

This Statutory Instrument has been printed in substitution of the SI of the same number and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2010 No. 567

TOWN AND COUNTRY PLANNING, ENGLAND

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

<i>Made</i>	- - - -	<i>3rd March 2010</i>
<i>Laid before Parliament</i>		<i>9th March 2010</i>
<i>Coming into force</i>	- -	<i>6th April 2010</i>

The Secretary of State, in exercise of the powers conferred by sections 59, 61(1), 62(5) and (6), 65(1) and (4), 69, 71(1), (2) and (2A), 74(1)(c) and (d), 78(3) and 333(7) of the Town and Country Planning Act 1990(1), 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 2010 and shall come into force on 6th April 2010.

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

Amendment of the Town and Country Planning (General Development Procedure) Order 1995

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

-
- (1) 1990 c. 8. Section 62 was substituted by section 42 of the Planning and Compulsory Purchase Act 2004 (c.5). Section 65 and section 71(1), (2) and (2A) were substituted by section 16 of the Planning and Compensation Act 1991 (c.34). Section 69 was substituted by section 118 of, and paragraph 3 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c.5), and was amended by section 190(4) of the Planning Act 2008 (c.29). These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously 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. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.
- (2) S.I. 1995/419. Relevant amendments were made by S.I. 2002/828, 2004/3340, 2006/2261, 2009/453 and 2009/2261.

Amendments relating to local advertisements

3.—(1) In article 1 (citation, commencement and interpretation) omit the definition of “by local advertisement”.

(2) In article 6 (notice of applications for planning permission) for “by local advertisement after the prescribed date” in each place where it occurs substitute “by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated”.

Amendments relating to design and access statements

4. In article 4C (design and access statements)—

(a) for paragraph (1) substitute—

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

- (a) permission to develop land without compliance with conditions previously attached, made pursuant to section 73 of the Act;
- (b) engineering or mining operations;
- (c) a material change in the use of land or buildings;
- (d) development of an existing dwellinghouse or flat, or development within the curtilage of such a dwellinghouse or flat for any purpose incidental to the enjoyment of the dwellinghouse or flat as such, where no part of that dwellinghouse, flat or curtilage is within a designated area;
- (e) the extension of an existing building used for non-domestic purposes where the floor space created by the development does not exceed 100 square metres and where no part of the building or the development is within a designated area;
- (f) the erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure where—
 - (i) as a result of the development, the height of the gate, fence, wall or means of enclosure does not exceed its former height, or two metres above ground level, whichever is the greater; and
 - (ii) it does not involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building;

and where no part of the development is within a designated area;

- (g) development on operational land consisting of the erection of a building where—
 - (i) the cubic content of the development does not exceed 100 cubic metres; and
 - (ii) as a result of the development, the height of the building does not exceed 15 metres above ground level, or its former height, whichever is the greater;
- and where no part of the development is within a designated area;
- (h) the alteration of an existing building where the alteration does not increase the size of the building and where no part of the building is within a designated area;
 - (i) the erection, alteration or replacement of plant or machinery where, as a result of the development, the height of the plant or machinery does not exceed 15 metres above ground level, or its former height, whichever is the greater, and where no part of the development is within a designated area; or

- (j) development that is the subject of an application referred to in article 10B(1)(b).”;
- (b) in paragraph 3(b) omit “and each of the aspects specified in sub-paragraph (a)”;
- (c) for paragraph (5) substitute—
 - “(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;
 - “cubic content” means the cubic content of a building measured externally; and
 - “designated area” means—
 - (a) a conservation area;
 - (b) a World Heritage Site.
- (6) In this article, any reference to the height of a building or to plant or machinery shall be construed as a reference to its height when measured from ground level; and “ground level” means the level of the surface of the ground immediately adjacent to the building or plant or machinery in question or, where the level of the surface of the ground on which it is situated or to be situated is not uniform, the level of the highest part of the surface of the ground adjacent to it.”.

Amendments relating to publicity

- 5.—(1) In article 8 (publicity for applications for planning permission)—
 - (a) in paragraphs (3) and (4)—
 - (i) after “publicised” in each case insert “in accordance with the requirements in paragraph (6A) and”;
 - (ii) for sub-paragraph (b) in each case substitute—
 - “(b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.”;
 - (b) in paragraph (5) after “publicised” insert “in accordance with the requirements in paragraph (6A) and”;
 - (c) after paragraph (6) insert—
 - “(6A) The following information shall be published on a website maintained by the local planning authority—
 - (a) the address or location of the proposed development;
 - (b) a description of the proposed development;
 - (c) the date by which any representations about the application must be made, which shall not be before the last day of the period of 14 days beginning with the date on which the information is published;
 - (d) where and when the application may be inspected;
 - (e) how representations may be made about the application; and

- (f) that, in the case of a householder application, in the event of an appeal that proceeds by way of the expedited procedure, any representations made about the application will be passed to the Secretary of State and there will be no opportunity to make further representations.”.
- (2) In article 19 (representations to be taken into account)—
- (a) in paragraph (1) after “where any notice of” insert “, or information about,”; and
- (b) for paragraph (1)(c) substitute—
- “(c) published in a newspaper under article 6 or 8 or on a website under article 8, within the period of 14 days beginning with the date on which the notice or information was published,”.
- (3) In article 20 (time periods for decision)—
- (a) in paragraph (5) after “where any notice of” insert “, or information about,”; and
- (b) for paragraph (5)(c) substitute—
- “(c) published in a newspaper under article 6 or 8 or on a website under article 8, within the period of 14 days beginning with the date on which the notice or information was published,”.

Amendments relating to appeals

6. In article 23 (appeals)—
- (a) for sub-paragraph (a) of paragraph (1) substitute—
- “(a) serving on the Secretary of State, within—
- (i) the time limit specified in paragraph (2), (2A), (2B) or (2C), 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) for paragraph (2) substitute—
- “(2) The time limit mentioned in paragraph (1) is, 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.
- (2A) The time limit mentioned in paragraph (1) is, in the case of a type A appeal, 28 days from—
- (a) the date of the notice of the decision or determination giving rise to the appeal, or
- (b) the expiry of the specified period.
- (2B) The time limit mentioned in paragraph (1) is, in the case of a type B appeal, 28 days from the date on which the enforcement notice is served.
- (2C) In all other cases, the time limit mentioned in paragraph (1) is six months from—
- (a) the date of the notice of the decision or determination giving rise to the appeal;
- (b) in a case in which the authority have served a notice on the applicant in accordance with article 3(2) that they require further information, and the applicant has not provided the information, the date of service of that notice, or
- (c) in any other case, the expiry of the specified period.”; and
- (c) for paragraph (7) substitute—
- “(7) In this article—

“householder appeal” means an appeal under section 78(1) of the 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 4F(5), article 20 or article 21, as the case may be;

“type A appeal” means an appeal under section 78(1) or 78(2) of the 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 two 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 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 paragraph (2) in the case of a householder appeal; or
 - (ii) in paragraph (2C) in any other case; and
- (c) is not withdrawn before the expiry of the period of 28 days from the date on which the enforcement notice is served.”.

Amendments relating to registers

7. In article 25 (register of applications) after paragraph (4) insert—

“(4A) The register kept by the local planning register authority shall also contain the following information in respect of every application made under article 4F relating to their area—

- (a) a copy (which may be photographic or in electronic form) of the application together with any accompanying plans and drawings;
- (b) the decision, if any, of the local planning authority in respect of the application, the date of such decision and the name of the local planning authority; and
- (c) the reference number, date and effect of any decision of the Secretary of State on an appeal in respect of the application.”.

Amendments to notices

8.—(1) In Part 1 of Schedule 1 (letter to be sent to applicant on receipt of application)—

- (a) after “six months” in the last paragraph insert “or, if the development in your application is the same or substantially the same as development that is currently the subject of an enforcement notice, 28 days”; and
- (b) after the paragraph beginning “then you can appeal”, insert “If an enforcement notice is served relating to the same or substantially the same development as in your application, then the time limit to appeal will expire 28 days after the enforcement notice is served – except that you will have a minimum of 28 days to appeal after the right of appeal begins, and the time limit will expire no later than it would if there were no enforcement notice.”.
- (2) In Part 2 of Schedule 1 (notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions), after the first bullet point insert—
- “As this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference], if you want to appeal against your local planning authority’s decision on your application, then you must do so within 28 days of the date of this notice. *
 - If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority’s decision on your application, then you must do so within:
28 days of the date of service of the enforcement notice, *or* within six months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.*”.

Transitional provisions and savings

9.—(1) The amendments made by articles 4, 6, 7 and 8 do not apply in respect of any application for planning permission, consent, agreement or approval made before 6th April 2010.

(2) The amendments made by article 5 do not apply in respect of any application for planning permission made before 1st October 2010.

Signed by authority of the Secretary of State for Communities and Local Government

Ian Austin
Parliamentary Under Secretary of State
Department for Communities and Local
Government

3rd March 2010

EXPLANATORY NOTE

(This note is not part of the Order)

The Town and Country Planning (General Development Procedure) Order 1995 (“the GDPO”) specifies procedures connected with planning applications and appeals to the Secretary of State. This Order amends the GDPO in relation to England.

Article 4 amends article 4C of the GDPO. Article 4C makes provision for design and access statements which are required to accompany certain applications for planning permission. Design and access statements are no longer required for applications to develop land without compliance with conditions previously attached, nor for certain specified types of development outside designated areas. The definition of ‘designated area’ is amended so as to mean a conservation area or a World Heritage Site. Article 4 also amends the requirement for a design and access statement to demonstrate how the design of the development takes its context into account, so that this need no longer be demonstrated in relation specifically to layout, scale, landscaping, and appearance.

Article 5 amends the GDPO in relation to publicity, and introduces a requirement that local planning authorities publish certain information about all planning applications on their websites. Article 3 makes consequential amendments to article 1 and article 6.

Article 6 reduces the time limit in article 23 of the GDPO for making an appeal where the appeal relates to the same or substantially the same land and development as an enforcement notice. The amended time limit is either 28 days from the decision or the expiry of the period giving rise to the appeal or 28 days from the service of the enforcement notice, but no longer than the standard time limit. Article 8 makes consequential amendments to the notices in Parts 1 and 2 of Schedule 1 to the GDPO.

Article 7 amends article 25 of the GDPO to require the planning register maintained by the local planning register authority to include details of applications for non-material changes to planning permissions.

Article 9 contains transitional provisions and savings.

An impact assessment has been prepared in relation to this Order. The assessment has been placed in the Library of each House of Parliament and copies may be obtained from the Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU (Telephone 0303 444 1726).