

EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT
MANAGEMENT PROCEDURE) (ENGLAND) (AMENDMENT No. 3) ORDER
2012

2012 No. 3109

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 3) Order 2012 (“the Order”) amends the Town and Country Planning (Development Management Procedure) (England) Order 2010 (2010/ 2184) (“the Development Management Procedure Order”) to reduce the nationally-prescribed information requirements for outline planning applications and provide that local information requirements are only applicable to planning applications if they were published less than 2 years before the application in question was submitted.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 Part 2 of the Development Management Procedure Order sets out the procedures connected with making planning applications in England. The first amendment in the Order relates to applications for ‘outline’ planning permission which seek permission of a proposed development in principle so as to avoid the time and expense to the applicant of submitting a full planning application.
 - 4.2 Article 2 of the Development Management Procedure Order identifies layout, scale, appearance, access and landscaping as ‘reserved matters’ which can be set aside at the outline stage and reserved for subsequent approval by the local planning authority at a later date. Article 4 of the Development Management Procedure Order requires a range of details to be submitted at the outline stage even where a matter has been reserved for later determination.
 - 4.3 Article 3 of the Order amends Article 4 of the Development Management Procedure Order to remove the requirement to provide details of layout and scale at the outline stage where these matters have been reserved. The amendment has the effect of reducing the burden on applicants to provide information at the outline stage.

- 4.4 Article 29(3)(d) of the Development Management Procedure Order (subject to article 29(4)) provides that a planning application would not be valid unless accompanied by information that the local planning authority has requested under their powers under section 62(3) of the Town and Country Planning Act 1990 (“1990 Act”). Article 29(4) of the Development Management Procedure Order requires that Local Authorities publish a list of requirements on their website which they wish to rely on when validating applications and Article 10(3) requires that before an application is made, the local planning authority must publish for the purposes of Article 29(3) a list of requirements on their website.
- 4.5 Article 4 of the Order amends Article 10 and 29 of the Development Management Procedure Order to provide that the only requirements which are to apply to a particular application are those on a local list which has been published within two years before the date the planning application is submitted.

5. Territorial Extent and Application

- 5.1 This instrument applies to England.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The Plan for Growth, issued alongside the 2011 Budget, announced a programme of measures to simplify and streamline the arrangements for making and determining planning applications in England. This reflects the Government’s wider ambition to make the planning system more efficient and positive in outlook and operation.
- 7.2 Applicants are obliged to satisfy a wide range of information requirements when they submit their planning applications to the local planning authority. Some of these requirements are nationally prescribed, but local planning authorities also have broad powers to impose their own requirements under section 62 (3) of the 1990 Act.
- 7.3 The purpose of stipulating what a planning application must comprise is to ensure local planning authorities have the information that is essential for a sound, confident decision. It also means that statutory consultees and other third parties who look at and comment on applications can see what

permission is being sought for, and what the impacts (both positive and negative) are likely to be.

- 7.4 The National Planning Policy Framework guides applicants to discuss information requirements with the local planning authority and key consultees early on. The changes introduced by the Order remove nationally-imposed requirements that are not needed for every application.
- 7.5 The central purpose of the Order is to ensure that the information that applicants for planning permission are asked to provide is proportionate to the nature and scale of the development proposed. It achieves this by:
- A. Reducing the nationally prescribed information requirements for **outline planning applications**; and
 - B. Providing strong encouragement for local planning authorities to keep their **local information requirements** under frequent review.
- 7.6 These measures were subject to public consultation between 3 July and 11 September 2012 (see section 8 below).

A. Outline planning applications

- 7.7 Before going to the time and expense of submitting a full planning application and preparing detailed plans, an applicant may submit an ‘outline’ planning application, which seeks permission for the principle of the proposed development. To this end, the Development Management Procedure Order identifies layout, scale, appearance, access and landscaping as ‘reserved matters’ which can be set aside at the outline application stage and instead reserved for subsequent approval by the local planning authority.
- 7.8 The Development Management Procedure Order requires a range of details to be submitted at the outline stage, even where a matter has been reserved for later determination. Specifically:
- Where **layout** is reserved, the approximate location of buildings, routes and open spaces included in the development is still required
 - Where **scale** is reserved, the upper and lower limit for the height, width and length of each building included in the development must still be indicated
 - Where **access** is reserved, the area or areas where access points will be situated must still be shown
- 7.9 Current requirements on layout and scale unnecessarily drive-up the level of detail that applicants must provide in outline applications. The Order removes the current detailed information requirements relating to layout and scale for outline applications, where these matters are reserved.
- 7.10 We recognise that, depending on the size of the development, and on local circumstances, it may be beneficial for applicants to provide an indicative layout, to enable the local planning authority to gauge the appropriateness of the scale of development proposed. However, given the powers available to

local authorities to request additional information, we do not consider it necessary to continue to mandate this at the national level.

- 7.11 Where access is a reserved matter, there would remain a requirement to indicate where access points to the development would be situated. This is so that an early assessment can be made of whether safe vehicular and pedestrian access will be possible. As per current guidance in DCLG Circular 01/2006, the requirement at the outline stage (unless 'access' is not reserved) is for indicative access points only.

B. Local information requirements

- 7.12 Under section 62(3) of the 1990 Act, local planning authorities have broad powers to request information that they consider necessary in support of planning applications.
- 7.13 Given the time and costs involved in preparing information in support of applications, it is vital that the information which local planning authorities ask for is relevant, necessary and material to the application in question. This is set out in the National Planning Policy Framework at paragraph 193 which also provides a clear impetus for local planning authorities to make proportionate use of their powers and to review local lists regularly.
- 7.14 The Order amends the Development Management Procedure Order to include a stipulation that a local list must have been published less than two years before any given planning application was submitted, if the information requirements therein are to have a bearing on the application's validity. This is designed to encourage more proportionate information requests and to reflect the National Planning Policy Framework's requirement that local lists are reviewed on a frequent basis.

Consolidation

- 7.15 Not applicable.

8. Consultation outcome

- 8.1 The changes given effect by the Order were set out in 'Streamlining information requirements for planning applications', which was subject to public consultation between 3 July and 11 September 2012.
- 8.2 A total of 186 responses were received. Local authorities represented the largest group of respondents. There was also strong representation from the developers and developer associations as well as a number of non-departmental public bodies, business associations, voluntary groups and professional trade associations.
- 8.3 The following breakdown provides an indication of the profile of responses:

Local Authorities	37%
Parish Councils	4%
Non-Departmental Public Bodies	2%
Individual / Professional Planners	8%
Professional Trade Associations	6%
Developers, Developer Associations and Landowners	10%
Voluntary Organisations	8%
Other	25%

- 8.4 Overall there was support for the proposed amendments which have been taken forward through this Order.
- 8.5 There was support for the proposed changes to outline planning applications across a broad cross-section of respondents, although the response from local authorities was more mixed. There was very strong support for this proposal amongst the development industry, as well as planning agents, landowners, chambers of commerce and other business membership organisations. In addition, approximately half of the local authorities that responded to this question supported the proposal.
- 8.6 The majority of respondents (approximately 80%) supported the proposed measures to encourage regular review of local lists of information requirements, which was widely regarded as a positive step in ensuring such lists are more robust and justified, whilst encouraging a more proportionate approach to information requests.
- 8.7 The Government's Response to this consultation provides a more detailed summary of the comments which were received during this exercise.

9. Guidance

- 9.1 The Government issued guidance on information requirements and validation in March 2010¹. It is not proposed to publish further specific guidance on the changes in the Order.

10. Impact

- 10.1 The amendments are considered to have a positive impact on businesses and individuals applying for planning permission. There will also be benefits for local authorities and interested third parties. Further details are contained in the Impact Assessment.

¹ DCLG *Guidance on information requirements and validation* (March 2010)
<http://www.communities.gov.uk/publications/planningandbuilding/validationguidance>

10.2 Please note that both the ‘One-In, One-Out’ status and ‘equivalent annual net cost to business’ figure in the Impact Assessment are subject to validation by the Regulatory Policy Committee. The final Impact Assessment will be published when final validation of these elements has been confirmed.

11. Regulating small business

11.1 The measures in the Order to make information requirements for planning applications more proportionate will benefit all businesses which make planning applications. It is likely that the current requirements create a disproportionate burden for smaller firms and micro businesses which will be reduced by the changes.

12. Monitoring & review

12.1 The Department for Communities and Local Government receives regular feedback from local planning authorities, practitioners, professional bodies and the general public on all aspects of planning. We will monitor progress and evaluate the success of these changes.

13. Contact

13.1 Tom Winter at the Department for Communities and Local Government Tel: 0303 444 1305 or email: tom.winter@communities.gsi.gov.uk can answer any queries regarding the instrument.