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## STATUTORY INSTRUMENTS

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### 2015 No. 595

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

### Part 8

#### Miscellaneous

##### Local development orders

**38.**—(1) Where a local planning authority propose to make a local development order they must first prepare—

- (a) a draft of the order; and
- (b) a statement of their reasons for making the order.

(2) The statement of reasons must contain—

- (a) a description of the development which the order would permit; and
- (b) a plan or statement identifying the land to which the order would relate.

(3) Where a local planning authority have prepared a draft local development order, they must consult, in accordance with paragraph (5), such of the following persons whose interests the authority consider would be affected by the order if made—

- (a) if the local planning authority is a London borough council, the Mayor of London;
- (b) a local planning authority, county council or parish council any part of whose area is in or adjoins the area of the local planning authority;
- [<sup>F1</sup>(ba) a neighbourhood forum for a neighbourhood area any part of which is in or adjoins the area of the local planning authority;]
- (c) Natural England <sup>M1</sup>;
- (d) the Environment Agency <sup>M2</sup>;
- (e) the Historic England <sup>M3</sup>;
- (f) where the Secretary of State is the highway authority for any highway in the area of the local planning authority, the Secretary of State for Transport;
- (g) a strategic highways company <sup>M4</sup> any part of whose area is in or adjoins the area of the local planning authority;
- (h) any person—
  - (i) to whom the electronic communications code applies by virtue of a direction given under section 106(3)(a) of the Communications Act 2003 (application of the electronic communications code) <sup>M5</sup>; and
  - (ii) who owns or controls electronic communications apparatus situated in any part of the area of the local planning authority;

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- (i) any of the following persons who exercise functions in any part of the area of the local planning authority—
    - (i) a clinical commissioning group <sup>M6</sup>;
    - (ii) the National Health Service Commissioning Board <sup>M7</sup>;
    - (iii) a person to whom a licence has been granted under section 6(1)(b) and (c) of the Electricity Act 1989 (licences authorising supply, etc) <sup>M8</sup>;
    - (iv) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986 (licensing of gas transporters) <sup>M9</sup>;
    - (v) a sewerage undertaker;
    - (vi) a water undertaker;
  - (j) voluntary bodies some or all of whose activities benefit any part of the local planning authority's area;
  - (k) bodies which represent the interests of persons who share a protected characteristic <sup>M10</sup> in the local planning authority's area;
  - (l) bodies which represent the interests of persons carrying on business in the local planning authority's area.
- (4) The local planning authority must also consult any person with whom they would have been required to consult on an application for planning permission for the development proposed to be permitted by the order.
- (5) In consulting in accordance with paragraphs (3) and (4) the local planning authority must—
- (a) send a copy of the draft order and the statement of reasons to the consultees;
  - (b) specify a consultation period of not less than 28 days; and
  - (c) take account of all representations received by them during the period specified.
- (6) A local planning authority must, during any consultation under paragraphs (3) and (4) —
- (a) make a copy of the draft local development order, the environmental statement and statement of reasons available for inspection—
    - (i) at their principal office during normal working hours; and
    - (ii) at such other places within their area as they consider appropriate;
  - (b) publish on their website—
    - (i) the draft local development order, the environmental statement and the statement of reasons;
    - (ii) a statement that those documents are available for inspection and the places where and times when they can be inspected; and
    - (iii) the date by which representations on the draft local development order must be received, which must be not less than 28 days after the date of first publication on the website; and
  - (c) give notice by local advertisement of—
    - (i) the draft local development order, the environmental statement and the statement of reasons;
    - (ii) the availability of those documents for inspection, and the places where and times when they can be inspected; and

(iii) the date by which representations on the draft local development order must be received, which must be not less than 28 days from the date on which the notice was first published.

(7) Where the draft local development order would grant planning permission for development specified in the order, the local planning authority must also give notice of their proposal to make the order—

- (a) by site display in at least one place on or near to the site to which the order relates a notice in the appropriate form set out in Schedule 7 or in a form substantially to the same effect, and, subject to paragraph (8), leaving the notice in position for a period of not less than 28 days beginning with the date on which it is first displayed by site display; and
- (b) by serving a copy of that notice on every person whom the authority knows to be the owner or tenant of any part of the site whose name and address is known to the authority,

and specifying in the notice a date by which representations on the draft local development order must be received, which must be not less than 28 days from the date on which the notice was displayed by site display or served, as the case may be.

(8) Where the notice referred to in paragraph (7)(a) is, without any fault or intention of the authority, removed, obscured or defaced before the period referred to in that paragraph has elapsed, the authority is treated as having complied with the requirements of that paragraph if they have taken reasonable steps for the protection of the notice, and, if necessary, its replacement.

(9) Paragraph (10) applies where any notice of the proposal has been—

- (a) published on the authority's website or by local advertisement in accordance with paragraph (6);
- (b) given by site display under paragraph (7)(a); or
- (c) served on an owner of the land or a tenant under paragraph (7)(b).

(10) A local planning authority must, in considering what modifications should be made to the draft local development order or whether such an order should be adopted, take into account any representations made in relation to that order and received by the authority by the date specified on the website or in the notices, in accordance with paragraph (6) or (7) as the case may be, as the date by which representations should be made (or, if the dates on the website or in the notices differ from each other, the latest of such dates).

(11) A local planning authority must send a copy of—

- (a) the local development order,
- (b) the statement of reasons relating to the making of that order, and
- (c) any environmental statement relating to that order prepared in accordance with regulation 29(4)(a) of the 2011 Regulations<sup>MI1</sup>, to the Secretary of State as soon as reasonably practicable, and no later than 28 days, after the local planning authority has adopted the order.

(12) A local development order must not be made so as to grant planning permission—

- (a) for development affecting a listed building, or
- (b) for development which is Schedule 1 development within the meaning of regulation 2(1) of the 2011 Regulations (interpretation).

(13) Where a local planning authority revoke a local development order the authority must—

- (a) publish on their website a statement that the local development order has been revoked;
- (b) give notice of the revocation by local advertisement; and

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(c) give written notice of the revocation to every person whom the local planning authority consulted under paragraphs (3) or (4) before making the order.

(14) In this article, a requirement to give notice by local advertisement is a requirement to publish the notice in as many newspapers as will secure that the press coverage (taken as a whole) extends to the whole of the area to which the local development order relates.

#### Textual Amendments

**F1** Art. 38(3)(ba) inserted (1.10.2016) by [The Neighbourhood Planning \(General\) and Development Management Procedure \(Amendment\) Regulations 2016 \(S.I. 2016/873\)](#), regs. 1(1), **3(3)** (with reg. 4(7))

#### Marginal Citations

**M1** See section 1 of the [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#).

**M2** See section 1(1) of the [Environment Act 1995 \(c. 25\)](#).

**M3** See section 32 of the [National Heritage Act 1983 \(c. 47\)](#). This body is also known as the Historic Buildings and Monuments Commission for England.

**M4** A body appointed under section 1 of the [Infrastructure Act 2015 \(c. 7\)](#).

**M5** [2003 c. 21](#).

**M6** See section 11 of the [National Health Service Act 2006 \(c. 41\)](#).

**M7** See section 1h of the [National Health Service Act 2006 \(c. 41\)](#).

**M8** [1989 c. 29](#); section 6 was substituted by section 30 of the [Utilities Act 2000 \(c. 27\)](#), subsection (1)(b) was substituted by section 136(1) of the [Energy Act 2004 \(c. 20\)](#) and subsection (1)(c) was amended by section 197(9) of, and Part 1 of Schedule 23 to, the Energy Act 2004.

**M9** [1986 c. 44](#); section 7 was substituted by section 5 of the [Gas Act 1995 \(c. 45\)](#) and subsection (2) was amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Part 1 of Schedule 6 to, the Utilities Act 2000 and by [S.I. 2011/2704](#).

**M10** See sections 4 to 12 of the [Equality Act 2010 \(c.15\)](#).

**M11** [S.I. 2011/1824](#), amended by [S.I. 2012/637](#), [2013/2140](#) and [2013/2879](#).

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**Changes to legislation:**

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