
STATUTORY INSTRUMENTS

2010 No. 2184

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

PART 5

Appeals

Notice of appeal

32.—(1) Articles 11 and 12 apply to any appeal to the Secretary of State under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)⁽¹⁾ as they apply to applications for planning permission.

Appeals

33.—(1) An applicant who wishes to appeal to the Secretary of State under section 78 of the 1990 Act shall give notice of appeal to the Secretary of State by—

- (a) serving on the Secretary of State, within—
 - (i) the time limit specified in paragraph (2); or
 - (ii) such longer period as the Secretary of State may, at any time, allow, a completed appeal form, obtained from the Secretary of State, together with such of the documents specified in paragraph (3) as are relevant to the appeal; and
 - (b) serving on the local planning authority a copy of the completed appeal form mentioned in sub-paragraph (a), as soon as reasonably practicable, together with a copy of any relevant documents mentioned in paragraph (3)(a)(ii) or paragraph (3)(b)(v), as the case may be.
- (2) The time limit mentioned in paragraph (1) is—
- (a) in the case of a householder appeal, other than a type A or a type B appeal, 12 weeks from the date of the notice of the decision or determination giving rise to the appeal;
 - (b) in the case of a type A appeal, 28 days from—
 - (i) the date of the notice of the decision or determination giving rise to the appeal; or
 - (ii) the expiry of the specified period;
 - (c) in the case of a type B appeal, 28 days from the date on which the enforcement notice is served;
 - (d) in all other cases, 6 months from—
 - (i) the date of the notice of the decision or determination giving rise to the appeal;

(1) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34), sections 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).

- (ii) in a case in which the authority have served a notice on the applicant in accordance with article 4(2) that they require further information, and the applicant has not provided the information, the date of service of that notice; or
 - (iii) in any other case, the expiry of the specified period.
- (3) The documents mentioned in paragraph (1) are—
 - (a) in the case of a householder appeal—
 - (i) a copy of the application which was sent to the local planning authority which has occasioned the appeal;
 - (ii) any other plans, documents or drawings relating to the application which were not sent to the authority, except any plans, documents or drawings relating to amendments to the application proposed after the authority have made their determination; and
 - (iii) the notice of the decision or determination;
 - (b) in all other cases—
 - (i) a copy of the application which was sent to the local planning authority which has occasioned the appeal;
 - (ii) all plans, drawings and documents sent to the authority in connection with the application;
 - (iii) all correspondence with the authority relating to the application;
 - (iv) any certificate provided to the authority under article 12;
 - (v) any other plans, documents or drawings relating to the application which were not sent to the authority, except any plans, documents or drawings relating to amendments to the application proposed after the authority have made their determination;
 - (vi) the notice of the decision or determination, if any; and
 - (vii) if the appeal relates to an application for approval of certain matters in accordance with a condition on a planning permission, the application for that permission, the plans submitted with that application and the planning permission granted.
- (4) The Secretary of State may refuse to accept a notice of appeal from an applicant if the completed appeal form required under paragraph (1)(a) and the documents required under paragraph (3) are not served on the Secretary of State within the time limit specified in paragraph (2).
- (5) The Secretary of State may provide, or arrange for the provision of, a website for use for such purposes as the Secretary of State thinks fit which—
 - (a) relate to appeals under section 78 of the 1990 Act and this article; and
 - (b) are capable of being carried out electronically.
- (6) Where a person gives notice of appeal to the Secretary of State using electronic communications, the person shall be taken to have agreed—
 - (a) to the use of such communications for all purposes relating to the appeal which are capable of being carried out electronically;
 - (b) that the person’s address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the person’s notice of appeal; and
 - (c) that the person’s deemed agreement under this paragraph shall subsist until notice is given in accordance with article 40 that the person wishes to revoke the agreement.
- (7) In this article—

“householder appeal” means an appeal under section 78(1) of the 1990 Act in respect of a householder application, except an appeal against the grant of any planning permission, consent, agreement or approval which is granted subject to conditions;

“specified period” means the period specified in article 29 or 30, as the case may be;

“type A appeal” means an appeal under section 78(1) or 78(2) of the 1990 Act in respect of an application relating to land and development which are the same or substantially the same as the land and development in respect of which an enforcement notice—

- (a) has been served no earlier than 2 years before the application is made;
- (b) has been served before—
 - (i) the date of the notice of the decision or determination giving rise to the appeal; or
 - (ii) the expiry of the specified period; and
- (c) is not withdrawn before the expiry of the period of 28 days from the date specified in sub-paragraph (b); and

“type B appeal” means an appeal under section 78(1) or 78(2) of the 1990 Act in respect of an application relating to land and development which are the same or substantially the same as the land and development in respect of which an enforcement notice—

- (a) is served on or after—
 - (i) the date of the notice of the decision or determination giving rise to the appeal, or
 - (ii) the expiry of the specified period;
- (b) is served earlier than 28 days before the expiry of the time limit specified—
 - (i) in the case of a householder appeal, in paragraph (2)(a); or
 - (ii) in any other case, in paragraph (2)(d); and
- (c) is not withdrawn before the expiry of the period of 28 days from the date on which the enforcement notice is served.