

SCHEDULE 3

Article 4

Procedures for Article 4 directions

Procedure for article 4(1) directions without immediate effect

1.—(1) Subject to paragraph 2, notice of any direction made under article 4(1) of this Order must, as soon as practicable after the direction has been made, be given by the local planning authority—

- (a) by local advertisement;
- (b) by site display at no fewer than 2 locations within the area to which the direction relates, or, if the direction is made under article 4(1)(b), on the site of the particular development to which the direction relates, for a period of not less than 6 weeks; and
- (c) subject to sub-paragraph (2), by serving the notice on the owner and occupier of every part of the land within the area or site to which the direction relates.

(2) In a case where this paragraph applies, the local planning authority need not serve notice on an owner or occupier in accordance with sub-paragraph (1)(c), if they consider that—

- (a) individual service on that owner or occupier is impracticable because it is difficult to identify or locate that person or
- (b) the number of owners or occupiers within the area to which the direction relates makes individual service impracticable.

(3) Sub-paragraph (2) does not apply where the owner or occupier is a statutory undertaker or the Crown.

(4) The notice referred to in sub-paragraph (1) must—

- (a) include a description of the development and the area to which the direction relates, or the site to which it relates, as the case may be, and a statement of the effect of the direction;
- (b) specify that the direction is made under article 4(1) of this Order;
- (c) name a place where a copy of the direction, and a copy of a map defining the area to which it relates, or the site to which it relates, as the case may be, may be seen at all reasonable hours;
- (d) specify a period of at least 21 days, stating the date on which that period begins, within which any representations concerning the direction may be made to the local planning authority; and
- (e) specify the date on which it is proposed that the direction will come into force, which must be at least 28 days but no longer than 2 years after the date referred to in paragraph (d).

(5) Where a notice given by site display is, without any fault or intention of the local planning authority, removed, obscured or defaced before the period referred to in sub-paragraph (4)(d) 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, including, if need be, its replacement.

(6) The local planning authority must send a copy of the direction and the notice under sub-paragraph (1), including a copy of a map defining the area to which it relates, or the site to which it relates, as the case may be, to the Secretary of State on the same day that notice of the direction is first published or displayed in accordance with sub-paragraph (1).

(7) The direction comes into force in respect of any part of the land within the area to which it relates on the date specified in accordance with sub-paragraph (4)(e) but does not come into force unless confirmed by the local planning authority in accordance with sub-paragraphs (9) and (10).

(8) On making a direction under article 4(1)—

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- (a) a county planning authority must give notice of it to any district planning authority in whose district the area or part of the area to which the direction relates is situated; and
 - (b) except in metropolitan districts, a district planning authority must give notice of it to the county planning authority, if any.
- (9) In deciding whether to confirm a direction made under article 4(1), the local planning authority must take into account any representations received during the period specified in accordance with sub-paragraph (4)(d).
- (10) The local planning authority must not confirm a direction until after the expiration of—
- (a) a period of at least 28 days following the latest date on which any notice relating to the direction was served or published; or
 - (b) such longer period as may be specified by the Secretary of State following the notification by the local planning authority to the Secretary of State of the direction.
- (11) The local planning authority must, as soon as practicable after a direction has been confirmed—
- (a) give notice of such confirmation and the date on which the direction will come into force; and
 - (b) send a copy of the direction as confirmed to the Secretary of State.
- (12) Notice under sub-paragraph (11)(a) must be given in the manner described in sub-paragraphs (1) and (4)(a) to (c); and sub-paragraphs (2) and (3) apply for this purpose as they apply for the purpose of sub-paragraph (1)(c).
- (13) A local planning authority may, by making a subsequent direction, cancel any direction made by them under article 4(1); and the Secretary of State may, subject to paragraphs 2(3) and (4), make a direction cancelling or modifying any direction under article 4(1) made by a local planning authority at any time before or after its confirmation.
- (14) Sub-paragraphs (1) to (12) apply in relation to any direction made under sub-paragraph (13) by a local planning authority unless the direction it is cancelling is a direction to which paragraph 2 applied.
- (15) Paragraphs 2(2) to (10) apply in relation to any direction made by a local planning authority under sub-paragraph (13) cancelling a direction to which paragraph 2 applied.
- (16) The Secretary of State must notify the local planning authority as soon as practicable after making a direction under sub-paragraph (13).
- (17) Sub-paragraphs (1) to (3) and (4)(a) to (c) apply to any direction made under sub-paragraph (13) by the Secretary of State.
- (18) A direction made under sub-paragraph (13) by the Secretary of State comes into force in respect of any part of the land within the area to which it relates—
- (a) on the date on which the notice is served in accordance with sub-paragraph (1)(c) on the occupier of that part of the land or, if there is no occupier, on the owner; or
 - (b) if sub-paragraph (2) applies, on the date on which the notice is first published or displayed in accordance with sub-paragraph (1).

Procedure for article 4(1) directions with immediate effect

- 2.—(1) This paragraph applies where—
- (a) a direction relating only to development permitted by any of Parts 1 to 4, or Class B or C of Part 11, of Schedule 2 has been made by the local planning authority under article 4(1) and the authority consider that the development to which the direction relates would

be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area; or

- (b) a direction within the whole or part of any conservation area has been made by the local planning authority under article 4(1) which the authority consider should have immediate effect and the development to which the direction relates is described in paragraphs (a) to (j) of sub-paragraph (3).

(2) Subject to sub-paragraphs (3), (4) and (9), paragraphs 1(1) to (3), (4)(a) to (d), (5), and (8) to (10) apply in relation to a direction to which this paragraph applies; and the planning authority must notify the Secretary of State of the direction on the same day that notice is given under paragraph 1(1).

(3) The Secretary of State may not make a direction under paragraph 1(13) within the whole or part of any conservation area where the development to which the direction relates is described in—

- (a) Class A of Part 1 of Schedule 2, consisting of the enlargement, improvement or other alteration of a dwellinghouse, where any part of the enlargement, improvement or alteration would front a relevant location;
- (b) Class C of Part 1 of that Schedule, where the alteration would be to a roof slope which fronts a relevant location;
- (c) Class D of Part 1 of that Schedule, where the external door in question fronts a relevant location;
- (d) Class E of Part 1 of that Schedule, where the building or enclosure, swimming or other pool to be provided would front a relevant location, or where the part of the building or enclosure maintained, improved or altered would front a relevant location;
- (e) Class F of Part 1 of that Schedule, where the hard surface would front a relevant location;
- (f) Class G of Part 1 of that Schedule, consisting of the installation, alteration or replacement of a chimney on a dwellinghouse;
- (g) Class H of Part 1 of that Schedule, where the part of the building or other structure on which the antenna is to be installed, altered or replaced fronts a relevant location;
- (h) Class A of Part 2 of that Schedule, where the gate, fence, wall or other means of enclosure would be within the curtilage of a dwellinghouse and would front a relevant location;
- (i) Class C of Part 2 of the Schedule, consisting of the painting of the exterior of any part of—
 - (i) a dwellinghouse; or
 - (ii) any building or enclosure within the curtilage of a dwellinghouse, which fronts a relevant location;
- (j) Class C of Part 11 of that Schedule, where the gate, fence, wall or other means of enclosure is within the curtilage of a dwellinghouse and fronts a relevant location.

(4) The Secretary of State may not modify a direction to which this paragraph applies or a direction which relates to—

- (a) a listed building;
- (b) a building which is notified to the authority by the Secretary of State as a building of architectural or historic interest; or
- (c) development within the curtilage of a listed building,

and does not relate to land of any other description.

(5) The direction comes into force in respect of any part of the land within the area to which it relates—

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- (a) on the date on which the notice is served in accordance with paragraph 1(1)(c) on the occupier of that part of the land or, if there is no occupier, on the owner; or
 - (b) if paragraph 1(2) applies, on the date on which the notice is first published or displayed in accordance with paragraph 1(1).
- (6) A direction to which this paragraph applies expires at the end of the period of 6 months beginning with the date on which it comes into force unless confirmed by the local planning authority in accordance with paragraphs 1(9) and (10) before the end of the 6 month period.
- (7) The local planning authority must, as soon as practicable after a direction has been confirmed—
- (a) give notice of their confirmation; and
 - (b) send a copy of the direction as confirmed to the Secretary of State.
- (8) Notice under sub-paragraph (7)(a) must be given in the manner described in paragraphs 1(1) and (4)(a) to (c); and paragraphs 1(2) and (3) apply for this purpose as they apply for the purpose of paragraph 1(1)(c).
- (9) Sub-paragraph (7)(b) does not apply in relation to a direction to which sub-paragraph (3) applies or to a direction which relates to—
- (a) a listed building;
 - (b) a building which is notified to the authority by the Secretary of State as a building of architectural or historic interest; or
 - (c) development within the curtilage of a listed building,
- and does not relate to land of any other description.
- (10) In this paragraph, “relevant location” means a highway, waterway or open space.

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