
STATUTORY INSTRUMENTS

2010 No. 2184

The Town and Country Planning (Development Management Procedure) (England) Order 2010

PART 1

Preliminary

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (Development Management Procedure) (England) Order 2010 and shall come into force on 1st October 2010.

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

(3) This Order applies to all land in England, but where land is the subject of a special development order, whether made before or after the commencement of this Order, this Order shall apply to that land only to such extent and subject to such modifications as may be specified in the special development order.

(4) Nothing in this Order shall apply to any permission which is deemed to be granted under section 222 of the 1990 Act (planning permission not needed for advertisements complying with regulations).

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the 1990 Act” means the Town and Country Planning Act 1990;

“the 2004 Act” means the Planning and Compulsory Purchase Act 2004;

“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 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;

“building” includes any structure or erection, and any part of a building, as defined in this article, but does not include plant or machinery or any structure in the nature of plant or machinery;

“dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000 (general interpretation)(1);

“EIA development”, “environmental information” and “environmental statement” have the same meanings respectively as in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (interpretation)(2);

“erection”, in relation to buildings as defined in this article, includes extension, alteration or re-erection;

“flat” means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally;

“floor space” means the total floor space in a building or buildings;

“householder application” means—

- (a) an application for planning permission for development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse; or
- (b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development,

but does not include an application for change of use or an application to change the number of dwellings in a building;

“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—

- (a) screening by fences, walls or other means;
- (b) the planting of trees, hedges, shrubs or grass;
- (c) the formation of banks, terraces or other earthworks;
- (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
- (e) the provision of other amenity features;

“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;

“listed building” has the same meaning as in section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (listing of buildings of special architectural or historic interest)(3);

“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 dwellinghouses where —
 - (i) the number of dwellinghouses to be provided is 10 or more; or

(1) 2000 c. 7; section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

(2) S.I. 1999/293, amended by S.I. 2006/3295; there are other amending instruments but none are relevant.

(3) 1990 c. 9.

- (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 sub-paragraph (c)(i);
- (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;

“mining operations” means the winning and working of minerals in, on or under land, whether by surface or underground working;

“outline planning permission” means a planning permission for the erection of a building, which is granted subject to a condition requiring the subsequent approval of the local planning authority with respect to one or more reserved matters;

“planning obligation” means an obligation entered into by agreement or otherwise by any person interested in land pursuant to section 106 of the 1990 Act (planning obligations)(4);

“proposed highway” has the same meaning as in section 329 of the Highways Act 1980 (further provision as to interpretation)(5);

“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 4(4);

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

“section 278 agreement” means an agreement entered into pursuant to section 278 of the Highways Act 1980 (agreements as to execution of works)(6);

“by site display” means by the posting of the notice by firm affixture to some object, sited and displayed in such a way as to be easily visible and legible by members of the public;

“special road” means a highway or proposed highway which is a special road in accordance with section 16 of the Highways Act 1980 (general provision as to special roads)(7);

“trunk road” means a highway or proposed highway which is a trunk road by virtue of sections 10(1) (general provision as to trunk roads) or 19 (certain special roads and other highways to become trunk roads) of the Highways Act 1980(8) or any other enactment or any instrument made under any enactment; and

“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 this Order and in relation to the use of electronic communications or electronic storage for any purpose of this Order which is capable of being carried out electronically—

(4) Section 106 was amended by section 12(1) of the Planning and Compensation Act 1991 (c. 34), section 33 of the Greater London Authority Act 2007 (c. 24) and section 174 of the Planning Act 2008 (c. 29). There is no intention at present to bring into force the repeal of section 106 by section 120 of, and Schedule 9 to, the 2004 Act.

(5) 1980 c. 66.

(6) Section 278 was substituted by section 23 of the New Roads and Street Works Act 1991 (c. 22).

(7) Section 16 was amended by section 36 of, and paragraphs 21 and 24 of Schedule 2 to, the Planning Act 2008 (c. 29).

(8) Section 19 was amended by section 21 of the New Roads and Street Works Act 1991.

- (a) the expression “address” includes any number or address used for the purpose of such communications or storage, except that where this Order imposes any obligation on any person to provide a name and address to any other person, the obligation shall not be fulfilled unless the person on whom it is imposed provides a postal address; and
- (b) references to documents, maps, plans, drawings, certificates or other documents, or to copies of such things, include references to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (7) apply where an electronic communication is used by a person for the following purposes—

- (a) fulfilling any requirement in this Order to give or send any application, notice or other document to any other person; or
- (b) lodging an application, certificate or other document referred to in article 29(3) with an authority mentioned in that article,

and in those paragraphs, “the recipient” means the person mentioned in sub-paragraph (a) of this paragraph, or the authority mentioned in sub-paragraph (b), as the case may be.

(4) The requirement shall not be taken to be fulfilled, or (as the case may be) the application or other document shall not be taken to have been lodged, unless the document transmitted by the electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4), “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(6) Where the electronic communication is received by the recipient outside the recipient’s business hours, it shall be taken to have been received on the next working day; and for this purpose “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(7) A requirement in this Order that any application, notice or other document should be in writing is fulfilled where the document meets the criteria in paragraph (4), and “written” and cognate expressions are to be construed accordingly.

Development to include certain internal operations

3.—(1) The amount specified under section 55(2A) of the 1990 Act (meaning of “development” and “new development”)(**9**) is 200 square metres.

(2) The circumstances in which subsection (2) of section 55 of the 1990 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.

(9) Subsection (2A) of section 55 was inserted by section 49(1) of the 2004 Act.