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STATUTORY INSTRUMENTS

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**2013 No. 2140**

**TOWN AND COUNTRY PLANNING**

**The Town and Country Planning (Section 62A Applications)  
(Procedure and Consequential Amendments) Order 2013**

<i>Made</i>	- - - -	<i>27th August 2013</i>
<i>Laid before Parliament</i>		<i>3rd September 2013</i>
<i>Coming into force</i>	- -	<i>1st October 2013</i>

The Secretary of State, in exercise of the powers conferred by sections 2A and 76C of the Town and Country Planning Act 1990(1) and section 33 of the Growth and Infrastructure Act 2013(2), makes the following Order:

**PART 1**

**Preliminary**

**Citation, commencement and application**

1.—(1) This Order may be cited as the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 and comes into force on 1st October 2013.

(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 this Order applies to that land only to such extent and subject to such modifications as may be specified in the special development order.

**Interpretation**

2.—(1) In this Order—

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

“the 2010 Order” means the Town and Country Planning (Development Management Procedure) (England) Order 2010(3);

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(1) 1990 c. 8. Section 76C was inserted by paragraph 5 of Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27).

(2) 2013 c.27.

(3) S.I. 2010/2184. There are amendments to this instrument which are not relevant to this Order.

“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;

“county planning authority” has the same meaning as in section 1 of the 1990 Act;

“designated planning authority” means the local planning authority to which an application would otherwise have been made had the applicant not chosen to make the relevant application<sup>(4)</sup> to the Secretary of State under section 62A of the 1990 Act;

“district planning authority” has the same meaning as in section 1 of the 1990 Act;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000<sup>(5)</sup>;

“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) Regulations 2011<sup>(6)</sup>;

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

“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;

“local planning register authority” has the meaning given in article 36 of the 2010 Order;

“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 with respect to one or more reserved matters;

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<sup>(4)</sup> See section 62A(2)(b) of the 1990 Act for the meaning of “relevant application”.

<sup>(5)</sup> 2000 c. 7; section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

<sup>(6)</sup> S.I. 2011/1824. There are amendments to this instrument which are not relevant to this Order.

“questionnaire” means a document in the form supplied by the Secretary of State; and for this purpose a form is taken to be supplied where the Secretary of State has published it on a website and has notified the designated planning authority of—

- (a) publication of the form on the website, and
- (b) the place on the website where the form may be accessed;

“representation period” means the period referred to in articles 17(4), 18(1) or 23(4) and where more than one period applies in relation to a relevant application, the later or latest of those periods to end;

“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;

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

“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; and

“working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(2) The questionnaire referred to in paragraph (1) may only include a requirement to provide to the Secretary of State—

- (a) a copy of any entry in the register required to be kept under article 36 of the 2010 Order which relates to the land, or part of the land, to which the relevant application relates;
- (b) details of any functions under the 1990 Act which the designated planning authority has exercised in relation to, or which affect, that land;
- (c) a statement as to whether any advice has been given by the designated planning authority to the applicant in relation to development of the land;
- (d) where the designated planning authority is not the county planning authority, a copy of any notice the county planning authority has given to the designated planning authority under paragraph 7(4) of Schedule 1 to the 1990 Act in relation to an area which includes the land (or part of the land) which is the subject of the application;
- (e) the name and contact details for any parish council which is entitled under paragraph 8 of Schedule 1 to the 1990 Act to be notified of the application;
- (f) where the development proposed by the relevant application falls within a category of development for which standing advice has been provided to the designated planning authority by any authority or person specified as a consultee in the Table in Schedule 5 to the 2010 Order, a copy of that standing advice; and
- (g) such other documents or information as the Secretary of State considers reasonably necessary to determine the relevant application.

### **Electronic communications**

3.—(1) In this Order, and in relation to the use of electronic communications for any purpose of this Order which is capable of being carried out electronically—

- (a) the expression “address” includes any number or address used for the purpose of such communications, except that where any provision of this Order requires any person to provide a name and address to any other person, the requirement is not fulfilled unless the person subject to the requirement provides a postal address; and
- (b) references to applications, notices, 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.

(2) Paragraphs (3) to (7) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in this Order to give or send any application, notice or other document to any other person (“the recipient”).

(3) A requirement is taken to be fulfilled where the application, notice or other 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.

(4) In paragraph (3), “legible in all material respects” means that the information contained in the application, 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.

(5) Where the electronic communication is received by the recipient outside the recipient’s business hours, it is taken to have been received on the next working day.

(6) A requirement in this Order that any application, notice or other document is in writing is fulfilled where the document satisfies the criteria in paragraph (3).

(7) Where a person is no longer willing to accept the use of electronic communications for any purpose of this Order which is capable of being effected electronically, the person must give notice in writing—

- (a) withdrawing any address notified to the Secretary of State for that purpose, or
- (b) revoking any agreement entered into with the Secretary of State for that purpose,

and such withdrawal or revocation is final and takes effect on a date specified by the person in the notice but not less than 7 days after the date on which the notice is given.

## **PART 2**

### **Applications**

#### **Applications for planning permission**

4.—(1) A relevant application for planning permission must—

- (a) be made in writing to the Secretary of State on a form published by him;
- (b) include the particulars specified or referred to in the form; and
- (c) be accompanied by—
  - (i) where the application is made electronically, a copy of—

- (aa) the application;

- (bb) a plan which identifies the land to which the application relates; and
  - (cc) such other plans, drawings and information necessary to describe the development which is the subject of the application; or
  - (ii) where the application is not made electronically, 3 copies of the documents and information referred to in paragraphs (i)(aa) to (cc).
- (2) Any plans or drawings required to be provided by paragraph (1) must be drawn to an identified scale and, in the case of plans, must show the direction of North.
- (3) Subject to paragraph (7), in the case of a relevant application for outline planning permission, details need not be given of any reserved matters.
- (4) Where a relevant application is made using electronic communications to transmit a form to the Secretary of State, the applicant is taken to have agreed—
- (a) to the use of such communications by the Secretary of State for the purposes of the application;
  - (b) that the applicant’s address for those purposes is the address incorporated into, or otherwise logically associated with, the application; and
  - (c) that the applicant’s deemed agreement under this paragraph subsists until the applicant gives notice in writing of the withdrawal of consent to the use of electronic communications under article 3(7).
- (5) Where a relevant application is made for outline planning permission, the Secretary of State may grant permission subject to a condition specifying the reserved matters which are to be subject to subsequent approval.
- (6) Where the Secretary of State is of the opinion that, in the circumstances of the case, the relevant application ought not to be considered separately from all or any of the reserved matters, he must, within the period of 1 month beginning with the receipt of the application, notify the applicant that he is unable to determine the application unless further details are submitted, specifying the further details that are required.
- (7) Where access is a reserved matter, the application for outline planning permission must state the area or areas where access points to the development proposed will be situated.

### **Applications for reserved matters**

- 5.—(1) A relevant application for approval of reserved matters must—
- (a) be made in writing to the Secretary of State on a form published by him;
  - (b) be accompanied by—
    - (i) where the application is made electronically, a copy of—
      - (aa) the application;
      - (bb) a plan which identifies the land to which the application relates;
      - (cc) a copy of the outline planning permission in respect of which it is made; and
      - (dd) such other plans, drawings and information necessary to describe the development and reserved matter which is the subject of the application; or
    - (ii) where the application is not made electronically, 3 copies of the documents and information referred to in paragraphs (i)(aa) to (dd).
- (2) Any plans or drawings required to be provided by paragraph (1) must be drawn to an identified scale and, in the case of plans, must show the direction of North.

### **Applications in respect of Crown land**

6. A relevant application in respect of Crown land<sup>(7)</sup> must be accompanied by—
- (a) a statement that the application is made in respect of Crown land; and
  - (b) where the application is made by a person authorised in writing by the appropriate authority, a copy of that authorisation.

### **Design and access statements**

7.—(1) Subject to paragraph (3), a relevant application for planning permission must 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.
- (2) A design and access statement must—
- (a) explain the design principles and concepts that have been applied to the development;
  - (b) demonstrate the steps taken to appraise the context of the development and how the design of the development takes that context into account;
  - (c) explain the policy adopted as to access, and how policies relating to access in relevant local development documents have been taken into account;
  - (d) 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; and
  - (e) explain how any specific issues which might affect access to the development have been addressed.
- (3) This article does not apply to a relevant application for planning permission which is for—
- (a) engineering or mining operations;
  - (b) a material change in use of the land or buildings;
  - (c) development which is waste development.

### **General provisions in relation to applications**

8.—(1) When the Secretary of State receives a relevant application which complies with the requirements of article 4 or 5, as the case may be, and also receives—

- (a) the certificate required by article 10;
- (b) in a case to which article 7 applies, the design and access statement;
- (c) subject to paragraph (2), the particulars or evidence which would be required by the designated planning authority under section 62(3) of the 1990 Act<sup>(8)</sup> had the application been made to that authority; and
- (d) the fee required to be paid in respect of the application,

the Secretary of State must, as soon as is reasonably practicable, send to the applicant an acknowledgement of the application.

- (2) Paragraph (1)(c) only applies if—

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<sup>(7)</sup> See section 293 of the 1990 Act for the definition of “Crown land” and “the appropriate authority”.

<sup>(8)</sup> Section 62 was substituted by section 42(1) of the Planning and Compulsory Purchase Act 2004 (c. 5). Section 62(3) of the 1990 Act applies to applications made under section 62A of the 1990 Act by virtue of section 76C(1) of that Act (which was inserted by paragraph 5 of Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27)).

- (a) before the application is made to the Secretary of State the designated planning authority publishes or republishes, for the purposes of article 29(3) of the 2010 Order, a list of requirements on a website; and
  - (b) the particulars or evidence required to be included in the application fall within that list; and
  - (c) the list mentioned in sub-paragraph (a) was published (or republished) during the 2 year period immediately before the date on which the application is made.
- (3) Where, after sending an acknowledgement as required by paragraph (1), the Secretary of State considers that the relevant application is not a valid application, the Secretary of State must, as soon as reasonably practicable, notify the applicant that the application is not a valid application.
- (4) In this article “valid application” means a relevant application which consists of—
- (a) a relevant application which complies with the requirements of article 4 or 5, as the case may be; and
  - (b) the items mentioned in paragraphs (1)(a) to (d),
- and a valid application is taken to have been received when the application, and such of the documents, particulars or evidence referred to above as are required to be included in, or to accompany, the application have been lodged with the Secretary of State and the fee required to be paid has been paid.

#### **Notice of application to be given by the applicant**

9.—(1) Subject to paragraph (2), an applicant for planning permission under section 62A of the 1990 Act must give requisite notice of the relevant application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates, or a tenant—

- (a) by serving the notice on every such person whose name and address is known to the applicant; and
  - (b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, 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.
- (2) In the case of a relevant application for planning permission for development consisting of the winning and working of minerals by underground operations, instead of giving notice in the manner provided for by paragraph (1), the applicant must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of any of the land to which the application relates, or a tenant—
- (a) by serving the notice on every such person whose name and address is known to the applicant;
  - (b) 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; and
  - (c) by site display in at least one place in every parish within which there is situated any part of the land to which the application relates, leaving the notice in position for not less than 7 days in the period of 21 days immediately preceding the making of the application to the Secretary of State.
- (3) The notice required by paragraph (2)(c) must (in addition to any other matters required to be contained in it) state—
- (a) the place within the area of the designated planning authority where a copy of the application for planning permission, and of all plans and other documents submitted with

it, will be open to inspection by the public at all reasonable hours during such period as may be specified in the notice; and

(b) the address of the website maintained by the Secretary of State where a copy of the application, and of all plans and other documents submitted with it, will be published.

(4) Where the notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 7 days referred to in paragraph (2)(c) has elapsed, the applicant is treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement.

(5) The date prescribed for the purposes of section 65(2) of the 1990 Act (notice etc of applications for planning permission)<sup>(9)</sup>, and the “prescribed date” for the purposes of this article, is the day 21 days before the date of the relevant application.

(6) The applications prescribed for the purposes of paragraph (c) of the definition of “owner” in section 65(8) of the 1990 Act are minerals applications, and the minerals prescribed for the purposes of that paragraph are any minerals other than oil, gas, coal, gold or silver.

(7) In this article—

“minerals applications” mean applications for planning permission for development consisting of the winning and working of minerals;

“requisite notice” means a notice in the appropriate form set out in Schedule 1 but does not include a notice served using electronic communications; and

“tenant” means the tenant of an agricultural holding any part of which is comprised in the land to which an application relates.

### **Certificates in relation to notice of applications**

**10.**—(1) Where a relevant application for planning permission is made, the applicant must certify, in a form published by the Secretary of State that the requirements of article 9 have been satisfied.

(2) If an applicant has cause to rely on article 9(4), the certificate must state the relevant circumstances.

### **Information to be provided to the designated planning authority**

**11.**—(1) Where a relevant application is received by the Secretary of State, he must, within 5 working days or as soon as reasonably practicable thereafter, notify the designated planning authority of the application by sending a copy of the application and of any accompanying plans, drawings and information to the authority.

(2) Within 5 working days of the Secretary of State deciding that the relevant application referred to in paragraph (1) is a valid application (within the meaning in article 8), he must notify the designated planning authority of that fact.

(3) Within 5 working days of the Secretary of State sending the applicant a notice under article 8(3) he must send a copy of that notice to the designated planning authority.

### **Information to be provided by the designated planning authority**

**12.**—(1) The designated planning authority must, within such period as the Secretary of State may specify in writing, being not less than 5 working days from the date of the notification under article 11(1), submit to the Secretary of State and copy to the applicant a completed questionnaire and a copy of the documents referred to in that questionnaire.

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<sup>(9)</sup> Section 65 was substituted by section 16(1) of the Planning and Compensation Act 1991 (c. 34) and amended by paragraph 35 of the Schedule to the Agricultural Tenancies Act 1995 (c. 8).



- (2) The questionnaire must state the date on which it is submitted to the Secretary of State.

### **Publicity for applications: Secretary of State**

**13.**—(1) Within 5 working days of the receipt of a relevant application, which is a valid application (within the meaning in article 8), the Secretary of State must publish the following details on a website maintained by the Secretary of State—

- (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 must not be before the last day of the period of 21 days beginning with the date on which the information is published;
- (d) where and when the application may be inspected; and
- (e) the Secretary of State’s address for receipt of representations about the application.

(2) In addition to the requirements of paragraph (1), the Secretary of State must, as soon as reasonably practicable—

- (a) publicise a relevant application by publication of a notice in a newspaper circulating in the locality in which the land to which the application relates is situated; and
- (b) make copies of the application and any documents accompanying it available on the website referred to in paragraph (1).

### **Publicity for applications: designated planning authority**

**14.**—(1) Within 5 working days of the receipt of a notice under article 11(2) in relation to a relevant application, the designated planning authority must publicise the application by giving requisite notice—

- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days;
- (b) by serving the notice on any adjoining owner or occupier; and
- (c) by sending a copy of the notice to the Secretary of State.

(2) Where the notice is, without any fault or intention of the designated planning authority, removed, obscured or defaced before the period of 21 days referred to in paragraph (1)(a) has elapsed, the authority is treated as having complied with the requirements of the relevant paragraph if they have taken reasonable steps for protection of the notice and, if need be, its replacement.

(3) In this article—

“adjoining owner or occupier” means any owner or occupier of any land adjoining the land to which the application relates; and

“requisite notice” means notice in the appropriate form set out in Schedule 2.

### **Register of applications**

**15.**—(1) Where a relevant application, which is a valid application (within the meaning in article 8), is received by the Secretary of State, he must, as soon as reasonably practicable, send a copy of the application and of any accompanying plans, drawings and information to the local planning register authority for the land to which the application relates unless he has already sent a copy of those documents to the authority under article 11(1).

(2) Within 5 working days of—

- (a) receipt of a copy of a relevant application given under paragraph (1), or

- (b) where the designated planning authority is the local planning register authority, the notice under article 11(2),

the local planning register authority must place on the register required to be kept under article 36 of the 2010 Order a copy of the application together with any accompanying plans, drawings and information.

### **Representations received by the designated planning authority**

**16.** Where representations in relation to a relevant application are received by the designated planning authority they must, as soon as reasonably practicable, forward the representations to the Secretary of State at the address notified to the designated planning authority by the Secretary of State for that purpose.

## **PART 3**

### **Consultation**

#### **Consultations before the grant of permission**

**17.—(1)** Before granting planning permission for development which, in the Secretary of State’s opinion, falls within a category set out in the Table in Schedule 5 to the 2010 Order, the Secretary of State must consult the authority or person mentioned in relation to that category, except where—

- (a) the Secretary of State is specified as the consultee;
- (b) the Secretary of State is required to consult the authority so mentioned under article 18;
- (c) the authority or person so mentioned has advised the Secretary of State that they do not wish to be consulted; or
- (d) the development proposed by the relevant application falls within a category of development for which standing advice has been provided to the Secretary of State by the authority or person so mentioned in relation to that category of development.

(2) The exception in paragraph (1)(c) does not apply where, in the opinion of the Secretary of State, the development falls within paragraph (zc) of the Table in Schedule 5 to the 2010 Order.

(3) The exception in paragraph (1)(d) does not apply where—

- (a) the development is an EIA development; or
- (b) the standing advice was issued more than 2 years before the date of the application for planning permission for the development and the guidance has not been amended or confirmed as being extant by the authority or person within that period.

(4) Where, by or under this article, the Secretary of State is required to consult any authority or person (“the consultee”) before granting planning permission—

- (a) he must send a copy of the application to the consultee; and
- (b) subject to paragraph (5), he must not determine the application until at least 21 days after the date on which a copy of the application was sent to the consultee.

(5) Paragraph (4)(b) does not apply if before the end of the period referred to in that sub-paragraph the Secretary of State has received a substantive response (within the meaning of article 19(2)) concerning the application from the consultee.

(6) The Secretary of State must, in determining the application, take into account any representations received from a consultee.

### **Consultation with relevant authority**

**18.**—(1) Subject to paragraph (2), the Secretary of State must, before determining—

- (a) a relevant application for planning permission; or
- (b) a relevant application for approval of reserved matters,

notify the relevant authority giving a period of at least 21 days, beginning no earlier than the date the Secretary of State sends the notice under article 11(2) in relation to the application, within which to make representations about the application (including as to the manner in which the application is to be determined) and the Secretary of State must take into account any such representations received.

(2) Paragraph (1) does not apply if before the end of the period referred to in that paragraph the Secretary of State has received a substantive response (within the meaning of article 19(2)) concerning the application from each relevant authority notified under paragraph (1).

(3) In this article “relevant authority” means—

- (a) the designated planning authority; and
- (b) where the designated planning authority is not the district planning authority, the district planning authority; and
- (c) where the designated planning authority is not the county planning authority, the county planning authority; and
- (d) where the council of a parish are given information in relation to a relevant application pursuant to paragraph 8(1) of Schedule 1 to the 1990 Act<sup>(10)</sup>, the parish council.

### **Duty to respond to consultation**

**19.**—(1) An authority or person consulted under article 17 or 18 must give a substantive response to that consultation before the end of the period of 21 days beginning with the day on which—

- (a) the document on which the authority or person’s views are sought; or
- (b) where there is more than one such document and they are sent on different days, the last of those documents,

is received by the consultee, or such other period as may be agreed in writing between the consultee and the Secretary of State.

(2) For the purposes of this article, a substantive response is one which—

- (a) states that the consultee has no comment to make;
- (b) states that, on the basis of the information available, the consultee is content with the development proposed;
- (c) refers the Secretary of State to current standing advice by the consultee on the subject of the consultation; or
- (d) provides advice to the Secretary of State.

### **Notification of mineral applications**

**20.**—(1) Where notice has been given for the purposes of this article to the Secretary of State as respects land which is in the area of the designated planning authority and specified in the notice—

- (a) by the Coal Authority that the land contains coal; or
- (b) by the Crown Estate Commissioners that it contains silver or gold,

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<sup>(10)</sup> Paragraph 8(1) of Schedule 1 was substituted by paragraph 53 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34). There are amendments to paragraph 8 which are not relevant to this Order.

the Secretary of State must not determine any relevant application for planning permission to win and work any mineral on that land, without first notifying the body or person who gave the notice that an application has been made.

- (2) In this article, “coal” means coal other than that—
- (a) won or worked during the course of operations which are carried on exclusively for the purpose of exploring for coal; or
  - (b) which it is necessary to dig or carry away in the course of activities carried on for purposes which do not include the getting of coal or any product of coal.

### **Information to be published following representation period**

**21.** Within 5 working days of the end of the representation period or as soon as reasonably practicable thereafter, the Secretary of State must make copies of the following documents available on the website referred to in article 13—

- (a) the designated planning authority’s completed questionnaire and any document accompanying it; and
- (b) any written representations made in relation to the application which were received within the representation period.

### **Hearings etc**

**22.** Before determining a relevant application the person appointed by the Secretary of State under section 76D of the 1990 Act, or, where a direction has been given under section 76E(1) of the 1990 Act, the Secretary of State, must consider the application—

- (a) at a hearing<sup>(11)</sup>; or
- (b) on the basis of representations in writing<sup>(12)</sup>.

## **PART 4**

### **The decision**

#### **Time periods for decision**

**23.—**(1) Subject to paragraph (4), where a valid application (within the meaning in article 8) has been received by the Secretary of State, he must, within the period specified or referred to in paragraph (2), give the applicant notice of his decision.

- (2) The period specified or referred to in this paragraph is—
- (a) in relation to a relevant application for EIA development, 16 weeks beginning with the day immediately following that on which the application is received by the Secretary of State;
  - (b) in relation to any other relevant application, 13 weeks beginning with the day immediately following that on which the application is received by the Secretary of State; or
  - (c) such extended period as may be agreed in writing between the applicant and the Secretary of State.

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(11) The Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013 (S.I. 2013/2141) make provision in relation to such hearings.

(12) The Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/2142) make provision in relation to applications considered on the basis of written representations.

(3) Where a fee due in respect of an application has been paid by a cheque which is subsequently dishonoured—

- (a) sub-paragraphs (a) and (b) of paragraph (2) have effect as if for “the application is received by the Secretary of State” there were substituted “the Secretary of State is satisfied that he has received the full amount of the fee”; and
- (b) sub-paragraph (c) of that paragraph have effect as if at the end there were added “once the Secretary of State is satisfied that he has received the full amount of the fee”.

(4) Subject to paragraph (5), the Secretary of State must not determine a relevant application, where any notice of, or information about, the application has been—

- (a) given by site display under article 9 or 14, before the end of the period of 21 days beginning with the date when the notice was first displayed by site display;
- (b) served on—
  - (i) an owner of the land or a tenant of an agricultural holding under article 9; or
  - (ii) an adjoining owner or occupier under article 14,before the end of the period of 21 days beginning with the date when the notice was served on that person;
- (c) published in a newspaper under article 9 or 13, within the period of 14 days beginning with the date on which the notice was published; or
- (d) published on a website under article 13(1), within the period of 21 days beginning with the date on which the information was published.

(5) Where, under paragraph (4), more than one of the periods applies, the Secretary of State must not determine the application before the end of the later or latest of such periods.

### **Contents of the decision notice**

**24.**—(1) When the Secretary of State gives notice of a decision on a relevant application—

- (a) where planning permission is granted subject to conditions, the notice must state clearly and precisely the full reasons for each condition imposed;
- (b) where planning permission is refused, the notice must state clearly and precisely the full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision;
- (c) the notice must include a statement explaining whether, and if so how, in dealing with the application, the Secretary of State has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application.

(2) Where—

- (a) the applicant submitted an environmental statement; and
- (b) the Secretary of State has decided (having taken environmental information into consideration) to grant permission (whether unconditionally or subject to conditions),

the notice given to the applicant in accordance with article 23(1) must include a statement that environmental information has been taken into consideration by the Secretary of State.

### **Publishing the decision**

**25.** Within 5 working days of sending a notice to an applicant under article 23(1) (“the decision notice”), the Secretary of State must—

- (a) make copies of the following documents, in relation to the relevant application, available on the website referred to in article 13—
  - (i) the decision notice; and
  - (ii) a copy of any statement explaining the decision prepared by a person appointed under section 76D of the 1990 Act;
- (b) send a copy of the decision notice to—
  - (i) the designated planning authority; and
  - (ii) where the designated planning authority is not the local planning register authority for the land to which the application relates, the local planning register authority;
- (c) send, to every person who has asked to be notified of the decision in relation to the application, a notice explaining that the decision has been made and details of where on the website referred to in sub-paragraph (a) a copy of the decision notice can be found.

## PART 5

### Miscellaneous

#### **Mayor of London: PSI applications**

**26.**—(1) This article applies to a relevant application in relation to land in Greater London if it is an application for planning permission for development which the Secretary of State considers falls within a category set out in Part 1 or 2 of the Schedule to the Town and Country Planning (Mayor of London) Order 2008(13) (“a PSI application”).

(2) The Secretary of State must, as soon as reasonably practicable after receiving a PSI application, notify the Mayor of London of the application and send to him at his principal office—

- (a) a copy of the application; and
- (b) a copy of any plans, drawings or other documents submitted by the applicant in support of the application.

(3) The Mayor of London must, within 6 weeks of the date of the notification under paragraph (2), provide the Secretary of State with a statement setting out—

- (a) whether he considers that the PSI application complies with the spatial development strategy; and
- (b) his reasons for taking that view.

(4) Subject to paragraph (5), the Secretary of State must not determine a PSI application to which this article applies until the period referred to in paragraph (3) has elapsed beginning with the date of the notification given to the Mayor of London under paragraph (2).

(5) Paragraph (4) does not apply with respect to a particular PSI application where the Mayor of London provides the statement referred to in paragraph (3) before the end of the period mentioned in that paragraph or has notified the Secretary of State in writing that he does not wish to be consulted pursuant to this article in relation to that application

(6) The Mayor of London may give to the Secretary of State a direction under section 2A of the 1990 Act if he considers that—

- (a) the development or any of the issues raised by the development to which a PSI application relates is of such a nature or scale that it would have a significant impact on the implementation of the spatial development strategy;

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(13) [S.I. 2008/580](#). There are amendments to the instrument which are not relevant to this Order.

- (b) the development or any of the issues raised by the development to which the application relates has significant effects that are likely to affect more than one London Borough; and
  - (c) there are sound planning reasons for issuing a direction.
- (7) In deciding whether to give a direction the Mayor of London must take account —
- (a) where the PSI application relates to development which falls within Category 1A of the Schedule to the Town and Country Planning (Mayor of London) Order 2008, of the extent to which the council of the London Borough in which the development is or is to be situated is achieving, and has achieved the applicable development plan targets for new housing, including affordable housing;
  - (b) in relation to all PSI applications, of the extent to which the council of the London Borough is achieving, and has achieved any other targets set out in the development plan which are relevant to the subject matter of the application.
- (8) Where a PSI application for development which falls within Category 1A of the Schedule to the Town and Country Planning (Mayor of London) Order 2008 is referred to the Mayor of London, paragraph (6)(b) does not apply.
- (9) A direction referred to in paragraph (6) must be given within the period referred to in paragraph (3).
- (10) In giving reasons for making a direction the Mayor must specify how the matters set out in paragraph (7) have affected his decision.
- (11) The Mayor of London must, at the time that he gives a direction to the Secretary of State referred to in paragraph (6), send a copy of that direction to the local planning register authority and the authority must place it on the register required to be kept by article 36 of the 2010 Order within 14 days of receiving it.

### **Consequential amendments to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011**

**27.**—(1) The Town and Country Planning (Environmental Impact Assessment) Regulations 2011~~(14)~~ are amended as follows.

(2) In regulation 2, in the definition of “relevant planning authority”, after “would, but for” insert “an application made directly to the Secretary of State under section 62A (applications made directly to the Secretary of State) or”.

(3) After regulation 10 insert—

#### **“Applications made directly to the Secretary of State without an environmental statement**

**10A.**—(1) Where an application has been made directly to the Secretary of State under section 62A, and it appears to the Secretary of State that—

- (a) it is an EIA application, and
- (b) it is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

the Secretary of State must notify the applicant in writing that the submission of an environmental statement is required and send a copy of that notification to the relevant planning authority.

(2) The Secretary of State must notify the applicant in accordance with paragraph (1) within 3 weeks beginning with the date the application was received or such longer period as may be agreed in writing with the applicant.

(3) Where the Secretary of State is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the Secretary of State must notify the applicant of any such person.

(4) An applicant who receives a notification under paragraph (1) may, within 3 weeks beginning with the date of the notification, confirm in writing to the Secretary of State that an environmental statement will be provided.

(5) If the applicant does not write in accordance with paragraph (4), the Secretary of State is under no duty to deal with the application and, at the end of the 3 week period, he must inform the applicant in writing that no further action is being taken on the application.

(6) Where—

(a) a notification has been given under paragraph (1), and

(b) the applicant does not submit an environmental statement and comply with regulation 17(6),

the Secretary of State must determine the relevant application only by refusing planning permission.”

(4) In regulation 15(3)(b), after “regulation 10(4)(a),” insert “10A(4),”.

(5) In regulation 17—

(a) in paragraph (2)(a)—

(i) after “consent” insert “to the relevant planning authority or the Secretary of State, as the case may be,”; and

(ii) at the end add “ or (in the case of an application made to the Secretary of State) the name and address of the Secretary of State”;

(b) in paragraph (2)(i) after “of an application” insert “made or”;

(c) in paragraph (2)(j) after “of an application” insert “made or”; and

(d) in paragraph (3), after “regulation 10(2),” insert “10A(3),”.

(6) In regulation 20, after “the Order” insert “, article 13 of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013(15)”.

(7) In regulation 23(1)(e), after “regulation 10(1),” insert “10A(1),”.

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

*Nick Boles*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

27th August 2013



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SCHEDULE 1

Article 9

Notices under article 9

Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013

NOTICE UNDER ARTICLE 9 OF APPLICATION FOR PLANNING PERMISSION  
(to be served on an owner\* or a tenant\*\* or to be published in a newspaper)

Proposed development at (a) .....  
**I give notice that** (b) ..... is applying to the Secretary of State for planning permission to

(c) .....  
Any owner\* of the land or tenant\*\* who wishes to make representations about this application should write to the Secretary of State at the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN by (d) .....

\* "owner" means a person having a freehold interest or a leasehold interest the unexpired term of which is not less than 7 years, or, in the case of development consisting of the winning or working of minerals, a person entitled to an interest in a mineral in the land (other than oil, gas, coal, gold or silver).

\*\* "tenant" means a tenant of an agricultural holding any part of which is comprised in the land.

Signed.....

+On behalf of .....

Date .....

*Statement of owners' rights*

The grant of planning permission does not affect owners' rights to retain or dispose of their property, unless there is some provision to the contrary in an agreement or in a lease.

*Statement of agricultural tenants' rights*

The grant of planning permission for non-agricultural development may affect agricultural tenants' security of tenure.

+ delete where inappropriate

Insert:

(a) address or location of the proposed development

(b) applicant's name

(c) description of the proposed development

(d) date giving a period of 21 days beginning with the date of service, or 14 days beginning with the date of publication, of the notice (as the case may be)

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Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013

NOTICE UNDER ARTICLE 9 OF APPLICATION FOR PLANNING PERMISSION FOR THE WINNING AND WORKING OF MINERALS BY UNDERGROUND OPERATIONS  
*(to be posted in the case of an application for planning permission for development consisting of the winning and working of minerals by underground operations (in addition to the service or publication of any other requisite notices in this Schedule))*

Proposed development at (a) .....

**I give notice that (b)** .....

is applying to the Secretary of State for planning permission to

(c) .....

Members of the public may inspect copies of:

the application

the plans

and other documents submitted with it

at .....

during all reasonable hours until (d).....

Anyone who wishes to make representations about this application should write to the Secretary of State at the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN by (d)

.....

Signed.....

+On behalf of .....

Date .....

+ delete where inappropriate

Insert:

(a) address or location of the proposed development

(b) applicant's name

(c) description of the proposed development

(d) date giving a period of 21 days beginning with the date of service, or 14 days beginning with the date of publication, of the notice (as the case may be)

SCHEDULE 2

Article 14

Publicity for applications for planning permission

Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013

NOTICE UNDER ARTICLE 14 OF APPLICATION FOR PLANNING PERMISSION

*(to be displayed on or near the site, or served on owners and/or occupiers of adjoining land)*

Proposed development at (a) .....  
**I give notice that** (b) .....  
is applying to the Secretary of State for planning permission to (c)  
.....

Members of the public may inspect copies of

- the application
- the plans
- and other documents submitted with it

by inspection of the planning register at (d).....  
during all reasonable hours until (e).....

Anyone who wishes to make representations about this application should write to the Secretary of State at the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN by (e) .....

Signed.....  
+On behalf of.....  
Date .....

+ delete where inappropriate

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Insert:

- (a) address or location of the proposed development
- (b) applicant's name
- (c) description of the proposed development
- (d) address at which the planning register is kept by the local planning register authority
- (e) date giving a period of 21 days, beginning with the date when the notice is first displayed on or near the site or served on an owner and/or occupier of adjoining land

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Section 62A of the Town and Country Planning Act 1990 (“the 1990 Act”) provides that a local planning authority may be designated by the Secretary of State. Where an authority is designated a person applying for planning permission for major development may choose to submit their application to the Secretary of State for determination.

This Order sets out the procedures in connection with applications under section 62A of the 1990 Act. The procedures are modelled on the procedures for planning applications submitted to local planning authorities (set out in the Town and Country Planning (Development Management Procedure) (England) Order 2010).

This Order is part of a package of provisions in relation to section 62A applications—

- (a) the procedures to be followed in relation to relevant applications made directly to the Secretary of State under section 62A of the Town and Country Planning Act 1990 are set out in this Order;
- (b) the fees to be charged in relation to section 62A applications and pre-application advice are prescribed in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which were amended by the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013;
- (c) the rules in relation to hearings held to consider relevant applications are set out in the Town and Country Planning (Section 62A Application) (Hearings) Rules 2013;
- (d) the provisions which apply where the application is to be determined by way of written representations, instead of a hearing, are set out in the Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013.

In particular, this Order provides for:

- the content and the procedure in relation to the making of planning applications and reserved matter applications made under section 62A of the 1990 Act, including the requirements for a design and access statement;
- the applicant to serve a notice on the owners of the land to which the application relates; provides for the Secretary of State to notify the relevant local planning authority where an application has been made to him and for the authority to provide information to the Secretary of State in relation to the land to which the application relates;
- the Secretary of State and the local planning authority to publicise the application, the former on his website and by newspaper notice and the latter by site notice and by serving the adjoining properties;
- the Secretary of State to consult the relevant planning authorities and certain statutory consultees in relation to the application (who must provide a substantive reply within 21 days);
- the Secretary of State to make copies of the representations made available on his website;
- the time period within which the Secretary of State is to make a decision in relation to an application and the requirements as to publication of the decision;

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- the Secretary of State to notify the Mayor of London where a relevant application in relation to land in Greater London is a development of potential strategic importance (as defined in the Town and Country (Mayor of London) Order 2008) and also the criteria the Mayor must apply if he wishes to call in such an application;
- amendments to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, including a new regulation 10A which provides the procedure where an EIA application is submitted to the Secretary of State without an environmental statement.

This Order implements section 1 of, and Schedule 1 to, the Growth and Infrastructure Act 2013. That Act was subject to a full impact assessment which can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk). Copies of that impact assessment may be obtained from the Planning Directorate, 1<sup>st</sup> Floor, Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU.