

2006 No. 1062

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006

Made - - - - - *5th April 2006*

Laid before Parliament *12th April 2006*

Coming into force in accordance with article 1(2) and (3)

The First Secretary of State, in exercise of the powers conferred by sections 55(2A) and (2B), 59, 61(1), 61A, 69, 78 of, and paragraph 1(1) and (2) of Schedule 4A to, the Town and Country Planning Act 1990(a), makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

(2) Subject to paragraph (3), this Order shall come into force on 10th May 2006.

(3) Articles 3 and 6 shall come into force on 10th August 2006.

(4) This Order applies in relation to England only.

Amendment of the Town and Country Planning (General Development Procedure) Order

2. The Town and Country Planning (General Development Procedure) Order 1995(b) is amended in accordance with the following provisions of this Order.

Amendments relating to reserved matters

3.—(1) In article 1(2) (interpretation)—

(a) after the definition of “the Act” insert—

““access”, in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission

(a) 1990 c. 8. Section 55(2A) and (2B), section 61A and Schedule 4A were inserted by the Planning and Compulsory Purchase Act 2004 (c. 5) (“the 2004 Act”), section 40, 49 and Schedule 1; section 69 was substituted by the 2004 Act, sections 42 and 118(1) and Schedule 6; section 78 was amended by the 1991 Act, section 17(2) and by the 2004 Act, sections 40 and 43. See 336(1) of the Town and Country Planning Act 1990 (“the 1990 Act”) for the definition of “prescribed”. The functions of the Secretary of State under the 1990 Act were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the 1990 Act.

(b) S.I. 1995/419. Relevant amendments were made by S.I. 1997/2971, 2003/956 and 2005/2087.

is granted or, as the case may be, in respect of which an application for such a permission has been made;

“appearance” means the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;”;

(b) for the definition of “landscaping” substitute—

““landscaping”, in relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes screening by fences, walls or other means, the planting of trees, hedges, shrubs or grass, the formation of banks, terraces or other earthworks, the laying out or provision of gardens, courts or squares, water features, sculpture, or public art, and the provision of other amenity features;”;

(c) after the definition of “landscaping” insert—

““layout” means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;”;

(d) for the definition of “reserved matters” substitute—

““reserved matters” in relation to an outline planning permission, or an application for such permission, means any of the following matters in respect of which details have not been given in the application—

(a) access;

(b) appearance;

(c) landscaping;

(d) layout; and

(e) scale, within the upper and lower limit for the height, width and length of each building stated in the application for planning permission in accordance with article 3(4);”;

(e) after the definition of “reserved matters” insert—

““scale”, means the height, width and length of each building proposed within the development in relation to its surroundings;”.

(2) After paragraph (2) of article 3 (applications for outline planning permission) add—

“(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.”.

Meaning of “development”

4. After article 2 (application) add—

“Development to include certain internal operations

2A.—(1) The amount specified under section 55(2A) of the Act is 200 square metres.

(2) The circumstances in which subsection (2) of section 55 of the Act does not apply to operations mentioned in paragraph (a) of that subsection which have the effect of increasing the gross floor space of the building by more than 200 square metres are that the building is used for the retail sale of goods other than hot food.

(3) In paragraph (2), the reference to a building used for the retail sale of goods includes a building used as a retail warehouse club, being a retail club where goods are sold, or displayed for sale, only to persons who are members of that club.”.

Local development orders

5.—(1) In article 1(1) after the definition of “layout” as inserted by article 3 of this Order insert—

““listed building” has the same meaning as in section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990(a) (listing of buildings of special architectural or historic interest;”.

(2) After article 2A as inserted by article 4 of this Order insert—

“Local development orders

2B.—(1) Where a local planning authority propose to make a local development order they shall first prepare—

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

(2) The statement of reasons shall contain—

- (a) a description of the development which the order would permit;
- (b) a statement of the policies which the order would implement; and
- (c) 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 shall consult, in accordance with paragraph (5), such of the following persons whose interests they consider would be affected by the order if made—

- (a) if the local planning authority is not a London borough council, the body recognised by direction of the Secretary of State under section 2(1) of the Planning and Compulsory Purchase Act 2004(b) as the regional planning body for the region in which the local planning authority’s area is situated;
- (b) if the local planning authority is a London borough council, the Mayor of London;
- (c) 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;
- (d) the Countryside Agency(c);
- (e) the Environment Agency(d);
- (f) the Historic Buildings and Monuments Commission for England(e);
- (g) English Nature(f);
- (h) the Strategic Rail Authority(g);

(a) 1990 c. 9.

(b) 2004 c. 5.

(c) See section 1(1) of the National Parks and Access to the Countryside Act 1949 (c.97), as substituted by the Environmental Protection Act 1990 (c. 43), section 130 and Schedule 8, paragraph 1, and as amended by S.I. 1999/416.

(d) See section 1(1) of the Environment Act 1995 (c. 25).

(e) See section 32 of the National Heritage Act 1983 (c. 47).

(f) See section 73(1) of the Countryside and Rights of Way Act 2000 (c. 37).

(g) See section 201 of the Transport Act 2000 (c. 38). Section 201 was repealed by the Railways Act 2005 (c. 14), section 59(6) from a date to be appointed.

- (i) the Highways Agency;
- (j) a Regional Development Agency^(a) whose area is in or adjoins the area of the local planning authority;
- (k) 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^(b); and
 - (ii) who owns or controls electronic communications apparatus situated in any part of the area of the local planning authority;
- (l) any of the following persons who exercise functions in any part of the area of the local planning authority—
 - (i) a Strategic Health Authority^(c);
 - (ii) a person to whom a licence has been granted under section 6(1)(b) and (c) of the Electricity Act 1989^(d);
 - (iii) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986^(e);
 - (iv) a sewerage undertaker;
 - (v) a water undertaker;
- (m) voluntary bodies some or all of whose activities benefit any part of the local planning authority's area;
- (n) bodies which represent the interests of different racial, ethnic or national groups in the local planning authority's area;
- (o) bodies which represent the interests of different religious groups in the local planning authority's area;
- (p) bodies which represent the interests of disabled persons in the local planning authority's area;
- (q) bodies which represent the interests of persons carrying on business in the local planning authority's area.

(4) The local planning authority shall 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 shall—

- (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 shall, during any consultation under paragraphs (3) and (4)—

- (a) make a copy of the draft local development order 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—

^(a) See section 1 of the Regional Development Agencies Act 1998 (c. 45).

^(b) 2003 c. 21.

^(c) See section 1(1) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17).

^(d) 1989 c. 29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27). Subsection (1)(b) was substituted by the Energy Act 2004 (c. 20), section 136(1).

^(e) 1986 c. 44. Section 7 was substituted by the Gas Act 1995 (c. 45), section 5 and section 7(2) was amended by the Utilities Act 2000, sections 3(2), 76(1) and (3), and Schedule 6 paragraphs 1 and 4.

- (i) the draft local development order 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;
 - (iii) the date by which representations on the draft local development order must be received, which shall be not less than 28 days after the date of first publication on the website;
- (c) give notice by local advertisement of—
- (i) the draft local development order and the statement of reasons;
 - (ii) the availability of those documents for inspection, and the places where and times when they can be inspected;
 - (iii) the date by which representations on the draft local development order must be received, which shall 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 shall also give notice of their proposal to make the order—

- (a) by displaying 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 2 to this Order or in a form substantially to the same effect, and, subject to paragraph (8), leaving the notice in position for 28 days beginning with the date on which it is first displayed; 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.

(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 of 28 days has elapsed, the authority shall be 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) 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),

a local planning authority shall, 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 within the relevant time limit specified in paragraph (6), (7)(a) or (7)(b) as the case may be.

(10) Where—

- (a) a local planning authority have complied with paragraphs (3) to (5) in relation to a draft local development order which would (if adopted) implement a policy in a development plan document (whether or not adopted), and
- (b) that policy is modified so that the local development order would no longer implement it,

the local planning authority may not adopt the local development order without first modifying it so as to ensure that it implements the modified policy.

(11) Where a draft local development order is modified in accordance with paragraph (10), the local planning authority shall before taking any further step in connection with the adoption of the order consult in accordance with paragraphs (3) and (4) and publicise the draft in accordance with paragraphs (6) to (8).

(12) A local planning authority shall send a copy of a draft local development order and the statement of reasons relating to that order, including any modifications made to the order or statement, to the Secretary of State at any time after they have complied with the requirements of paragraph (9).

(13) Subject to paragraph (14), a local planning authority shall not take any further step in connection with the adoption of a local development order until either—

- (a) the Secretary of State has notified the authority in writing that he does not intend to make a direction under section 61B(1)(a) of the Act; or
- (b) a period of 21 days has elapsed from the date on which the draft was sent to the Secretary of State, and the Secretary of State has neither notified the authority—
 - (i) that he intends to make such a direction; or
 - (ii) that he requires more time to reach his decision.

(14) If the Secretary of State gives notice under paragraph (13)(b)(ii), the authority shall not take any further step in connection with the adoption of the order unless the Secretary of State gives notice under paragraph (13)(a).

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

- (a) for development affecting a listed building;
- (b) for development which is Schedule 1 development within the meaning of regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999(b); or
- (c) for development which—
 - (i) is likely, for the purposes of the Conservation (Natural Habitats, &c.) Regulations 1994(c), to have a significant effect on a European site in Great Britain (either alone or in combination with other plans or projects); and
 - (ii) is not directly connected with or necessary to the management of the site, and for the purposes of this paragraph, “European site” has the same meaning as in regulation 10 of those Regulations.

(16) Where a local planning authority revoke a local development order the authority shall—

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

(17) 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.”

(3) In article 25(1) (register of applications) for “article 26” substitute “articles 25A and 26”.

(4) After article 25 insert—

“Register of Local Development Orders

25A.—(1) The register kept by each local planning register authority under article 25 shall include as Part III a Part relating to local development orders.

(2) Part III of the register shall consist of two sections—

(a) Section 61B was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 40.
(b) S.I. 1999/293 to which there are amendments not relevant to this instrument.
(c) S.I. 1994/2716; relevant amendments were made by S.I. 2000/192.

- (a) the first (“Section 1”) shall contain copies of draft local development orders which have been prepared but not adopted by the authority; and
 - (b) the second (“Section 2”) shall contain—
 - (i) copies of local development orders which have been adopted by the authority;
 - (ii) particulars of the revocation of any local development order made by the authority, including the date on which the revocation took effect; and
 - (iii) particulars of the revision of any local development order, including the date on which the revision took effect.
- (3) A copy of each draft local development order must be placed on the register when the draft is sent for consultation in accordance with article 2B(3) of this Order.
- (4) A copy of each local development order must be placed on the register within 14 days of the date of its adoption.
- (5) A requirement under this article to place a copy of a draft order or order on the register includes a requirement to do the same with the statement of reasons for making that order.”.

Design and access statements

6.—(1) After article 4B (major infrastructure projects: economic impact report) insert—

“Design and access statements

4C.—(1) This article applies to an application for planning permission which is not an application for planning permission for—

- (a) engineering or mining operations;
- (b) development of an existing dwelling-house, or development within the curtilage of such a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such, where no part of that dwelling-house or its curtilage is within a designated area; or
- (c) a material change in the use of land or buildings.

(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 and each of the aspects specified in sub-paragraph (a).

(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;
- (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; and

“designated area” means—

- (a) a National Park;
- (b) land to which section 28(1) (areas of special scientific interest) of the Wildlife and Countryside Act 1981^(a) applies;
- (c) a conservation area;
- (d) an area of outstanding natural beauty designated under section 82 (designation of areas) of the Countryside and Rights of Way Act 2000^(b);
- (e) a World Heritage Site;
- (f) the Broads.”.

(2) In paragraph (4)(a) of article 25 (register of applications) after “thereto” insert “and of any accompanying design and access statement provided in accordance with article 4C”.

Amendments related to time periods for decision

7.—(1) In article 1(2)—

- (a) after the definition of “by local advertisement” insert—

““major development” means development involving any one or more of the following—

- (a) the winning and working of minerals or the use of land for mineral-working deposits;
- (b) waste development;
- (c) the provision of dwelling-houses where—
 - (i) the number of dwelling-houses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within paragraph (c)(i);

(a) 1981 c. 69. Section 28 was substituted by the Countryside and Rights of Way Act 2000 (c. 37), section 75(1) and paragraph 1 of Schedule 9.
 (b) 2000 c. 37.

- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
 - (e) development carried out on a site having an area of 1 hectare or more;”;
- (b) after the definition of “trunk road” insert—
- ““waste development” means any operational development designed to be used wholly or mainly for the purpose of, or material change of use to, treating, storing, processing or disposing of refuse or waste materials;”.
- (2) In article 8(7) (publicity for applications) omit the definition of “major development” and “waste development”.
- (3) In article 20 (time periods for decision) for paragraph (2) substitute—
- “(2) The period specified in this paragraph is—
- (a) in relation to an application for major development, a period of 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, a period of 8 weeks beginning with the day immediately following that on which the application is received by the local planning authority;
 - (c) in relation to any development, such extended period as may be agreed in writing between the applicant and the local planning authority except where the applicant has already given notice of appeal to the Secretary of State; or
 - (d) where a fee due in respect of an application has been paid by a cheque which is subsequently dishonoured, the appropriate period specified in (a) to (c) beginning with the day immediately after the date when the authority are satisfied that they have received the full amount of the fee.”.
- (4) In Part 1 of Schedule 1 (letter to be sent by local planning authority on receipt of application) for “eight week beginning with the date” substitute “in the case of applications for major development, 13 weeks, or in all other cases, 8 weeks, beginning with the day immediately following the date”.

Signed by authority of the First Secretary of State

5th April 2006

Kay Andrews
Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Order)

The Town and Country Planning (General Development Procedure) Order 1995 (“the 1995 Order”) specifies the procedures connected with planning applications, appeals to the Secretary of State and related matters so far as these are not laid down in the Town and Country Planning Act 1990 (“the 1990 Act”) and the Town and Country Planning (Applications) Regulations 1988 (S.I. 1988/1812). It also deals with the maintenance of registers of planning applications, applications for certificates of lawful use or development, and other related matters. This Order amends the 1995 Order.

Article 3 amends the definition of “reserved matters” in article 1 of the 1995 Order and specifies what needs to be included in applications for outline planning permission in relation to those matters.

Articles 4, 5 and 6 amend the 1995 Order in consequence of provisions in the Planning and Compulsory Purchase Act 2004. Article 4 inserts a new article 2A into the 1995 Order. The effect of article 2A and section 55(2A) of the 1990 Act is that operations which increase the gross floor space of a building used for the retail sale of goods, other than hot food, by more than 200 square metres will constitute development and will require planning permission.

Article 5 inserts a new article 2B into the 1995 Order to make provision for the preparation and revocation of local development orders by local planning authorities and specifies the type of development for which a local development order cannot grant planning permission. Article 5 also inserts a new article 25A to provide for registers of local development orders.

Article 6 inserts a new article 4C into the 1995 Order to make provision for design and access statements which are required to accompany certain applications for planning permission.

Article 7 amends article 20 of the 1995 Order to provide that the time period within which a local planning authority must determine an application for planning permission for “major developments” is 13 weeks. It also makes certain changes to how the period is calculated.

A regulatory impact assessment was prepared in relation to Part 4 of the Planning and Compulsory Purchase Act 2004. Further assessments have been prepared in relation to this Order. These assessments have been placed in the Library of each House of Parliament and copies may be obtained from PDCD, Office of the Deputy Prime Minister, Eland House, Bressenden Place, London SW1E 5DU (Telephone 020 7944 8716).

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