

2014 No. 1532

TOWN AND COUNTRY PLANNING, ENGLAND

**The Town and Country Planning (Development Management
Procedure and Section 62A Applications) (England)
(Amendment) Order 2014**

<i>Made</i> - - - -	<i>9th June 2014</i>
<i>Laid before Parliament</i>	<i>13th June 2014</i>
<i>Coming into force</i> - -	<i>1st October 2014</i>

The Secretary of State, in exercise of the powers conferred by sections 59, 61(1), 74(1) and 76C(3) of the Town and Country Planning Act 1990(a) and section 33 of the Growth and Infrastructure Act 2013(b), makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2014 and comes into force on 1st October 2014.

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

Amendments to the Town and Country Planning (Development Management Procedure) (England) Order 2010

2.—(1) The Town and Country Planning (Development Management Procedure) (England) Order 2010(c) is amended in accordance with the following provision.

(2) In the notification set out in Schedule 6 (notification where planning permission refused or granted subject to conditions) after the fourth bullet point insert a new bullet point—

“As this is a decision to refuse planning permission on a minor commercial application, if you want to appeal against your local planning authority’s decision then you must do so within 12 weeks of the date of this notice.*”.

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

3. The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013(d) is amended in accordance with the following provisions.

(a) 1990 c. 8. Sections 62A and 76C were inserted by section 1 of, and paragraph 5 of Schedule 1 to, the Growth and Infrastructure Act 2013 (c. 27).
(b) 2013 c. 27.
(c) S.I. 2010/2184, to which there are amendments which are not relevant to this Order.
(d) S.I. 2013/2140, to which there are amendments which are not relevant to this Order.

4. In article 2 (interpretation)—

(a) in the appropriate places insert the following definitions—

““connected listed building application” means an application for listed building consent under the Listed Buildings Act which satisfies the requirements of section 62A(3) of the 1990 Act and is not referred to a local planning authority under section 62A(4) of that Act;”;

““listed building” has the meaning given in section 1(5) of the Listed Buildings Act;”;

““Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990(a);”;

““listed building consent” has the meaning given in section 8(7) of the Listed Buildings Act;”;

(b) in paragraph (2) for “The questionnaire” substitute “Subject to article 36(3), the questionnaire”.

5. In article 14(1) (publicity for applications) for sub-paragraphs (a) to (c) substitute—

“(a) by—

(i) site display in at least one place on or near the land to which the application relates for not less than 21 days; or

(ii) serving the notice on any adjoining owner or occupier; and

(b) by sending a copy of the notice to the Secretary of State”.

6. After article 27 (consequential amendments) insert—

“Part 6

Procedure for making and determining connected listed building applications

Modifications of the Listed Buildings Act

28. The provisions of the Listed Buildings Act mentioned in Schedule 3 to this Order are applied to connected listed building applications subject to the modifications set out in that Schedule.

Applications for listed building consent

29.—(1) A connected listed building application must—

(a) be made in writing to the Secretary of State on a form published by him and submitted to him on the same day as the relevant application**(b)** to which it is connected is submitted;

(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 listed building to which the application relates; and

(cc) such other plans, drawings and information necessary to describe the works which are the subject of the application; or

(a) 1990 c. 9.

(b) See section 62A(2) of the Town and Country Planning Act 1990 for the definition of “relevant application”.

(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 under paragraph (1) must be drawn to an identified scale and, in the case of plans, must show the direction of North.

(3) Where a connected listed building 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).

Applications in respect of Crown land

30. A connected listed building application in relation to a listed building on Crown land(a) 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

31.—(1) A connected listed building application must be accompanied by a statement (“a design and access statement”) which explains—

- (a) the design principles and concepts that have been applied to the works;
- (b) how the design principles and concepts that have been applied to the works take account of—
 - (i) the special architectural or historic importance of the building;
 - (ii) the particular physical features of the building that justify its designation as a listed building; and
 - (iii) the building's setting; and
- (c) subject to paragraph (3), how issues relating to access to the building have been dealt with.

(2) Subject to paragraph (3), a design and access statement must also—

- (a) explain the policy adopted as to access, including what alternative means of access have been considered, and how policies relating to access in relevant local development documents have been taken into account;
- (b) explain how the policy as to access takes account of—
 - (i) the special architectural or historic importance of the building;
 - (ii) the particular physical features of the building that justify its designation as a listed building; and
 - (iii) the building's setting;
- (c) state what, if any, consultation has been undertaken and what account has been taken of the outcome of any such consultation; and

(a) See section 293 of the Town and Country Planning Act 1990 for the definition of “Crown land” and “the appropriate authority”.

- (d) explain how any specific issues which might affect access to the building have been addressed.

(3) Paragraphs (1)(c) and (2) do not apply in relation to a connected listed building application for consent to carry out works affecting only the interior of a building.

General provisions in relation to applications

32.—(1) When the Secretary of State receives—

- (a) a connected listed building application which complies with the requirements of article 29;
- (b) the certificate required under article 34;
- (c) the design and access statement required under article 31; and
- (d) subject to paragraph (2), the particulars which would be required by the designated planning authority under section 10(2)(c) of the Listed Buildings Act(a) had the application been made to that authority,

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

(2) Paragraph (1)(d) only applies if—

- (a) before the application is made to the Secretary of State the designated planning authority publishes or republishes, for the purposes of regulation 3(8)(a) of the Planning (Listed Buildings and Conservation Areas) Regulations 1990, a list of requirements on a website; and
- (b) the particulars required to be included in the application fall within that list; and
- (c) the list mentioned in sub-paragraph (a) was published (or republished) 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 connected listed building 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) Subject to paragraph (5), in this article “valid application” means a connected listed buildings application which consists of—

- (a) an application which complies with the requirements of article 29; and
- (b) the documents or particulars mentioned in paragraphs (1)(b) to (d),

and a valid application is taken to have been received when the application, and such of the documents or particulars referred to above as are required to be included in, or to accompany, the application have been lodged with the Secretary of State.

(5) A connected listed building application is not to be considered to be a valid application if it does not satisfy the requirements of paragraph (4) within 10 working days of the Secretary of State deciding that the related relevant application is a valid application.

Notice of application to be given by the applicant

33.—(1) An applicant for listed building consent under section 62A(3) of the 1990 Act 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 building to which the application relates—

- (a) by serving the notice on every such person whose name and address is known to the applicant; and

(a) 1990 c. 9.

- (b) where the applicant has taken reasonable steps to ascertain the names and address 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 this article—

“owner” means a person who is for the time being the freehold owner or is entitled to a tenancy granted or extended for a term of years certain of which not less than 7 years remain unexpired;

“prescribed date” means the day 21 days before the date of the application, and

“requisite notice” means a notice in the form set out in Schedule 4.

Certificates in relation to notice of applications

34. Where a connected listed building application is made, the applicant must certify, in a form published by the Secretary of State that the requirements of article 33 have been satisfied.

Information to be provided to the designated planning authority

35.—(1) Where a connected listed building 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 connected listed building application referred to in paragraph (1) is a valid application (within the meaning given in article 32), 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 32(3) he must send a copy of that notice to the designated planning authority.

Information to be provided by the designated planning authority

36.—(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 35(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.

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

(3) For the purposes of this article, the questionnaire may only include a requirement to provide the Secretary of State—

- (a) details of any functions under the Listed Buildings Act which the designated planning authority has exercised in relation to, or which affect, the listed building;
- (b) a statement as to whether any advice has been given by the designated planning authority to the applicant in relation to works to the listed building; and
- (c) such other documents or information as the Secretary of State considers reasonably necessary to determine the connected listed building application.

Publicity for applications: Secretary of State

37.—(1) Within 5 working days of the receipt of a connected listed building application, which is a valid application (within the meaning in article 32), 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 listed building;
- (b) a description of the proposed works;

- (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 connected listed building application by publication of a notice in a newspaper circulating in the locality in which the listed building 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

38.—(1) Within 5 working days of the receipt of a notice under article 35(2) in relation to a connected listed building 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; and
- (b) 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 “requisite notice” means notice in the appropriate form set out in Schedule 5.

Information to be provided to the local planning register authority

39. Where a connected listed building application, which is a valid application (within the meaning in article 32), 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 35(1).

Representations received by the designated planning authority

40. Where representations in relation to a connected listed building 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.

Consultation before determining listed building consent

41.—(1) Before determining a connected listed building application the Secretary of State must—

- (a) consult the Historic Buildings and Monuments Commission for England; and
- (b) in relation to any application proposing the demolition of the whole or part of a listed building, notify—
 - (i) the Ancient Monuments Society,

- (ii) the Council for British Archaeology;
- (iii) the Georgian Group;
- (iv) the Society for the Protection of Ancient Buildings;
- (v) the Victorian Society; and
- (vi) the Twentieth Century Society.

(2) Where the Secretary of State is required to consult or notify an authority or person under paragraph (1) (“the consultee”) before determining a connected listed building application—

- (a) he must send a copy of the connected listed building application to the consultee; and
- (b) subject to paragraph (3), he must not determine the application until at least 28 days after the date on which a copy of the application is sent to the consultee.

(3) Paragraph (2)(b) does not apply if before the end of the period referred to in that subparagraph the Secretary of State has received a substantive response concerning the application from the consultee.

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

(5) 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 proposed works;
- (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.

Consultation with designated planning authority

42.—(1) Subject to paragraph (2), the Secretary of State must, before determining a connected listed building application—

- (a) notify the designated planning authority giving a period of at least 21 days, beginning no earlier than the date the Secretary of State sends the notice under article 35(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
- (b) take into account any such representations received.

(2) Paragraph (1)(a) 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 41(5)) concerning the application from the designated planning authority.

Information to be published following representation period

43. 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 37—

- (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

44. Before determining a connected listed building application, the person appointed by the Secretary of State under section 76D of the 1990 Act^(a), or, where a direction has been given under section 76E(1) of the 1990 Act, the Secretary of State, must consider the connected listed building application (together with the relevant application)—

- (a) at a hearing; or
- (b) on the basis of representations in writing.

Time periods for decision

45.—(1) Subject to paragraph (4), where a connected listed building application, which is a valid application (within the meaning in article 32), 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) 13 weeks beginning with the day immediately following that on which the application is received by the Secretary of State; or
- (b) such extended period as may be agreed in writing between the applicant and the Secretary of State.

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

- (a) given by site display under article 38, before the end of the period of 21 days beginning with the date on which the notice was first displayed by site display;
- (b) served on an owner of the land under article 33 before the end of the period of 21 days beginning with the date on which the notice was served on that person;
- (c) published in a newspaper under article 33 or 37, within the period of 14 days beginning with the date on which the notice was published; or
- (d) published on a website under article 37(1), within the period of 21 days beginning with the date on which the information was published.

(4) Where, under paragraph (3), 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

46. When the Secretary of State gives notice of a decision on a connected listed building application—

- (a) where listed building consent is granted subject to conditions, the notice must state clearly and precisely the full reasons for each condition imposed; and
- (b) where listed building consent 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.

Publishing the decision

47. Within 5 working days of sending a notice to an applicant under article 45 (“the decision notice”), the Secretary of State must—

- (a) make copies of the following documents, in relation to the connected listed building application, available on the website referred to in article 37—

(a) Sections 76D and E were inserted into the 1990 Act by section 1 of, and paragraph 5 of Schedule 1 to, the Growth and Infrastructure Act 2013 (c. 27).

- (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 the designated planning authority; and
- (c) send 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 to—
 - (i) each consultee consulted or notified in relation to the application under article 41; and
 - (ii) every person who has asked to be notified of the decision in relation to the application.”.

7. After new Article 47 insert—

“PART 7

Connected applications: hearings and written representations

Other provisions applying to connected listed building applications: hearings

48. Where a relevant application is accompanied by a connected listed building application, the procedure to be followed at any hearing to consider the applications is the procedure set out in the Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013(a) subject to the following modifications; the reference in rules 9(3) and 10(3) to articles 9, 13, 14, 16, 17 or 18 of this Order, is to be read, in relation to a connected listed building application, as a reference to articles 33, 37, 38, 40, 41 or 42 of this Order.

Other provisions applying to connected listed building applications: written representations

49. Where a relevant application is accompanied by a connected listed building application, the procedure to be followed where the applications are considered on the basis of written representations is the procedure set out in Part 3 of the Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013(b), subject to the following modifications; the reference in rules 9(3) and 10(3) to articles 9, 13, 14, 16, 17 or 18 of this Order, is to be read, in relation to a connected listed building application, as a reference to articles 33, 37, 38, 40, 41 or 42 of this Order.”

8. After Schedule 2 insert—

“SCHEDULE 3

Article 28

Provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 which apply with modifications to connected listed building applications

1. The following provisions of the Listed Buildings Act apply to connected listed building applications with the modifications specified below.

(a) S.I. 2013/2141.
 (b) S.I. 2013/2142.

2. Sections 10 and 11 are modified as follows—

- (a) in sections 10(1) and 11(4), references to local planning authorities, however described, are treated as references to the Secretary of State; and
- (b) in sections 10(3) and 11(1), references to “regulations under this Act” (and “regulations” in sections 10(4) and 11(3) to (6)) are treated as reference to “development order under the principal Act”.

3. Section 81A(2) is modified as if after “section 12” there were inserted “or made to the Secretary of State under section 62A(3) of the principal Act”.

4. Section 81B(3) is modified as if after “section 12” there were inserted “or made to the Secretary of State under section 62A(3) of the principal Act”.

5. Section 82F(2) is modified as if reference to “regulations” is reference to “development order under the principal Act”.

6. Section 88D is modified as if the following provision were inserted after subsection (7)(a) of that section—

“(ba) an application for listed building consent made to the Secretary of State under section 62A(3) of the principal Act instead of being dealt with by a local planning authority in England;”.

9. After new Schedule 3 insert—

<p style="margin: 0;">SCHEDULE 4</p> <p style="text-align: right; margin: 0;">Article 33</p> <p style="text-align: center; margin: 10px 0 0 0;">Planning (Listed Buildings and Conservation Areas) Act 1990</p> <p style="text-align: center; margin: 0 0 0 0;">Notice of application for listed building consent</p> <p style="text-align: center; margin: 0 0 0 0;"><i>(to be served on an owner or to be published in a newspaper*)</i></p> <p style="margin: 10px 0 0 0;">Proposals for [demolishing][altering][extending] <i>(delete where inappropriate)</i> (a)</p> <p style="margin: 10px 0 0 0;">TAKE NOTICE that application is being made to the Secretary of State by (b) for listed building consent. If you wish to make representations about the application, you should make them in writing, not later than (c) to the Secretary of State at the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.</p> <p style="margin: 10px 0 0 0;">Signed.....</p> <p style="margin: 0 0 0 0;">(on behalf of.....) <i>(delete where inappropriate)</i></p> <p style="margin: 10px 0 0 0;">Date.....</p> <p style="margin: 10px 0 0 0;">* “owner” means a person who is for the time being the freehold owner or is entitled to a tenancy granted or extended for a term of years certain of which not less than 7 years remain unexpired</p> <p style="margin: 10px 0 0 0;">Notes</p> <p style="margin: 0 0 0 0;">(a) Insert name, address or location of the building to which the application relates with sufficient precision to enable identification of it.</p> <p style="margin: 0 0 0 0;">(b) Insert name of the applicant.</p> <p style="margin: 0 0 0 0;">(c) Insert date, not less than 20 days later than the date on which the notice is served or published.</p>

SCHEDULE 5

Article 38

Planning (Listed Buildings and Conservation Areas) Act 1990

Notice of application for listed building consent

(to be displayed on or near the building)

Proposals for [demolishing][altering][extending] (delete where inappropriate) (a)

I give notice that (b).....
is applying to the Secretary of State for listed building consent.

Members of the public may inspect copies of
— the application
— the plans
— and other documents submitted with it

by inspection at (c)
.....
during all reasonable hours until (d)

Anyone who wishes to make representations about the application should make them
in writing, not later than (d) to the Secretary of State at the Planning Inspectorate,
Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.

Signed.....
(on behalf of.....) (delete where inappropriate)

Date.....

Notes

- (a) Insert name, address or location of the building to which the application relates with sufficient precision to enable identification of it.
- (b) Insert name of the applicant.
- (c) Insert address at which the local planning authority makes the application and other documents available.
- (d) Insert date, giving not less than 21 days beginning with the date when the notice is first displayed on or near the site.

Consequential amendments to the Planning (Listed Buildings and Conservation Areas) Regulations 1990

10. Regulation 5A of the Planning (Listed Buildings and Conservation Areas) Regulations 1990(a) is amended as follows—

- (a) in paragraph (1)—
 - (i) after “to a local planning authority” insert “or the Secretary of State under section 62A of the principal Act”; and
 - (ii) after “the authority think” insert “or, as the case may be, the Secretary of State thinks”;

(a) S.I. 1990/1519. Regulation 5A was inserted by S.I. 2004/2210 and amended by S.I. 2010/568. There are other amendments to the Regulations which are not relevant to this Order.

- (b) in paragraph (2), for “The local planning authority” substitute “Subject to paragraph (2A), the local planning authority”;
- (c) after paragraph (2) insert—
 - “(2A) In the case of an application for planning permission made under section 62A of the principal Act, paragraphs (2B) and (2C) apply instead of paragraph (2).
 - (2B) Where this paragraph applies, the Secretary of State must—
 - (a) publish in a local newspaper circulating in the locality in which the land is situated a notice indicating the nature of the development in question, and naming a place where a copy of the application, and of all plans and other documents submitted to him, will be open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice; and
 - (b) publish on a website maintained by the Secretary of State—
 - (i) the address or location of the proposed development;
 - (ii) a description of the proposed development;
 - (iii) 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 on the website;
 - (iv) where and when the application may be inspected; and
 - (v) the Secretary of State’s address for receipt of representations about the application.
 - (2C) Where this paragraph applies, the local planning authority must, within 5 working days of receipt of a notice under article 11(2) of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013(a) in relation to the application publicise the application by giving requisite notice (which takes the meaning given in article 14 of that Order)—
 - (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; and
 - (b) by sending a copy of the notice to the Secretary of State.”; and
- (d) in paragraph (4), after “determined by the local planning authority” insert “or, as the case may be, the Secretary of State” and after “applies, the local planning authority” “or, as the case may be, the Secretary of State”.

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

9th June 2014

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning (Development Management Procedure) (England) Order 2010 to insert a new text into the notice sent to applicants who have been refused planning permission or who have been granted permission subject to conditions. The new text is only relevant where the application is for minor commercial development.

This Order also applies with modifications provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“Listed Buildings Act”) and certain other provisions to enable the Secretary of State to determine applications for listed buildings consent made to the Secretary of State under section 62A(3) of the Town and Country Planning Act 1990 (“the 1990 Act”). An

(a) S.I. 2013/2140.

application for planning permission may only be made to the Secretary of State under section 62A of the 1990 Act where the local planning authority for the area is designated under that section. Where the applicant makes such an application he may also make a connected listed building application for listed building consent to the Secretary of State.

In particular, this Order sets out the provisions which apply to such connected listed building applications, namely—

- (e) the modifications to the Listed Buildings Act which apply to such connected listed building applications; and
- (f) the rules as to making and determining connected listed building applications – which broadly are a modified version of the rules in the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013^(a) (“the Section 62A Order”).

Where a person applies for planning permission under section 62A of the 1990 and also submits a connected listed building application, then the Listed Buildings Act 1990 (as modified by this Order), the 1990 Act (as modified by this Order) and secondary legislation made under provisions of that Part (as modified by this Order) would apply to that application.

In particular the following provisions of the Listed Buildings Act are relevant to connected listed building applications for listed buildings consent under section 62A of the 1990 Act.

Section 8 – this provides that listed building consent from a local planning authority or the Secretary of State is required before executing certain works to a listed building.

Section 10 – with the modifications provided for in this Order, this provides for applications for connected listed building applications to be made following the procedure set out in section 10 and in the Section 62A Order.

Section 11 – with the modifications provided for in this Order, this provides for the connected listed building application to be accompanied by a certificate explaining the ownership of the building in question and the Section 62A Order provides that the Secretary of State may not determine the connected listed building application until 21 days after the date the owners and occupiers have been notified of the proposals.

Section 14 – with the modifications provided for in this Order, this provides that where a connected listed building application is made in relation to a listed building in Greater London the Secretary of State must notify English Heritage and may not determine the application unless he is authorised or directed to do so.

In particular the following provisions of the 1990 Act are relevant to connected listed building applications for listed buildings consent under section 62A.

Section 62A – this provides that an application for listed building consent under the Listed Buildings Act 1990 may be made to the Secretary of State; that the Secretary of State has the power to refer the application to the relevant planning authority where he considers that it is not connected; that the Secretary of State’s decision on a connected listed building application is final; and that the Secretary of State may give directions to the relevant planning authority to do things in relation to a connected listed building application.

Section 76C(3) – this allows the Secretary of State to apply, with or without modifications, any enactments which relate to applications such as section 62A applications. This is the main power used to make this Order.

Section 76D (except subsection (3)) – this provides that a connected listed building application is to be determined by a person appointed by the Secretary of State; that the decision of the

(a) S.I. 2013/2140, to which there are amendments not relevant to this Order.

appointed person is to be treated as the decision of the Secretary of State; and that the validity of the decision may not be questioned except under Part 12 of the 1990 Act.

Section 76E – this allows the Secretary of State to recover the determination of a connected listed building application so the Secretary of State decides the application himself.

Section 284(1)(f) and (3)(ya) – this provides that except as provided for under section 288 the validity of any decision of the Secretary of State on a connected listed building application may not be challenged in any legal proceedings – section 288(1)(b) and (4) allows an aggrieved person to challenge such a decision in certain circumstances – the grounds and timetable for challenge are set out in section 288.

Section 303(1A) – this provision, and the secondary legislation made under it(a), allow the Secretary of State to charge fees in relation to connected listed building applications, including fees for pre-application advice.

Section 319A(1) and (7)(za)(b) – this provision, and the secondary legislation made under it(c), require that the Secretary of State determine which procedure will apply to a connected listed building application within 5 working days of the end of the representation period for the application (the representation period is defined in article 2(1) of the Section 62A Order) – article 22 of that Order provides the application must be considered either on the basis of written representations or at a hearing. Section 323 of the 1990 Act and section 9 of the Tribunals and Inquiries Act 1992(d), and the secondary legislation made under those powers(e), set out the procedure for written representations and hearings.

The Order also makes consequential amendments to the Planning (Listed Buildings and Conservation Areas) Regulations 1990 to refer to section 62A connected applications and provides further implementation of section 1 of, and Schedule 1 to, the Growth and Infrastructure Act 2013.

The Growth and Infrastructure Act 2013 was subject to a full impact assessment which can be found at www.legislation.gov.uk. Copies of the impact assessment may be obtained from the Planning Directorate, Department for Communities and Local Government, 1st Floor, Eland House, Bressenden Place, London, SW1E 5DU.

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- (a) S.I. 2012/2920, in particular regulation 2A which was inserted by S.I. 2013/2153.
(b) Section 319A was inserted into the 1990 Act by section 196 of the Planning Act 2008 (c. 29) and subsection (7)(za) was inserted by section 1 of, and paragraph 11 of Schedule 1 to, the Growth and Infrastructure Act 2013 (c. 27).
(c) S.I. 2013/2142, in particular regulation 4.
(d) 1992 c. 53.
(e) In particular S.I. 2013/2141.

£6.00

UK2014061018 06/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/1532>

ISBN 978-0-11-111644-9



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