
STATUTORY INSTRUMENTS

2015 No. 595

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

Part 6

Determination

Directions by the Secretary of State

31.—(1) The Secretary of State may give directions restricting the grant of permission by a local planning authority, either indefinitely or during such a period as may be specified in the directions, in respect of any development or in respect of development of any class so specified.

(2) The Secretary of State may give directions that development, which is both of a description set out in column 1 of the table to Schedule 2 to the 2011 Regulations (descriptions of development and applicable thresholds and criteria for the purposes of the definition of “Schedule 2 development”)(⁽¹⁾) and of a class described in the direction, is EIA development for the purposes of those Regulations.

(3) A local planning authority must deal with applications for planning permission for development to which a direction given under paragraph (1) or (2) applies, in such manner as to give effect to the direction.

Development not in accordance with the development plan

32. A local planning authority may in such cases and subject to such conditions as may be prescribed by directions given by the Secretary of State under this Order, grant permission for development which 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.

Representations to be taken into account

33.—(1) A local planning authority must, in determining an application for planning permission, take into account any representations made where any notice of, or information about, the application has been—

- (a) given by site display under article 13 or 15, within 21 days beginning with the date when the notice was first displayed by site display;
- (b) served on—
 - (i) an owner of the land or a tenant of an agricultural holding under article 13;
 - (ii) an adjoining owner or occupier under article 15; or
 - (iii) an infrastructure manager under article 16,

(1) S.I. 2011/1824, amended by S.I. 2012/637, 2013/2140 and 2013/2879.

within 21 days beginning with the date when the notice was served on that person, provided that the representations are made by any person who they are satisfied is such an owner, tenant, occupier or infrastructure manager; or

- (c) published in a newspaper under article 13 or 15 or on a website under article 15, within the period of 14 days beginning with the date on which the notice or information was published,

and the representations and periods in this article are representations and periods prescribed for the purposes of section 71(2)(a) of the 1990 Act (consultations in connection with determinations under section 70)(2).

(2) A local planning authority must give notice of their decision to every person who has made representations which they were required to take into account in accordance with paragraph (1)(b) (i), and such notice is the notice prescribed for the purposes of section 71(2)(b) of the 1990 Act.

(3) Paragraphs (1) and (2) apply to applications referred to the Secretary of State under section 77 (reference of applications to Secretary of State) of the 1990 Act(3) and to applications made to the Secretary of State under section 293A(2) of the 1990 Act (applications for urgent Crown development)(4) and paragraphs (1)(b) and (2) apply to appeals to the Secretary of State made under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)(5), as if the references to—

- (a) a local planning authority were to the Secretary of State; and
- (b) determining an application for planning permission were to determining such application or appeal, as the case may be.

Time periods for decisions

34.—(1) Subject to paragraph (9), where a valid application or a non-validated application has been received by a local planning authority, the authority must within the period specified or referred to in paragraph (2)(6) or (3) give the applicant notice of their decision or determination or notice that the application has been referred to the Secretary of State.

(2) The period specified or referred to in this paragraph is—

- (a) in relation to an application for major development, 13 weeks beginning with the day immediately following that on which the application is received by the local planning authority;
- (b) in relation to an application for development which is not major development, 8 weeks beginning with the day immediately following that on which the application is received by the local planning authority; or
- (c) in relation to any development, unless the applicant has already given notice of appeal to the Secretary of State, such extended period as may be agreed in writing between the applicant and the local planning authority.

(3) In relation to a non-validated application, where the notice mentioned in article 12(1) is received—

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- (2) Section 71 was amended by section 16(2) of, and paragraph 15 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).
 - (3) 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 (c. 29) on a date to be appointed and paragraph 18 of Schedule 12 to, the Localism Act 2011 (c. 20) (“the 2011 Act”).
 - (4) Section 293A was inserted by section 82(1) of the 2004 Act.
 - (5) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991, section 40(2)(e) and 43(2) of the 2004 Act and paragraphs 1 and 3 of Schedule 10 (amendments in force for certain purposes and to come into force for remaining purposes on a date to be appointed, *see* S.I. 2009/400) and paragraphs 1 and 2 of Schedule 11 to the Planning Act 2008 (c. 29).
 - (6) In relation to the period for determining an application for EIA development, *see* S.I. 1999/293.

(a) during the 7 working days immediately before the end of the period specified or referred to in paragraph (2) (“the initial determination period”); or

(b) on the final day of, or after the end of, the initial determination period,

the period specified or referred to in this paragraph is 7 working days beginning with the date the notice mentioned in article 12(1) is received by the local planning authority.

(4) In this article “valid application” means an application which consists of—

(a) an application which complies with the requirements of article 5, 6 or 7, as the case may be,

(b) in a case to which article 9 applies, the design and access statement,

(c) the certificate required by article 14,

(d) in a case where pre-application consultation is required in accordance with article 3, the particulars specified in article 4,

(e) subject to paragraph (6), the particulars or evidence required by the authority under section 62(3) of the 1990 Act (applications for planning permission)(7), and

(f) any fee required to be paid in respect of the application and, for this purpose, lodging a cheque for the amount of a fee is to be taken as payment,

and a valid application is taken to have been received when the application, and such of the documents, particulars or evidence referred to above as are required to be included in, or to accompany, the application have been lodged with the appropriate authority mentioned in article 11(1) and the fee required to be paid has been paid.

(5) In this article “non-validated application” means an application which consists of—

(a) an application which complies with the requirements of article 5, 6 or 7, as the case may be;

(b) in a case to which article 9 applies, the design and access statement;

(c) the certificate required by article 14;

(d) in a case where pre-application consultation is required in accordance with article 3, the particulars referred to in article 4(8);

(e) subject to paragraph (6), the particulars or evidence required by the authority under section 62(3) of the 1990 Act (applications for planning permission) except the particulars or evidence specified by the applicant in a notice sent to the local planning authority under article 12(1); and

(f) any fee required to be paid in respect of the application and, for this purpose, lodging a cheque for the amount of a fee is to be taken as payment,

and a non-validated application is taken to have been received when the application, and such of the documents, particulars or evidence (except the particulars or evidence specified by the applicant in a notice sent to the authority under article 12(1)) referred to above as required to be included in, or, to accompany, the application have been lodged with the appropriate authority mentioned in article 11(1), and the fee required to be paid has been paid.

(6) Paragraphs (4)(e) and (5)(e) only apply if—

(a) before the application is made the local planning authority publish or republish, for the purposes of paragraphs (4) and (5), 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;

(c) the particulars or evidence the authority require to be included in the application—

(7) Section 62 was substituted by section 42(1) of the 2004 Act.

(8) Article 3 and 4 cease to have effect with effect from 17th December 2020; see section 122(3) of the 2011 Act and by S.I. 2013/2931.

- (i) are reasonable having regard, in particular, to the nature and scale of the proposed development; and
 - (ii) are about a matter which it is reasonable to think will be a material consideration in the determination of the application; and
 - (d) the list mentioned in sub-paragraph (a) was published (or republished) during the 2 year period immediately before the date on which the application is made.
- (7) Where a fee due in respect of an application has been paid by a cheque which is subsequently dishonoured—
- (a) sub-paragraph (a) or (b) of paragraph (2), as the case may be, has effect as if, for “the application is received by the local planning authority”, there were substituted “the local planning authority are satisfied that they have received the full amount of the fee”; and
 - (b) sub-paragraph (c) of that paragraph has effect as if, at the end, there were added “once the authority are satisfied that they have received the full amount of the fee”.
- (8) A local planning authority must provide such information about applications made under article 5, 6 or 7 (including information as to the manner in which any such application has been dealt with) as the Secretary of State may by direction require; and any such direction may include provision as to the persons to be informed and the manner in which the information is to be provided.
- (9) A local planning authority must not determine an application for planning permission where any notice of, or information about, the application has been—
- (a) given by site display under article 13 or 15, before the end of the period of 21 days beginning with the date when the notice was first displayed by site display;
 - (b) served on—
 - (i) an owner of the land or a tenant of an agricultural holding under article 13;
 - (ii) an adjoining owner or occupier under article 15; or
 - (iii) an infrastructure manager under article 16,
 before the end of the period of 21 days beginning with the date when the notice was served on that person; or
 - (c) published in a newspaper under article 13 or 15 or on a website under article 15, within the period of 14 days beginning with the date on which the notice or information was published,

and the periods in this paragraph are periods prescribed for the purposes of section 71(1) of the 1990 Act (consultations in connection with determinations under section 70)(9).

Written notice of decision or determination relating to a planning application

35.—(1) When the local planning authority give notice of a decision or determination on an application for planning permission or for approval of reserved matters—

- (a) where planning permission is granted subject to conditions, the notice must state clearly and precisely their full reasons—
 - (i) for each condition imposed; and
 - (ii) in the case of each pre-commencement condition, for the condition being a pre-commencement condition;

(9) Section 71(1) was substituted by section 16(2) of the Planning and Compensation Act 1991 (c. 34).

- (b) where planning permission is refused, the notice must state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision;
- (c) where—
 - (i) the Secretary of State has given a direction restricting the grant of planning permission for the development for which application is made; or
 - (ii) the Secretary of State or a government department has expressed the view that the permission should not be granted (either wholly or in part) or should be granted subject to conditions,

the notice must give details of the direction or of the view expressed.

(2) Where paragraph (1)(a) or (b) applies, the notice must also include a statement explaining, whether, and if so how, in dealing with the application, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application.

(3) Where paragraph (1)(a), (b) or (c) applies, the notice must be accompanied by a notification in the terms (or substantially in the terms) set out in Schedule 5.

(4) Where—

- (a) an applicant for planning permission has submitted an environmental statement; and
- (b) the local planning authority have decided (having taken environmental information into consideration) to grant permission (whether unconditionally or subject to conditions),

the notice given to the applicant in accordance with article 34(1) must include a statement that environmental information has been taken into consideration by the authority.

(5) In paragraph (1)(a)(ii) “pre-commencement condition” means a condition imposed on the grant of a planning permission which must be complied with—

- (a) before any building or other operation comprised in the development is begun; or
- (b) where the development consists of a material change in the use of any buildings or other land, before the change of use is begun.