c), be accompanied, whether electronically or otherwise, by—
    - (i) a plan which identifies the land to which the application relates;
    - (ii) any other plans, drawings and information necessary to describe the development which is the subject of the application;
    - (iii) except where the application is made by electronic communications or the local planning authority indicate that a lesser number is required, 3 copies of the form; and
    - (iv) except where they are submitted by electronic communications or the local planning authority indicate that a lesser number is required, 3 copies of any plans, drawings and information accompanying the application.
- (2) Any plans or drawings required to be provided by paragraph (1)(c)(i) or (ii) shall be drawn to an identified scale and, in the case of plans, shall show the direction of North.
- (3) Subject to paragraphs (3) to (5) of article 4, in the case of an application for outline planning permission, details need not be given of any reserved matters.
- (4) An application for planning permission for development consisting of mining operations or the use of land for mineral-working deposits shall—
- (a) be made on a form provided by the local planning authority (or a form to substantially the like effect);
  - (b) include the particulars specified or referred to in the form; and
  - (c) comply with the requirements of paragraph (1)(c).
- (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
  - (c) that the applicant's deemed agreement under this paragraph shall subsist until the applicant gives notice in writing of the withdrawal of consent to the use of electronic communications under article 40.

### **Applications in respect of Crown land**

7. An application for planning permission in respect of Crown land shall 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.

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(1) Section 73 was amended by sections 42(2), 51(3) and 120 of, and Schedule 9 to, the 2004 Act and section 73A was inserted by paragraph 16 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34).

## **Design and access statements**

- 8.—(1) This article applies to an application for planning permission which is not for—
- (a) permission to develop land without compliance with conditions previously attached, made pursuant to section 73 of the Act;
  - (b) engineering or mining operations;
  - (c) a material change in the use of land or buildings;
  - (d) development of an existing dwellinghouse or flat, or development within the curtilage of such a dwellinghouse or flat for any purpose incidental to the enjoyment of the dwellinghouse or flat as such, where no part of that dwellinghouse, flat or curtilage is within a designated area;
  - (e) the extension of an existing building used for non-domestic purposes where the floor space created by the development does not exceed 100 square metres and where no part of the building or the development is within a designated area;
  - (f) the erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure where—
    - (i) as a result of the development, the height of the gate, fence, wall or means of enclosure does not exceed its former height, or 2 metres above ground level, whichever is the greater; and
    - (ii) it does not involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building;and where no part of the development is within a designated area;
  - (g) development on operational land consisting of the erection of a building where—
    - (i) the cubic content of the development does not exceed 100 cubic metres; and
    - (ii) as a result of the development, the height of the building does not exceed 15 metres above ground level, or its former height, whichever is the greater;and where no part of the development is within a designated area;
  - (h) the alteration of an existing building where the alteration does not increase the size of the building and where no part of the building is within a designated area;
  - (i) the erection, alteration or replacement of plant or machinery where, as a result of the development, the height of the plant or machinery does not exceed 15 metres above ground level, or its former height, whichever is the greater, and where no part of the development is within a designated area; or
  - (j) development that is the subject of an application of a kind referred to in article 18(1)(b) or (c).
- (2) An application for planning permission to which this article applies shall be accompanied by a statement (“a design and access statement”) about—
- (a) the design principles and concepts that have been applied to the development; and
  - (b) how issues relating to access to the development have been dealt with.
- (3) A design and access statement shall—
- (a) explain the design principles and concepts that have been applied to the following aspects of the development—
    - (i) amount;
    - (ii) layout;
    - (iii) scale;

- (iv) landscaping; and
  - (v) appearance; and
  - (b) demonstrate the steps taken to appraise the context of the development and how the design of the development takes that context into account in relation to its proposed use.
- (4) A design and access statement shall also—
- (a) explain the policy adopted as to access, and how policies relating to access in relevant local development documents have been taken into account;
  - (b) state what, if any, consultation has been undertaken on issues relating to access to the development and what account has been taken of the outcome of any such consultation; and
  - (c) explain—
    - (i) how any specific issues which might affect access to the development have been addressed;
    - (ii) how prospective users will be able to gain access to the development from the existing transport network;
    - (iii) why the main points of access to the site and the layout of access routes within the site have been chosen; and
    - (iv) how features which ensure access to the development will be maintained.
- (5) In this article—
- “amount” means—
    - (a) in relation to residential development, the number of proposed units for residential use; and
    - (b) in relation to all other forms of development, the proposed floor space for each proposed use forming part of the development;
  - “context” means the physical, social, economic and policy context of the development;
  - “cubic content” means the cubic content of a building measured externally; and
  - “designated area” means—
    - (a) a conservation area;
    - (b) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage (a World Heritage Site)(2).
- (6) In this article, any reference to the height of a building or to plant or machinery shall be construed as a reference to its height when measured from ground level; and “ground level” means the level of the surface of the ground immediately adjacent to the building or plant or machinery in question or, where the level of the surface of the ground on which it is situated or to be situated is not uniform, the level of the highest part of the surface of the ground adjacent to it.

### **Applications for non-material changes to planning permission**

**9.—(1)** This article applies in relation to an application made under section 96A(4) of the 1990 Act (power to make non-material changes to planning permission)(3).

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(2) See <http://whc.unesco.org/en/conventiontext>.

(3) Section 96A was inserted by section 190 of the Planning Act 2008 (c. 29).

(2) An application in relation to which this article applies must be made in writing to the local planning authority on a form published by the Secretary of State (or a form substantially to the like effect).

(3) At the same time as making an application in relation to which this article applies the applicant must give notice to any person (other than the applicant) who is an owner of the land to which the application relates or a tenant of an agricultural holding any part of which is comprised in the land to which the application relates, stating—

- (a) what the application is for and where the person can view a copy of it; and
- (b) that any representations about the application must be made to the local planning authority within 14 days of the date when the notice is given.

(4) Where notice is given under paragraph (3), the local planning authority must, in determining an application, take into account any representations made within 14 days beginning with the date when the notice was given.

(5) Where a local planning authority receive an application made in accordance with paragraph (2) they must give the applicant notice in writing of their decision on the application within 28 days of receipt of the application or such longer period as may be agreed in writing between the applicant and the authority.

### **General provisions relating to applications**

**10.**—(1) An application made under article 5 or 6, shall be made—

- (a) where the application relates to land which is in a National Park, to the National Park authority;
- (b) where the application relates to land in Greater London or a metropolitan county, which is not land in a National Park, to the local planning authority;
- (c) where the application relates to land which is not in a National Park, Greater London or a metropolitan county, and the application relates to a county matter—
  - (i) to the county planning authority; or
  - (ii) where there is no county planning authority in relation to the land, to the district planning authority;
- (d) in any other case—
  - (i) to the district planning authority; or
  - (ii) where there is no district planning authority in relation to the land, to the county planning authority.

(2) When the local planning authority with whom the application has to be lodged receive—

- (a) in the case of an application made under article 5 or article 6, an application which complies with the requirements of article 5 or article 6, as the case may be;
- (b) the certificate required by article 12;
- (c) in a case to which article 8 applies, the design and access statement;
- (d) subject to paragraph (3), the particulars or evidence required by the authority under section 62(3) of the 1990 Act (applications for planning permission)<sup>(4)</sup>; and
- (e) the fee required to be paid in respect of the application,

the authority shall, as soon as is reasonably practicable, send to the applicant an acknowledgement of the application in the terms (or substantially in the terms) set out in Schedule 1.

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<sup>(4)</sup> Section 62 was substituted by section 42(1) of the 2004 Act.

(3) Paragraph (2)(d) only applies if—

- (a) before the application is made the local planning authority publish, for the purposes of article 29(3), a list of requirements on their website; and
- (b) the particulars or evidence that the authority require to be included in the application fall within that list.

(4) Where an application is made to a county planning authority, in accordance with paragraph (1), that authority shall, as soon as reasonably practicable, send a copy of the application and of any accompanying plans, drawings and information to the district planning authority, if any.

(5) Where, after sending an acknowledgement as required by paragraph (2), 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.

(6) In this article—

- (a) “county matter” has the meaning given to that expression in paragraph 1(1) of Schedule 1 to the 1990 Act (local planning authorities: distribution of functions)(5); and
- (b) an application is invalid if it is not a valid application within the meaning of article 29(3).

### **Notice of applications for planning permission**

**11.**—(1) Subject to paragraph (2), an applicant for planning permission shall give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates, or a tenant,—

- (a) by serving the notice on every such person whose name and address is known to the applicant; and
- (b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated.

(2) In the case of an application for planning permission for development consisting of the winning and working of minerals by underground operations, instead of giving notice in the manner provided for by paragraph (1), the applicant shall give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of any of the land to which the application relates, or a tenant,—

- (a) by serving the notice on every such person whom the applicant knows to be such a person and whose name and address is known to the applicant;
- (b) by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated; and
- (c) by site display in at least one place in every parish within which there is situated any part of the land to which the application relates, 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 local planning authority.

(3) The notice required by paragraph (2)(c) shall (in addition to any other matters required to be contained in it) name a place within the area of the local 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.

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(5) Paragraph 1(1) of Schedule 1 was amended by paragraph 13 of Schedule 1 to the [Planning and Compensation Act 1991 \(c. 34\)](#). See also the Town and Country Planning (Prescription of County Matters) (England) Regulations 2003 (S.I. 2003/1033) which prescribes certain forms of waste development for the purposes of the definition of county matters.

(4) Where a local planning authority maintain a website for the purpose of advertisement of applications for planning permission, the notice required by paragraph (2)(c) shall (in addition to any other matters required to be contained in it) state the address of the website where a copy of the application, and of all plans and other documents submitted with it, will be published.

(5) Where the notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 7 days referred to in paragraph (2)(c) has elapsed, the applicant shall be treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement.

(6) The date prescribed for the purposes of section 65(2) of the 1990 Act (notice etc of applications for planning permission)(6), and the “prescribed date” for the purposes of this article, is the day 21 days before the date of the application.

(7) The applications prescribed for the purposes of paragraph (c) of the definition of “owner” in section 65(8) of the 1990 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.

(8) In this article—

“minerals applications” mean applications for planning permission for development consisting of the winning and working of minerals;

“requisite notice” means notice in the appropriate form set out in Schedule 2 or in a form substantially to the like effect, but shall not include notice served using electronic communications; and

“tenant” means the tenant of an agricultural holding any part of which is comprised in the land to which an application relates.

### **Certificates in relation to notice of applications for planning permission**

**12.**—(1) Where an application for planning permission is made, the applicant shall certify, in a form published by the Secretary of State or in a form substantially to the like effect, that the requirements of article 11 have been satisfied.

(2) If an applicant has cause to rely on paragraph (5) of article 11, the certificate must state the relevant circumstances.

### **Publicity for applications for planning permission**

**13.**—(1) An application for planning permission shall be publicised by the local planning authority to which the application is made in the manner prescribed by this article.

(2) In the case of an application for planning permission for development which—

(a) is an EIA application accompanied by an environmental statement;

(b) does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated; or

(c) would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 (public rights of way)(7) applies,

the application shall be publicised in the manner specified in paragraph (3).

(3) An application falling within paragraph (2) (“a paragraph (2) application”) shall be publicised in accordance with the requirements in paragraph (7) and by giving requisite notice—

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(6) Section 65 was substituted by section 16(1) of the Planning and Compensation Act 1991 and amended by paragraph 35 of the Schedule to the Agricultural Tenancies Act 1995 (c. 8).

(7) 1981 c. 69; see section 66. There are amendments to Part 3 which are not relevant to this Order.

- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; and
  - (b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.
- (4) In the case of an application for planning permission which is not a paragraph (2) application, if the development proposed is major development the application shall be publicised in accordance with the requirements in paragraph (7) and by giving requisite notice—
- (a) (i) by site display in at least one place on or near the land to which the application relates for not less than 21 days; or
  - (ii) by serving the notice on any adjoining owner or occupier; and
  - (b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.
- (5) In a case to which neither paragraph (2) nor paragraph (4) applies, the application shall be publicised in accordance with the requirements in paragraph (7) and by giving requisite notice—
- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; or
  - (b) by serving the notice on any adjoining owner or occupier.
- (6) Where the notice is, without any fault or intention of the local planning authority, removed, obscured or defaced before the period of 21 days referred to in paragraph (3)(a), (4)(a)(i) or (5) (a) has elapsed, the authority shall be treated as having complied with the requirements of the relevant paragraph if they have taken reasonable steps for protection of the notice and, if need be, its replacement.
- (7) The following information shall be published on a website maintained by the local planning authority—
- (a) the address or location of the proposed development;
  - (b) a description of the proposed development;
  - (c) the date by which any representations about the application must be made, which shall not be before the last day of the period of 14 days beginning with the date on which the information is published;
  - (d) where and when the application may be inspected;
  - (e) how representations may be made about the application; and
  - (f) that, in the case of a householder application, in the event of an appeal that proceeds by way of the expedited procedure, any representations made about the application will be passed to the Secretary of State and there will be no opportunity to make further representations.
- (8) Subject to paragraph (9), if the local planning authority have failed to satisfy the requirements of this article in respect of an application for planning permission at the time the application is referred to the Secretary of State under section 76A (major infrastructure projects) or 77 (reference of applications to Secretary of State) of the 1990 Act<sup>(8)</sup>, or any appeal to the Secretary of State is made under section 78 of the 1990 Act, this article shall continue to apply, as if such referral or appeal to the Secretary of State had not been made.
- (9) Where paragraph (8) applies, when the local planning authority have satisfied the requirements of this article, they shall inform the Secretary of State that they have done so.
- (10) In this article—

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(8) Section 76A was inserted by section 44 of the 2004 Act and section 77 was amended by paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991, section 40(2)(d) of the 2004 Act and is to be amended by paragraphs 1 and 2 of Schedule 10 to the Planning Act 2008 on a date to be appointed.



“adjoining owner or occupier” means any owner or occupier of any land adjoining the land to which the application relates;

“EIA application” has the meaning given in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (interpretation)(9), and “environmental statement” means a statement which the applicant refers to as an environmental statement for the purposes of those Regulations; and

“requisite notice” means notice in the appropriate form set out in Schedule 3 or in a form substantially to the like effect.

(11) Paragraphs (1) to (6) apply to applications made to the Secretary of State under section 293A of the 1990 Act (urgent Crown development: application)(10) as if the references to a local planning authority were references to the Secretary of State.

### **Notice of reference of applications to the Secretary of State**

**14.** On referring any application to the Secretary of State under section 76A (major infrastructure projects) or 77 (reference of applications to Secretary of State) of the 1990 Act(11) pursuant to a direction in that behalf, a local planning authority shall serve on the applicant a notice—

- (a) setting out the terms of the direction and any reasons given by the Secretary of State for issuing it;
- (b) stating that the application has been referred to the Secretary of State; and
- (c) containing a statement that the Secretary of State will, if the applicant so desires, afford to the applicant an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and that the decision of the Secretary of State on the application will be final.

### **Major infrastructure projects: economic impact report**

**15.—**(1) This article only applies in relation to major infrastructure projects where the Secretary of State has given a direction under section 76A(2) of the 1990 Act (major infrastructure projects).

(2) An economic impact report (“the report”) prepared by an applicant in accordance with section 76A(5) of the 1990 Act shall be in the form set out in Schedule 4 to this Order (or in a form substantially to the like effect).

(3) Subject to paragraph (5), the report shall contain the applicant’s estimates of the overall economic impact at—

- (a) local level;
- (b) regional level; and
- (c) national level,

of the project for which planning permission or approval, as the case may be, is sought.

(4) Without prejudice to the generality of paragraphs (2) and (3), each estimate shall—

- (a) include estimates specific to employment, investment and economic output; and
- (b) separately identify the costs and benefits falling on or accruing to the local, regional or national community as the case may be.

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(9) [S.I. 1999/293](#), amended by [S.I. 2008/2093](#); there are other amending instruments but none are relevant.

(10) Section 293A was inserted by section 82(1) of the 2004 Act.

(11) Do you need this in the light of (a)?Section 76A was inserted by section 44 of the 2004 Act and section 77 was amended by paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34), section 40(2)(d) of the 2004 Act and is to be amended by paragraphs 1 and 2 of Schedule 10 to the Planning Act 2008 (c. 29) on a date to be appointed.

(5) The estimates shall exclude factors which would lead to benefits being counted more than once.

(6) The report shall—

- (a) state the assumptions made in preparing the estimates;
- (b) state the sources of information used to produce the estimates; and
- (c) where there is uncertainty as to any matter relevant to the estimates, explain that uncertainty.

(7) The report shall be submitted to the Secretary of State not later than 15 weeks after the date on which the applicant received from the Secretary of State a written request for its submission.

(8) The applicant shall, on submitting the report to the Secretary of State, publish in a local newspaper circulating in the locality in which the land to which the application relates is situated a notice stating—

- (a) the applicant's name and that the applicant is the applicant for planning permission or approval, as the case may be;
- (b) the name and address of the local planning authority;
- (c) the date on which the application was made and that it has been referred to the Secretary of State for determination as a major infrastructure project;
- (d) the location and nature of the proposed development;
- (e) an address in the locality at which the report may be inspected, and the latest day on which it will be available for inspection (being a date not less than 21 days from the date on which the notice is published);
- (f) an address in the locality (whether or not the same as that given under sub-paragraph (e)) at which copies of the report may be obtained, on payment of a reasonable charge;
- (g) the address of any website maintained by the applicant where a copy of the report may be viewed; and
- (h) that any person wishing to make representations about the report should make them in writing, before the date stated in accordance with sub-paragraph (e), to the Secretary of State and the address to which such representations should be sent.

(9) The applicant shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable and on payment of a reasonable charge, take copies of the report.

(10) In this article—

“economic output” means the estimate of changes to either Gross Domestic Product or Gross Value Added as a result of the project;

“local” for the purposes of paragraphs (3)(a) and (4)(b) means within the area of the relevant local planning authority; and

“regional” means relating to a region specified in Schedule 1 to the Regional Development Agencies Act 1998 (regions)(12).

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(12) 1998 c. 45; Schedule 1 was amended by S.I. 2009/837.