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STATUTORY INSTRUMENTS

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**2015 No. 595**

**The Town and Country Planning (Development Management Procedure) (England) Order 2015**

**[<sup>F1</sup>PART 7A**

**Biodiversity Gain Plan**

**[<sup>F1</sup>Appeals**

**37E.**—(1) This article applies where a local planning authority—

- (a) makes a determination not to approve a biodiversity gain plan, or
- (b) does not give written notice of its determination whether to approve a biodiversity gain plan within the period required under article 37D(1).

(2) Where this article applies, a person who has submitted a biodiversity gain plan who wishes to appeal to the Secretary of State under section 78 of the 1990 Act must give notice of appeal to the Secretary of State by—

- (a) serving on the Secretary of State within—
    - (i) the time limit specified in paragraph (3), or
    - (ii) such longer period as the Secretary of State may, at any time, allow,a completed appeal form, obtained from the Secretary of State, together with such of the documents specified in paragraph (4) as are relevant to the appeal, and
  - (b) serving on the planning authority referred to in paragraph (1) a copy of the completed appeal form mentioned in sub-paragraph (a), as soon as reasonably practicable, together with a copy of the documents mentioned in paragraph (4)(f) where that paragraph applies.
- (3) The time limit mentioned in paragraph (2) is six months from—
- (a) the date of the notice of the determination not to approve the biodiversity gain plan giving rise to the appeal, or
  - (b) where no such notice has been given, the expiry of the period specified under article 37D(1) (a) or (b), as the case may be.
- (4) The documents mentioned in paragraph (2) are—
- (a) a copy of the application for planning permission sent to the local planning authority, to which the biodiversity gain plan relates;
  - (b) all plans, drawings and other documents sent to the local planning authority relating to that application;
  - (c) all correspondence with the local planning authority relating to the determination whether to approve the biodiversity gain plan;
  - (d) the notice of the determination not to approve the biodiversity gain plan, if any;
  - (e) the biodiversity gain plan;

- (f) subject to paragraph (5)—
- (i) the full statement of case of the person who submitted the biodiversity gain plan (if they wish to make additional representations);
  - (ii) a statement of which procedure (written representations, a hearing or inquiry) the person who submitted the biodiversity gain plan considers should be used to determine the appeal;
  - (iii) a draft statement of common ground if the person submitting the biodiversity gain plan considers that the appeal should be determined through a hearing or an inquiry.
- (5) The documents required in paragraph (4)(f) are not required to accompany the notice under paragraph (2) where a direction is given by the Secretary of State under section 321(3) of the 1990 Act (matters related to national security).
- (6) The Secretary of State may refuse to accept a notice of appeal from the person who submitted the biodiversity gain plan if the completed appeal form required under paragraph (2)(a) and the documents required under paragraph (4) are not served on the Secretary of State within the time limit specified in paragraph (3).
- (7) The Secretary of State may provide, or arrange for the provision of, a website for use for such purposes as the Secretary of State thinks fit which—
- (a) relate to appeals under section 78 of the 1990 Act and this article, and
  - (b) are capable of being carried out electronically.
- (8) Where a person gives notice of appeal to the Secretary of State using electronic communications, the person is taken to have agreed—
- (a) to the use of such communications for all purposes relating to the appeal which are capable of being carried out electronically,
  - (b) that the person’s address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the person’s notice of appeal, and
  - (c) that the person’s deemed agreement under this paragraph subsists until notice is given in accordance with article 46 that the person wishes to revoke the agreement.
- (9) In this article, “draft statement of common ground” and “full statement of case” have the same meaning as in article 37(8) (appeals).]

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**Textual Amendments**

- F1** Pt. 7A inserted (12.2.2024) by [The Biodiversity Gain \(Town and Country Planning\) \(Modifications and Amendments\) \(England\) Regulations 2024 \(S.I. 2024/50\)](#), regs. 1(2), **19**

**Changes to legislation:**

There are currently no known outstanding effects for the The Town and Country Planning (Development Management Procedure) (England) Order 2015, Section 37E.