

Draft Regulations laid before Parliament under section 303(8)(a) of the Town and Country Planning Act 1990, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No.

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012

Made - - - - *****

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 303 and 333(2A) of the Town and Country Planning Act 1990(1);

In accordance with section 303(8)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

Citation, commencement, application and expiry

1.—(1) These Regulations may be cited as the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 and shall come into force on the day after the day on which they are made.

(2) These Regulations apply in relation to England only.

(3) These Regulations cease to have effect at the end of the period of seven years beginning with the day on which these Regulations come into force.

(4) These Regulations apply—

(a) to applications for planning permission deemed to have been made, by virtue of section 177(5) of the 1990 Act(2) (grant or modification of planning permission on appeals against enforcement notices), in connection with an enforcement notice issued on or after the date on which these Regulations come into force; and

(b) to the following applications, site visits and requests made on or after the date on which these Regulations come into force—

(i) applications for planning permission;

(1) 1990 c. 8; section 303 was substituted by section 199 of the Planning Act 2008 (c. 29).

(2) Section 177(5) was amended by section 32 of, and paragraphs 8 and 24(3) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and section 123(1) and (6) of the Localism Act 2011 (c. 20).

- (ii) applications for approval of reserved matters;
- (iii) applications under section 191 (certificate of lawfulness of existing use or development) or 192 (certificate of lawfulness of proposed use or development) of the 1990 Act⁽³⁾;
- (iv) applications under section 293A of the 1990 Act⁽⁴⁾ (urgent crown development applications);
- (v) applications for consent for the display of advertisements;
- (vi) applications under the General Permitted Development Order referred to in regulation 14;
- (vii) site visits to a mining site or a landfill site;
- (viii) requests for confirmation that a condition or conditions attached to a grant of planning permission has or have been complied with;
- (ix) applications under section 96A(4) of the 1990 Act⁽⁵⁾ (power to make non-material changes to planning permission); and
- (x) applications under section 17 of the Land Compensation Act 1961 (certificates of appropriate alternative development)⁽⁶⁾.

Interpretation

2.—(1) In these Regulations—

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

“the 1989 Regulations” means the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989⁽⁷⁾;

“the 2007 Regulations” means the Town and Country Planning (Control of Advertisements) (England) Regulations 2007⁽⁸⁾;

“the Development Management Procedure Order” means the Town and Country Planning (Development Management Procedure) (England) Order 2010⁽⁹⁾;

“the General Permitted Development Order” means the Town and Country Planning (General Permitted Development) Order 1995⁽¹⁰⁾;

“dwellinghouse” means a building⁽¹¹⁾ which is used as a single private dwellinghouse and for no other purpose;

“glasshouse” means a building which—

- (a) has not less than three-quarters of its total external area comprised of glass or other translucent material;
- (b) is designed for the production of flowers, fruit, vegetables, herbs or other horticultural produce; and
- (c) is used, or is to be used, solely for the purposes of agriculture;

⁽³⁾ Sections 191 and 192 were substituted by section 10(1) of the Planning and Compensation Act 1991 and amended by section 124(3) of the Localism Act (c. 20).

⁽⁴⁾ Section 293A was inserted by section 82(1) of the Planning and Compulsory Purchase Act 2004 (c. 5).

⁽⁵⁾ Section 96A was inserted by section 190(1) and (2) of the Planning Act 2008.

⁽⁶⁾ 1961 c. 33; section 17 was substituted by section 232(3) of the Localism Act 2011 (c. 20).

⁽⁷⁾ S.I. 1989/193, as amended by S.I. 1990/2473, 1991/2735, 1992/1817, 1992/3052, 1993/3170, 1996/525, 1997/37, 2001/2719, 2002/768, 2005/843, 2006/994, 2008/958 and 2010/472.

⁽⁸⁾ S.I. 2007/783, to which there are amendments not relevant to these Regulations.

⁽⁹⁾ S.I. 2010/2184.

⁽¹⁰⁾ S.I. 1995/418.

⁽¹¹⁾ “Building” includes any part of a building; *see* the definition of “building” in section 336 of the 1990 Act.

“householder application” has the same meaning as in article 2(1) of the Development Management Procedure Order (interpretation);

“landfill permission” means any planning permission for—

- (a) operational development of land designed to be used wholly or mainly for the purpose of; or
- (b) any material change of use of land to, a waste disposal site for the deposit of waste onto or into the land;

“landfill site” means the land to which a landfill permission relates;

“mineral permission” means any planning permission for development consisting of—

- (a) the winning and working of minerals; or
- (b) the depositing of mineral waste;

“mining site” means—

- (a) the aggregate of the land to which any two or more mineral permissions relate where the aggregate of the land—
 - (i) is worked as a single site; or
 - (ii) is treated as a single site by the local planning authority for the purposes of Schedule 13 (review of old mineral planning permissions) or Schedule 14 (periodic review of mineral planning permissions) to the Environment Act 1995(12); and
- (b) in any other case, the land to which a mineral permission relates;

“outline planning permission” and “reserved matters” have the same meaning as in article 2(1) of the Development Management Procedure Order;

“site visit” means entry by a local planning authority on to a mining site or landfill site—

- (a) to ascertain whether there is or has been any breach of planning control on the site;
- (b) to determine whether any of the powers conferred on the local planning authority by Part 7 of the 1990 Act(13) (enforcement) should be exercised in relation to the site;
- (c) to determine how any such power should be exercised in relation to the site; or
- (d) to ascertain whether there has been any compliance with any requirement imposed as a result of any such power having been exercised in relation to the site; and

“use of land” includes use of land for the winning and working of minerals.

(2) Expressions used in regulation 13 and Schedule 2 have, unless the context otherwise requires, the meaning which they bear in the 2007 Regulations.

Fees for planning applications

3.—(1) Subject to regulations 4 to 9 and paragraph 8(2) of Part 1 of Schedule 1, where an application is made to a local planning authority for planning permission for the development of land or for the approval of reserved matters, a fee shall be paid to that authority.

(12) 1995 c. 25; Schedule 13 was amended by sections 76 and 93 of, and paragraph 16 of Part II of Schedule 10 and paragraph 13 of Part I of Schedule 15 to, the Countryside and Rights of Way Act 2000 (c. 37); Schedules 13 and 14 were amended by sections 3 and 4 of, and Part 3 of Schedule 1 and paragraph 60 of Schedule 2 to, the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11) and S.I. 2003/956; Schedule 14 was amended by section 118 of, and paragraph 19 of Schedule 7 to, the Planning and Compulsory Purchase Act 2004 (c. 5).

(13) Part 7 was amended by sections 1 to 11 and 84 of, and paragraph 11 of Schedule 1, paragraphs 22 to 33 of Schedule 7 and Part I of Schedule 19 to, the Planning and Compensation Act 1991 (c. 34), section 52 of the Planning and Compulsory Purchase Act 2004, paragraphs 1, 5 and 6 of Schedule 10 (partially in force, see S.I. 2009/400) and paragraphs 1 and 3 of Schedule 11 to the Planning Act 2008 (c. 29), S.I. 2003/956 and 2009/1307, and sections 123 to 126 of, and paragraph 17 of Schedule 12 to, the Localism Act 2011 (c. 20)

- (2) The fee payable in respect of the application shall be calculated in accordance with Schedule 1.
- (3) Where a fee is due in respect of an application, the fee shall be paid to the local planning authority with whom the application is lodged and shall accompany the application.
- (4) Where the local planning authority who receive the fee in accordance with paragraphs (1) to (3)—
- (a) are not the local planning authority who have to determine the application; and
 - (b) forward the application to that authority,
- they shall remit the fee to that authority at the same time as they forward the application to them.
- (5) Any fee paid pursuant to this regulation shall be refunded if the application is rejected as invalid.

Exceptions – access and facilities for disabled persons

- 4.—(1) Regulation 3 shall not apply where the local planning authority to whom the application is made are satisfied that it relates solely to—
- (a) the carrying out of operations—
 - (i) for the alteration or extension of an existing dwellinghouse; or
 - (ii) in the curtilage of an existing dwellinghouse (other than the erection of a dwellinghouse) ,
for the purpose, in either case, of providing means of access to or within the dwellinghouse for a disabled person who is resident in, or is proposing to take up residence in, that dwellinghouse, or of providing facilities designed to secure that person’s greater safety, health or comfort; or
 - (b) the carrying out of operations for the purpose of providing means of access for disabled persons to or within a building or premises to which members of the public are admitted (whether on payment or otherwise).
- (2) In this regulation, “disabled person” means—
- (a) a person who is within any of the descriptions of persons to whom section 29 of the National Assistance Act 1948(14) (welfare arrangements for blind, deaf, dumb and crippled persons, etc) applies; or
 - (b) a child who is disabled for the purposes of Part 3 of the Children Act 1989(15) (local authority support for children and families).

Exceptions – permission granted by General Permitted Development Order not applying

- 5.—(1) Regulation 3 shall not apply where the local planning authority to whom the application is made are satisfied—
- (a) that the application relates solely to development which is within one or more of the classes specified in Schedule 2 to the General Permitted Development Order(16) (permitted development); and

(14) 1948 c. 29; see subsection (1) of section 29. That subsection was amended by sections 113(1) and 114 of, and Schedule 4 to, the Mental Health (Scotland) Act 1960 (c. 61), section 195 of, and paragraph 2 of Schedule 23 to, the Local Government Act 1972 (c. 70) and section 108 of, and paragraph 11(2) of Schedule 13 to, the Children Act 1989 (c. 41).

(15) 1989 c. 41; see section 17(11).

(16) Schedule 2 was amended, so far as relevant to these Regulations by S.I. 2001/2718, 2006/1282, 2007/406, 2008/675, 2010/654 and 2011/2056 .

- (b) that the permission granted by article 3 of that Order(17) (permitted development) does not apply in respect of that development by reason of (and only by reason of)—
- (i) a direction made under article 4 of that Order(18) (directions restricting permitted development) which is in force on the date when the application is made; or
 - (ii) the requirements of a condition imposed on a permission granted or deemed to be granted under Part 3 of the 1990 Act(19) (control over development) otherwise than by that Order.

(2) The reference in sub-paragraph (1)(a) to an application which relates to development which is within one or more of the classes specified in Schedule 2 to the General Permitted Development Order shall be construed as including an application for planning permission for the continuance of a use of land, or the retention of buildings or works, without compliance with a condition subject to which a previous planning permission has been granted, where the condition in question prohibits or limits the carrying out of any development which is within one or more of those classes.

Exceptions – application relating to same use class necessary because of condition

6. Regulation 3 shall not apply where the local planning authority to whom the application is made are satisfied—

- (a) that the application relates solely to the use of a building or other land for a purpose of any class specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987(20);
- (b) that the existing use of that building or other land is for another purpose of the same class; and
- (c) that the making of an application for planning permission in respect of the use to which the application relates is necessary by reason of (and only by reason of) the requirements of a condition imposed on a permission granted or deemed to be granted under Part 3 of the 1990 Act.

Exceptions – consolidation of subsisting minerals permissions

7. Regulation 3 shall not apply to impose a fee in relation to an application to a local planning authority for permission to carry out development consisting of the winning and working of minerals where the application—

- (a) is for a permission which consolidates two or more subsisting permissions; and
- (b) does not seek permission for development which is not authorised by a subsisting permission.

Exemptions – second application relating to development on same site etc.

8.—(1) Where all the conditions set out in paragraph (2) are satisfied, regulation 3 shall not apply to—

- (a) an application for planning permission which is made following the granting of planning permission for development which the local planning authority are satisfied

(17) Article 3 was amended by section 76(7) of the Utilities Act 2000 (c. 27) and S.I. 1999/293, 1999/1783, 2003/956, 2006/1282 and 2011/1824.

(18) Article 4 was substituted by S.I. 2010/654.

(19) Part 3 was amended, so far as relevant to these Regulations, by section 16(1) of the Transport and Works Act 1992 (c. 42), sections 40 and 41 of the Planning and Compulsory Purchase Act 2004 (c. 5), section 190 of the Planning Act 2008 (c. 29) and paragraph 2 of Part 1 of Schedule 9 (partially in force, see S.I. 2012/628)) to the Localism Act 2011 (c.20).

(20) S.I. 1987/764; the Schedule was amended by S.I. 1991/1567, 1992/610, 1994/724, 1995/297, 2005/84, 2006/220, 2006/1282 and 2010/653.

- is development of the same character or description as the development to which the application relates, on an application for planning permission made by or on behalf of the same applicant; or
- (b) an application for approval of one or more reserved matters which is made following the granting of approval of details relating to the same reserved matters authorised by the same outline planning permission, on an application made by or on behalf of the same applicant.
- (2) The conditions referred to in paragraph (1) are—
- (a) that the application is made within 12 months of the date of the grant of planning permission or grant of approval of details of reserved matters, as the case may be;
- (b) that the application relates—
- (i) in the case of an application for planning permission, to the same site as that to which the grant of planning permission related, or to part of that site, and to no other land except land included solely for the purpose of providing a different means of access to the site; or
- (ii) in the case of an application for approval of reserved matters, to the same site as that in respect of which the approval was granted, or to part of that site (and no other land);
- (c) in the case of an application for planning permission which is not made in outline, that the planning permission which has been granted is not an outline planning permission; and
- (d) that no application made by or on behalf of the same applicant in relation to the whole or any part of the site has already been exempted from regulation 3 by this regulation.

Exemptions – application following withdrawal of earlier application or refusal of permission etc.

9.—(1) Where all the conditions set out in paragraph (2) are satisfied, regulation 3 shall not apply to—

- (a) an application for planning permission which is made following the withdrawal (before notice of decision was issued) of a valid application for planning permission made by or on behalf of the same applicant;
- (b) an application for planning permission which is made following the refusal of planning permission (whether by the local planning authority or by the Secretary of State on appeal or following the reference of the application to the Secretary of State for determination) on a valid application for planning permission made by or on behalf of the same applicant;
- (c) an application for planning permission which is made following the making of an appeal to the Secretary of State under section 78(2) of the 1990 Act (right to appeal against failure to take planning decisions)⁽²¹⁾ in relation to a valid application for planning permission made by or on behalf of the same applicant;
- (d) an application for approval of one or more reserved matters which is made following the withdrawal (before notice of decision was issued) of a valid application made by or on behalf of the same applicant for approval of details relating to the same reserved matters in relation to the same outline planning permission;
- (e) an application for approval of one or more reserved matters which is made following the refusal (whether by the local planning authority or by the Secretary of State on appeal or following the reference of the application to the Secretary of State for determination) to approve details relating to the same reserved matters which were submitted in a valid

(21) Section 78(2) was amended by section 17(2) of the Planning and Compensation Act 1991 (c.24) and section 43(2) of the Planning and Compulsory Purchase Act 2004 (c.5).

- application made by or on behalf of the same applicant and in relation to the same outline planning permission; or
- (f) an application for approval of one or more reserved matters which is made following the making of an appeal to the Secretary of State under section 78(2) of the 1990 Act in relation to a valid application made by or on behalf of the same applicant for approval of details relating to the same reserved matters in relation to the same outline planning permission.
- (2) The conditions referred to in paragraph (1) are—
- (a) that the application is made within 12 months of—
- (i) in the case of an earlier valid application which was withdrawn, the date when that application was received;
- (ii) in the case of an application which is made following an appeal under section 78(2) of the 1990 Act, the date when (by virtue of article 29 (time periods for decision) or 30 (applications made under planning condition) of the Development Management Procedure Order, as the case may be) the period for the giving of notice of a decision on the earlier valid application expired; or
- (iii) in any other case, the date of the refusal;
- (b) that the application relates—
- (i) in the case of an application for planning permission, to the same site as that to which the earlier application related, or to part of that site, and to no other land except land included solely for the purpose of providing a different means of access to the site; or
- (ii) in the case of an application for approval of reserved matters, to the same site as that to which the earlier application related, or to part of that site (and no other land);
- (c) in the case of an application for planning permission, that the local planning authority to whom the application is made are satisfied that it relates to development of the same character or description as the development to which the earlier application related (and to no other development);
- (d) in the case of an application for planning permission which is not made in outline, that the earlier application was also not made in outline;
- (e) that the fee payable in respect of the earlier application was paid; and
- (f) that no application made by or on behalf of the applicant in relation to the whole or any part of the site has already been exempted from regulation 3 by this regulation.
- (3) In this regulation “valid application” has the same meaning as in article 29(3) of the Development Management Procedure Order.

Fees in respect of deemed applications

10.—(1) A fee shall be paid to the relevant authority in every case where an application for planning permission is deemed to have been made by virtue of section 177(5) of the 1990 Act ((grant or modification of planning permission on appeals against enforcement notices)(**22**) (“a deemed application”).

(2) A fee is only payable in respect of a deemed application under this regulation if a fee would have been payable under these Regulations for an application for planning permission made to the relevant authority on the relevant date in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

(22) Section 177(5) was amended by section 32 of, and paragraph 24(3) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and section 123(6) of the Localism Act 2011 (c. 20)

(3) The amount of the fee shall be twice the amount of the fee payable to the relevant authority in respect of the application referred to in paragraph (2).

(4) The fee shall be paid in respect of the deemed application by every person who has made a valid appeal against the enforcement notice and whose appeal has not been withdrawn before the date on which the Secretary of State issues a notice under paragraph (6).

(5) The fee shall be paid to the relevant authority.

(6) The fee shall be paid at such time as the Secretary of State may in the particular case specify by notice in writing to the appellant.

(7) This regulation shall not apply where the person who has appealed against the relevant enforcement notice had—

- (a) before the date when the notice was issued, made an application to the local planning authority for planning permission for the development to which the relevant enforcement notice relates (and had paid to the authority the fee payable in respect of that application); or
- (b) before the date specified in the notice as the date on which the notice is to take effect, made an appeal to the Secretary of State against the refusal of the local planning authority to grant such permission,

and at the date when the relevant enforcement notice was issued that application or, in the case of an appeal, at the date specified in the relevant enforcement as the date on which the notice is to take effect, that appeal, had not been determined.

(8) In the event that the Secretary of State—

- (a) declines jurisdiction on the relevant appeal under section 174 of the 1990 Act (appeal against enforcement notice)⁽²³⁾ on the grounds that it does not comply with one or more of the requirements of subsections (1) to (3) of that section;
- (b) dismisses the relevant appeal in exercise of the powers contained in section 176(3)(a) of the 1990 Act (general provisions relating to determination of appeals) on the grounds that the appellant has failed to comply with section 174(4) of the 1990 Act within the prescribed period; or
- (c) allows the relevant appeal and quashes the relevant enforcement notice in exercise of the powers contained in section 176(3)(b) of the 1990 Act,

any fee paid in respect of the deemed application shall be refunded to the appellant.

(9) In the event of the relevant appeal under section 174 of the 1990 Act being withdrawn with the result that there are at least 21 days between the date of withdrawal and—

- (a) the date (or in the event of postponement, the latest date) appointed for the holding of an inquiry into that appeal; or
- (b) in the case of an appeal which is being dealt with by way of written representations, the date (or in the event of postponement, the latest date) appointed for the inspection of the site to which the enforcement notice relates,

any fee paid in respect of the deemed application shall be refunded to the appellant.

(10) For the purpose of paragraph (9) an appeal shall be treated as being withdrawn on the date on which notice in writing of the withdrawal is received by the Secretary of State.

(11) The reference in paragraph (9)(b) to an appeal being dealt with by way of written representations shall be construed as a reference to an appeal in respect of which neither the appellant nor the local planning authority has asked for an opportunity of appearing before and being heard

⁽²³⁾ Section 174 was amended, so far as relevant to these Regulations, by section 6(1) of the Planning and Compensation Act 1991 (c. 34), S.I. 2003/956 and section 123(1) and (4) of the Localism Act 2011 (c. 20).

by a person appointed by the Secretary of State and in respect of which no local inquiry is to be held under section 320 (local inquiries) of, or Schedule 6 (determination of certain appeals by person appointed by Secretary of State) to, the 1990 Act⁽²⁴⁾.

(12) Any fee paid by an appellant in respect of a deemed application shall be refunded to the appellant in the event of the local planning authority withdrawing the relevant enforcement notice before it takes effect or if the Secretary of State decides that the enforcement notice is a nullity.

(13) Save on the determination of an appeal where the Secretary of State issues a certificate under section 191 of the 1990 Act (certificate of lawfulness of existing use or development)⁽²⁵⁾ in accordance with section 177(1)(c) of that Act (grant or modification of planning permission on appeals against enforcement notices)⁽²⁶⁾, the fee paid by the appellant in respect of a deemed application shall be refunded to the appellant in the event of the Secretary of State allowing the appeal against the relevant enforcement notice on—

- (a) grounds set out in section 174(2)(b) to (f) of the 1990 Act (appeal against enforcement notice); or
- (b) the ground that the notice is invalid, or that it contains a defect, error or misdescription which cannot be corrected in pursuance of the Secretary of State's powers under section 176(1) of the 1990 Act (general provisions relating to determination of appeals)⁽²⁷⁾.

(14) In the case of a deemed application where—

- (a) an enforcement notice is varied under section 176(1) of the 1990 Act otherwise than to take account of a grant of planning permission under section 177(1) of the 1990 Act; and
- (b) the fee calculated in accordance with paragraphs (2) and (3) would have been a lesser amount if the original notice had been in the terms of the varied notice,

the fee payable shall be that lesser amount and any excess amount already paid shall be refunded.

(15) in determining a fee under sub-paragraph (14) no account shall be taken of any change in fees which takes effect after the making of the deemed application.

(16) In this regulation —

- (a) “relevant authority” means the local planning authority which issued the enforcement notice; and
- (b) “relevant date” means the date on which the appeal against the enforcement notice is made.

Fees for applications for certificates of lawful use or development

11.—(1) Subject to paragraphs (2), (4) and (8), where an application is made to a local planning authority under section 191 (certificate of lawfulness of existing use or development) or 192 (certificate of lawfulness of proposed use or development) of the 1990 Act⁽²⁸⁾ a fee shall be paid to that authority.

(2) This regulation shall not apply where the local planning authority to whom the application is made are satisfied that it relates solely to the carrying out of operations specified in regulation 4 for the purposes specified in that regulation.

⁽²⁴⁾ Schedule 6 was amended, so far as relevant to these Regulations by paragraph 14 of Schedule 10 (partially in force, *see* S.I. 2009/400) to, the Planning Act 2008 (c. 29).

⁽²⁵⁾ Section 191 was substituted by section 10(1) of the Planning and Compensation Act 1991 and section 124(3) of the Localism Act (c. 20).

⁽²⁶⁾ Section 177(1) was amended by section 32 of, and paragraph 24 of Schedule 7 to, the Planning and Compensation Act 1991.

⁽²⁷⁾ Section 176(1) was substituted by section 32 of, and paragraph 23 of Schedule 7 to, the Planning and Compensation Act 1991.

⁽²⁸⁾ Section 191 and 192 were substituted by section 10(1) of the Planning and Compensation Act 1991 and section 191 was amended by section 124(3) of the Localism Act (c. 20).

(3) Subject to paragraphs (4) to (9), the fee payable in respect of an application to which this regulation applies shall be—

- (a) in the case of an application under section 191(1)(a) or (b) (or under both paragraphs), the amount that would be payable in respect of an application for planning permission to institute the use or carry out the operations specified in the application (or an application for planning permission to do both, as the case may be);
- (b) in the case of an application under section 191(1)(c), £195;
- (c) in the case of an application under section 192(1)(a) or (b) (or under both paragraphs), half the amount that would be payable in respect of an application for planning permission to institute the use or carry out the operations specified in the application (or an application for planning permission to do both, as the case may be).

(4) Where all of the conditions set out in paragraph (5) are satisfied, this regulation shall not apply to—

- (a) an application under section 191 or 192 which is made following the withdrawal (before notice of decision was issued) of a valid application made by or on behalf of the same applicant;
- (b) an application under section 191 or 192 which is made following the refusal of a valid application (whether by the local planning authority or the Secretary of State on appeal) made by or on behalf of the same applicant; or
- (c) an application which is made following the making of an appeal to the Secretary of State under section 195(1)(b) of the 1990 Act⁽²⁹⁾ (appeals against failure to give decision on application) in relation to a valid application made by or on behalf of the same applicant.

(5) The conditions referred to in paragraph (4) are—

- (a) that the application is made within 12 months of—
 - (i) in the case of an earlier valid application which was withdrawn, the date when that application was received;
 - (ii) in the case of an application which is made following an appeal under section 195(1)(b) of the 1990 Act, the date when (by virtue of article 35 of the Development Management Procedure Order (certificate of lawful use or development)) the period for the giving of notice of a decision on the earlier valid application expired; or
 - (iii) in any other case, the date of refusal;
- (b) that the application relates to the same site as that to which the earlier application related, or to part of that site and to no other land;
- (c) that the local planning authority to whom the application is made are satisfied that it relates to a use, operation or other matter of the same description as the use, operation or matter to which the earlier application related and to no other use, operation or matter;
- (d) that the fee payable in respect of the earlier application was paid; and
- (e) that no application made by or on behalf of the same applicant in relation to the whole or any part of the site has already been exempted from this regulation by paragraph (4).

(6) Where a use specified in an application under section 191(1)(a) is use as one or more separate dwellinghouses, the fee payable in respect of that use shall be—

- (a) where the use so specified is use as 50 or fewer dwellinghouses, £385 for each dwellinghouse;

⁽²⁹⁾ Section 195(1) was amended by section 32 of, and paragraph 32 of Schedule 7 to, the Planning and Compensation Act 1991.

(b) where the use so specified is use as more than 50 dwellinghouses, £19,049, and an additional £115 for each dwellinghouse in excess of 50, subject to a maximum in total of £250,000.

(7) Where an application is made under section 191(1)(a) or (b) (or under both paragraphs) and under section 191(1)(c), the fee payable shall be the sum of the fees that would have been payable if there had been an application under section 191(1)(a) or (b) (or under both paragraphs, as the case may be) and a separate application under section 191(1)(c).

(8) In the case of an application which relates to land in the area of two or more local planning authorities, paragraph 8(2) of Part 1 of Schedule 1 shall apply for the purpose of determining the authority to whom the fee shall be payable and the amount payable as it applies in the case of an application for planning permission which relates to such land.

(9) Where an application is made by or on behalf of a parish council, the fee payable shall be one half of the amount that would otherwise be payable in accordance with paragraphs (3) to (8).

(10) The fee due in respect of an application to which this regulation applies shall accompany the application when it is lodged with the local planning authority.

(11) Where the local planning authority who receive the fee in accordance with this regulation—

- (a) are not the local planning authority who have to determine the application; and
- (b) forward the application to that authority,

they shall remit the fee to that authority at the same time as they forward the application to them.

(12) Any fee paid pursuant to this regulation shall be refunded if the application is rejected as invalid.

Fee payable in respect of urgent crown development applications

12.—(1) When an application is made to the Secretary of State under section 293A of the 1990 Act (urgent crown development applications)⁽³⁰⁾ a fee is payable to the Secretary of State.

(2) A fee is only payable under this regulation if a fee would have been payable to the relevant authority under these Regulations had the application for planning permission set out in the application under section 293A of the 1990 Act been made to that authority.

(3) The amount of the fee payable to the Secretary of State under paragraph (1) shall be the same as the amount of the fee that would have been payable to the relevant authority under these Regulations.

(4) In this regulation “relevant authority” means the local planning authority to whom the fee would have been payable in accordance with these Regulations had the application been made to one or more local planning authorities.

(5) Any fee paid under this regulation shall be refunded if the application is rejected as invalid.

Fees for applications for consent for advertisements

13.—(1) Subject to paragraphs (9) and (11), where an application is made to a local planning authority under regulation 9 of the 2007 Regulations (applications for express consent) for consent for the display of an advertisement, a fee shall be paid to that authority in accordance with this regulation.

(2) Where the application relates to the display of one advertisement only the fee payable in respect of the application shall be the amount specified in the table in Schedule 2 for the appropriate category.

⁽³⁰⁾ Section 293A was inserted by section 82(1) of the Planning and Compulsory Purchase Act 2004 (c. 5).

(3) Where the application relates to the display of more than one advertisement on the same site a single fee shall be payable in respect of all of the advertisements to be displayed on that site and listed in the application and—

- (a) if all of the advertisements are within the same category the fee payable shall be the amount specified for that category;
- (b) if all of the advertisements are within categories 1 and 2 the fee payable shall be the amount specified for category 1;
- (c) if one or more of the advertisements is within category 3 the fee payable shall be the amount specified for category 3.

(4) Where the application relates to the display of advertisements on parking meters, litter bins, public seating benches, bus shelters or charging points for electric vehicles within a specified area, the whole of the area to which the application relates shall be treated as one site for the purpose of this regulation.

(5) Where the application relates to the display of advertisements on more than one site, the fee payable in respect of the application shall be the aggregate of the sums payable in respect of the display of advertisements on each such site.

(6) Where the application is made by or on behalf of a parish council, the fee payable in respect of the application shall be one half of the amount that would otherwise be payable under this regulation.

(7) The fee due in respect of an application to which this regulation applies shall accompany the application when it is lodged with the local planning authority.

(8) Where the local planning authority who receive the fee in accordance with this regulation—

- (a) are not the local planning authority who have to determine the application; and
- (b) forward the application to that authority,

they shall remit the fee to that authority at the same time as they forward the application to them.

(9) Where all of the conditions set out in paragraph (10) are satisfied, this regulation shall not apply to—

- (a) an application under regulation 9 of the 2007 Regulations which is made following the withdrawal (before notice of decision was issued) of a valid application made by or on behalf of the same person; or
- (b) an application under that regulation which is made following the refusal of consent (whether by the local planning authority or by the Secretary of State on appeal) for the display of advertisements on a valid application made by or on behalf of the same person.

(10) The conditions referred to in paragraph (9) are—

- (a) that the application is made within 12 months of—
 - (i) in the case of an earlier valid application which was withdrawn, the date when that application was received; or
 - (ii) in any other case, the date of refusal;
- (b) that the application relates to the same site or sites as that to which the earlier application related, or to part of that site;
- (c) that the local planning authority to whom the application is made are satisfied that it relates to an advertisement, or advertisements, of the same description as the advertisement or advertisements to which the earlier application related;
- (d) that the fee payable in respect of the earlier application was paid; and
- (e) that no previous application has at any time been made by or on behalf of the same applicant which related to—

- (i) the same site as that to which the earlier application related, or to part of that site; and
- (ii) an advertisement, or advertisements, of the same description as the advertisement (or any of the advertisements) to which the earlier application related,

and which was exempted from the provisions of this regulation by paragraph (9).

(11) No fee is payable under this regulation in respect of an application for consent to display an advertisement if the application is occasioned by a direction under regulation 7 of the 2007 Regulations (directions restricting deemed consent) disapplying regulation 6 of those Regulations (deemed consent for the display of advertisements) in relation to the advertisement (or any of the advertisements) in question.

(12) Any fee paid pursuant to this regulation shall be refunded if the relevant application is rejected as invalid.

(13) In this regulation “site” has the same meaning as in the 2007 Regulations.

Fees for certain applications under the General Permitted Development Order

14.—(1) Where an application is made to a local planning authority for their determination as to whether the prior approval of the authority will be required in relation to development under Schedule 2 to the General Permitted Development Order (permitted development)(**31**) a fee shall be paid to that authority of the following amounts—

- (a) for an application under Parts 6 (agricultural buildings and operations)(**32**), 7 (forestry buildings and operations) or 31 (demolition of buildings) of that Schedule, £80; and
- (b) for an application under Part 24 of that Schedule (development by electronic communications code operators)(**33**), £385.

(2) Where the local planning authority who receive the fee in accordance with this regulation—

- (a) are not the local planning authority who have to determine the application; and
- (b) forward the application to that authority,

they shall remit the fee to that authority at the same time as they forward the application to them.

(3) Any fee paid pursuant to this regulation shall be refunded if the application is rejected as invalid.

Fees in respect of the monitoring of mining and landfill sites

15.—(1) Subject to paragraphs (2) and (3), where a site visit is made to a mining site or a landfill site by a local planning authority, the operator of the site shall pay to the authority a fee of an amount specified in paragraph (4) or (5).

(2) The maximum number of visits to any one such site for which a fee is payable under this regulation in any period of 12 months beginning with the date of the first such visit is—

- (a) where the site is an active site, eight; or
- (b) where the site is an inactive site, one.

(3) Where—

- (a) the person liable to pay the fee in respect of a site visit is the owner of the site; and
- (b) there is more than one owner,

(31) Schedule 2 was amended, so far as relevant to these Regulations, by [S.I. 1991/1661](#), [1996/252](#), [1996/528](#), [1997/366](#), [1998/462](#), [1999/293](#), [1999/1661](#)[2001/1149](#), [2001/4050](#), [2001/2718](#), [2003/2155](#), [2004/945](#), [2005/85](#), [2005/2935](#), [2006/1282](#), [2006/1386](#), [2007/406](#), [2008/675](#), [2008/2362](#), [2010/654](#), [2010/2134](#), [2011/2056](#) and [2011/2085](#).

(32) Part 6 was amended by [S.I. 1997/366](#).

(33) Part 24 was substituted by [S.I. 2001/2718](#) and amended by [S.I. 2003/2155](#) and [2004/945](#).

the amount of the fee shall be divided equally by the total number of owners and each owner shall be liable to pay one part of the amount so divided.

(4) Where the whole or a part of the site is an active site, the fee payable shall be £331.

(5) In any other case the fee payable shall be £110.

(6) In this regulation—

“active site” means the whole or a part of a mining site or landfill site, or a site which is partly a mining site and partly a landfill site, where—

- (a) development to which the relevant mineral permission or landfill permission relates is being carried out to any substantial extent on the site or (as the case may be) that part of it; or
- (b) other works to which a condition attached to such permission relates are being carried out to any substantial extent on the site or (as the case may be) that part of it;

“operator”, in relation to a mining or a landfill site, means—

- (a) the person—
 - (i) carrying out operations on the land consisting of the winning and working of minerals;
 - (ii) using the land for the deposit of mineral waste;
 - (iii) carrying out operations on the land for the purposes of, or using the land as, a waste disposal site for the deposit of waste onto or into the land; or
 - (iv) carrying out on the land other works to which a condition attached to a mineral permission or landfill permission relates;
- (b) where there is more than one person carrying out the operations, works or using the land in a way described in sub-paragraph (a), the person in overall control of the mining site, landfill site or, where a site is both a mining site and a landfill site, the mining site and the landfill site, as the case may be; or
- (c) where there is no person who falls within the description in sub-paragraph (a) or (b), the owner of the site; and

“owner”, in relation to a mining or a landfill site, means—

- (a) the person who is entitled to a tenancy of the site granted or extended for a term of years certain of which not less than seven years remains unexpired, but does not include an underlessee; or
- (b) where there is no person who falls within the description in sub-paragraph (a), the estate owner in respect of the fee simple of the site.

Fees for confirmation of compliance with condition attached to planning permission

16.—(1) Where a request is made to a local planning authority for written confirmation of compliance with a condition or conditions attached to a grant of planning permission, a fee shall be paid to that authority as follows—

- (a) where the request relates to a permission for development which falls within category 6 or 7 specified in the table set out in Part 2 of Schedule 1, £28 for each request;
- (b) where the request relates to a permission for development which falls within any other category of that Schedule, £97 for each request.

(2) Any fee paid under this regulation shall be refunded if the local planning authority fails to give the written confirmation requested within a period of twelve weeks beginning on the date on which the authority received the request.

Fees for applications for non-material changes to planning permission

17. Where an application is made under section 96A(4) of the 1990 Act (power to make non-material changes to planning permission) applies the following fee shall be paid to the local planning authority—

- (a) if the application is a householder application, £28;
- (b) in any other case, £195.

(2) Where the local planning authority who receive the fee in accordance with this regulation—

- (a) are not the local planning authority who have to determine the application; and
- (b) forward the application to that authority,

they shall remit the fee to that authority at the same time as they forward the application to them.

Fees for applications for certificates of appropriate alternative development

18.—(1) Where an application is made to a local planning authority under section 17 of the Land Compensation Act 1961 (certification of appropriate alternative development)⁽³⁴⁾ a fee shall be paid to that authority.

(2) The fee payable in respect of an application to which this regulation applies shall be £195.

(3) Where an application is made by or on behalf of a parish council, the fee payable shall be one half of the amount that would otherwise be payable.

(4) The fee due in respect of an application to which this regulation applies shall accompany the application when it is lodged with the local planning authority.

(5) Where the local planning authority who receive the fee in accordance with this regulation—

- (a) are not the local planning authority who have to determine the application; and
- (b) forward the application to that authority,

they shall remit the fee to that authority at the same time as they forward the application to them.

(6) Any fee paid pursuant to this regulation shall be refunded if the application is rejected as invalid.

Review

19.—(1) Before the end of the review period, the Secretary of State must—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) “Review period” means the period of five years beginning with the day on which these Regulations come into force.

(34) 1961 c. 33; section 17 was substituted by section 232(3) of the Localism Act 2011 (c. 20).

Revocations, transitional provisions and savings

20.—(1) Subject to paragraphs (2) and (3), the regulations specified in the first column of the table in Schedule 3 are revoked in so far as they apply to England.

(2) A reference in regulations 8(2)(d), 9(2)(f), 11(5)(e) or 13(10)(e) to the fee for an application being exempted under a particular provision of these Regulations shall be construed as including a reference to the application being exempt from the payment of a fee under (as the case may be) regulation 7, 8, 10A(3) or 11(9) of the 1989 Regulations.

(3) The relevant provisions of the 1989 Regulations shall continue to have effect in relation to any application for planning permission deemed to have been made by virtue of section 177(5) of the 1990 Act⁽³⁵⁾ in connection with an enforcement notice issued before the date on which these Regulations come into force.

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

XXXX
Minister of State
Department for Communities and Local
Government

Date

⁽³⁵⁾ Section 177(5) was amended by section 32 of, and paragraph 24(3) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and section 123(6) of the Localism Act 2011 (c. 20).

SCHEDULE 1

Regulations 3, 10, 11(8) and 16(1)

Fees in Respect of Applications and Deemed Applications for Planning Permission or for Approval of Reserved Matters

PART 1

Fees payable under regulation 3 or regulation 10

CHAPTER 1

General

1.—(1) Subject to paragraphs 2 to 10, the fee payable under regulation 3 or regulation 10 shall be calculated in accordance with the table set out in Part 2 and paragraphs 11 to 14.

(2) In this Part, a reference to a category is to a category of development specified in the table set out in Part 2; and a reference to a numbered category is to the category of development so numbered in the table.

(3) In this Schedule “category of development” means—

- (a) in the case of an application for planning permission, the category of development in respect of which permission is being sought; and
- (b) in the case of an application for approval of reserved matters, the category of development authorised by the relevant outline planning permission.

(4) In the case of an application for planning permission which is deemed to have been made by virtue of section 177(5) of the 1990 Act⁽³⁶⁾, in this Schedule—

- (a) references to the development to which an application relates shall be construed as references to the use of land or the operations (as the case may be) to which the relevant enforcement notice relates;
- (b) references to the amount of floor space or the number of dwellinghouses to be created by the development shall be construed as references to the amount of floor space or the number of dwellinghouses to which that enforcement notice relates; and
- (c) references to the purposes for which it is proposed that floor space be used shall be construed as references to the purposes for which floor space was stated to be used in the enforcement notice.

CHAPTER 2

Fees in particular cases

2. Where an application or deemed application is made or deemed to be made by or on behalf of a parish council, the fee payable shall be one half of the amount that would otherwise be payable.

3.—(1) Where an application or deemed application is made or deemed to be made by or on behalf of a club, society or other organisation (including any persons administering a trust) which is not established or conducted for profit and whose objects are the provision of facilities for sport or recreation, and the conditions specified in sub-paragraph (2) are satisfied, the fee payable shall be £385.

(2) The conditions referred to in sub-paragraph (1) are—

⁽³⁶⁾ Section 177(5) was amended by section 32 of, and paragraph 24(3) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and section 123(6) of the Localism Act 2011 (c. 20).

- (a) that the application or deemed application relates to—
 - (i) the making of a material change in the use of land to use as a playing field; or
 - (ii) the carrying out of operations (other than the erection of a building containing floor space) for purposes ancillary to the use of land as a playing field,and to no other development; and
- (b) that the local planning authority with whom the application is lodged, or (in the case of a deemed application) the Secretary of State, is satisfied that the development is to be carried out on land which is, or is intended to be, occupied by the club, society or organisation and used wholly or mainly for the carrying out of its objects.

4.—(1) This paragraph applies where—

- (a) an application is made for approval of one or more reserved matters (“the current application”);
- (b) the applicant has previously applied for such approval under the same outline planning permission and paid fees in relation to one or more such applications; and
- (c) no application has been made under that permission other than by or on behalf of the applicant.

(2) Where the amount paid as mentioned in sub-paragraph (1)(b) is not less than the amount which would be payable if the applicant were, by the current application, seeking approval of all the matters reserved by the outline permission (and in relation to the whole of the development authorised by the permission), the fee payable in respect of the current application shall be £385.

(3) Where—

- (a) a fee has been paid as mentioned in sub-paragraph (1)(b) at a rate lower than that prevailing at the date of the current application; and
- (b) sub-paragraph (2) would apply if that fee had been paid at the rate applying at that date,

the fee in respect of the current application shall be the amount specified in sub-paragraph (2).

5. Where application is made pursuant to section 73 of the 1990 Act (determination of applications to develop land without compliance with conditions previously attached)⁽³⁷⁾ the fee payable in respect of the application shall be £195.

6. Where an application relates to development to which section 73A of the 1990 Act (planning permission for development already carried out)⁽³⁸⁾ applies, the fee payable in respect of the application shall be—

- (a) where the application relates to development carried out without planning permission, the fee that would be payable if the application were for planning permission to carry out that development;
- (b) £195, in any other case.

7.—(1) Where an application of the description contained in article 18(1)(b) of the Development Management Procedure Order (consultations before the grant of a replacement planning permission subject to a new time limit) is made the following fees shall be paid to the local planning authority—

- (a) if the application is a householder application, £57;
- (b) if the application is an application for major development, £575;
- (c) in any other case, £195.

⁽³⁷⁾ Section 73 was amended by sections 42(2), 51(3) and 120 of, and Schedule 9 to, the Planning and Compulsory Purchase Act 2004 (c.5).

⁽³⁸⁾ Section 73A was inserted by section 32 of, and paragraph 16 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

(2) In this paragraph, “major development” has the same meaning as in article 2(1) of the Development Management Procedure Order (interpretation).

8.—(1) This paragraph applies where—

- (a) an applicant applies for planning permission or for the approval of reserved matters in respect of the development of land (“the relevant land”); and
- (b) the relevant land straddles the boundary or boundaries between the areas of two or more local planning authorities so that, instead of application being made to one authority in relation to the whole of that development, applications are made to two or more local planning authorities, in accordance with article 10(1) of the Development Management Procedure Order (general provisions relating to applications).

(2) A fee shall be payable only to the local planning authority, to which one of the applications referred to in paragraph (1)(b) is made, in whose area the largest part of the relevant land is situated, and the amount payable shall be—

- (a) where the applications relate wholly or partly to a county matter within the meaning of paragraph 1 of Schedule 1 to the 1990 Act (local planning authorities: distribution of functions)⁽³⁹⁾, and all the land is situated in a single county for which there is no county planning authority, the amount which would have been payable if application had fallen to be made to one authority in relation to the whole development;
- (b) in any other case, one and a half times the amount which would have been payable if application had fallen to be made to a single authority or the sum of the amounts which would have been payable but for this paragraph, whichever is the lesser.

9.—(1) This paragraph applies where an application for planning permission is deemed to have been made by virtue of section 177(5) of the 1990 Act (grant or modification of planning permission on appeals against enforcement notices)⁽⁴⁰⁾ in respect of such land as is mentioned in paragraph 8(1).

(2) The fee payable to the Secretary of State shall be the amount which would be payable by virtue of paragraph 8(2) if an application for the like permission had been made to the relevant authority on the date on which notice of appeal was given in accordance with section 174(3) of the 1990 Act⁽⁴¹⁾ (appeal against enforcement notice).

10.—(1) Where—

- (a) an application for planning permission is made in respect of two or more alternative proposals for the development of the same land; or
- (b) an application for approval of reserved matters is made in respect of two or more alternative proposals for the carrying out of the development authorised by an outline planning permission,

and the application is made in respect of all of the alternative proposals on the same date and by or on behalf of the same applicant, the fee payable in respect of the application shall be calculated in accordance with sub-paragraph (2).

(2) Calculations shall be made in accordance with this Schedule of the fee that would be payable in respect of an application for planning permission, or approval of reserved matters (as the case may be), if made in respect of each of the alternative proposals, and the fee payable in respect of the application shall be the sum of—

⁽³⁹⁾ Paragraph 1 of Schedule 1 was amended by sections 21 and 84 of, and paragraph 13 of Schedule 1 and Part I of Schedule 19 to, the Planning and Compensation Act 1991.

⁽⁴⁰⁾ Section 177(5) was amended by paragraphs 8 and 24(3) of Schedule 7 to the Planning and Compensation Act 1991 (c. 34) and section 123(6) of the Localism Act 2011 (c. 20)..

⁽⁴¹⁾ Section 174(3) was amended by section 6(1) of the Planning and Compensation Act 1991 (c. 34) and S.I. 2003/956.

- (a) an amount equal to the highest of the amounts calculated in respect of each of the alternative proposals; and
- (b) an amount calculated by adding together the amounts appropriate to all of the alternative proposals, other than the amount referred to in sub-paragraph (a), and dividing that total by the figure of 2.

CHAPTER 3

Provisions in relation to specified categories

11.—(1) Where, in respect of any category, the fee is to be calculated by reference to the site area, that area shall be taken as consisting of—

- (a) the area of land to which the application relates; or
- (b) in the case of an application for planning permission which is deemed to have been made by virtue of section 177(5) of the 1990 Act⁽⁴²⁾, the area of land to which the relevant enforcement notice relates.

(2) Where the area referred to in sub-paragraph (1) is not an exact multiple of the unit of measurement specified in respect of the relevant category of development, the fraction of a unit remaining after division of the total area by the unit of measurement shall be treated as a complete unit.

12.—(1) In relation to development within category 2, 3 or 4, the area of gross floor space to be created by the development shall be ascertained by external measurement of the floor space, whether or not it is to be bounded (wholly or partly) by external walls of a building.

(2) In relation to development within category 2, where the area of gross floor space to be created by the development exceeds 75 square metres and is not an exact multiple of 75 square metres, the area remaining after division of the total number of square metres of gross floor space by the figure of 75 shall be treated as being 75 square metres.

(3) In relation to development within category 3, where the area of gross floor space exceeds 540 square metres and the amount of the excess is not an exact multiple of 75 square metres, the area remaining after division of the number of square metres of that excess area of gross floor space by the figure of 75 shall be treated as being 75 square metres.

13.—(1) Where an application (other than an outline application) or a deemed application relates to development which is in part within category 1 and in part within category 2, 3 or 4, the following sub-paragraphs shall apply for the purpose of calculating the fee payable in respect of the application or deemed application.

(2) An assessment shall be made of the total amount of gross floor space which is to be created by that part of the development which is within category 2, 3 or 4 (“the non-residential floor space”), and the sum payable in respect of the non-residential floor space to be created by the development shall be added to the sum payable in respect of that part of the development which is within category 1 and, subject to sub-paragraph (4), the sum so calculated shall be the fee payable in respect of the application or deemed application.

(3) For the purpose of calculating the fee payable under sub-paragraph (2)—

- (a) where any of the buildings is to contain floor space which it is proposed to use for the purposes of providing common access or common services or facilities for persons occupying or using part of that building for residential purposes and for persons occupying or using part of it for non-residential purposes (“common floor space”), the amount of

⁽⁴²⁾ Section 177(5) was amended by section 32 of, and paragraph 24(3) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and section 123(6) of the Localism Act 2011 (c. 20).

non-residential floor space shall be assessed, in relation to that building, as including such proportion of the common floor space as the amount of non-residential floor space in the building bears to the total amount of gross floor space in the building to be created by the development;

- (b) where the development falls within more than one of categories 2, 3 and 4 an amount shall be calculated in accordance with each such category and the highest amount so calculated shall be taken as the sum payable in respect of all of the non-residential floor space.

(4) Where an application or deemed application to which this paragraph applies relates to development which is also within one or more than one of categories 5 to 13—

- (a) an amount shall be calculated in accordance with each such category; and
- (b) if any of the amounts so calculated exceeds the amount calculated in accordance with sub-paragraph (2) that higher amount shall be the fee payable in respect of all of the development to which the application or deemed application relates.

(5) In sub-paragraph (3), the reference to using the building for residential purposes is a reference to using it as a dwellinghouse.

14.—(1) Subject to paragraph 13 and sub-paragraph (2), where an application or deemed application relates to development which is within more than one of the categories—

- (a) an amount shall be calculated in accordance with each such category; and
- (b) the highest amount so calculated shall be the fee payable in respect of the application or deemed application.

(2) Where an application is for outline planning permission and relates to development which is within more than one of the categories, the fee payable in respect of the application shall be—

- (a) where the site area does not exceed 2.5 hectares, £385 for each 0.1 hectare of the site area;
- (b) where the site area exceeds 2.5 hectares £9,527, and an additional £115 for each 0.1 hectare in excess of 2.5 hectares, subject to a maximum in total of £125,000.

PART 2

Scale of Fees

Scale of Fees in Respect of Applications Made or Deemed to be Made

<i>Category of Development</i>	<i>Fee Payable</i>
<i>I Operations</i>	
1. The erection of dwellinghouses (other than development in category 6).	(1) Where the application is for outline planning permission and— <ul style="list-style-type: none"> (a) the site area does not exceed 2.5 hectares, £385 for each 0.1 hectare of the site area; (b) the site area exceeds 2.5 hectares, £9,527; and an additional £115 for each 0.1 hectare in excess of 2.5 hectares, subject to a maximum in total of £125,000;

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 No. 2920*

<i>Category of Development</i>	<i>Fee Payable</i>
	<p>(2) in other cases—</p> <p>(a) where the number of dwellinghouses to be created by the development is 50 or fewer, £385 for each dwellinghouse;</p> <p>(b) where the number of dwellinghouses to be created by the development exceeds 50, £19,049; and an additional £115 for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £250,000.</p>
<p>2. The erection of buildings (other than buildings in categories 1, 3, 4, 5 or 7.</p>	<p>(1) Where the application is for outline planning permission and—</p> <p>(a) the site area does not exceed 2.5 hectares, £385 for each 0.1 hectare of the site area;</p> <p>(b) the site area exceeds 2.5 hectares, £9,527; and an additional £115 for each 0.1 hectare in excess of 2.5 hectares, subject to a maximum in total of £125,000;</p> <p>(2) in other cases—</p> <p>(a) where no floor space is to be created by the development, £195;</p> <p>(b) where the area of gross floor space to be created by the development does not exceed 40 square metres, £195;</p> <p>(c) where the area of the gross floor space to be created by the development exceeds 40 square metres, but does not exceed 75 square metres, £385;</p> <p>(d) where the area of the gross floor space to be created by the development exceeds 75 square metres, but does not exceed 3750 square metres, £385 for each 75 square metres of that area;</p> <p>(e) where the area of gross floor space to be created by the development exceeds 3750 square metres, £19,049; and an additional £115 for each 75 square metres in excess of 3750 square metres, subject to a maximum in total of £250,000.</p>
<p>3. The erection, on land used for the purposes of agriculture, of buildings to be used for</p>	<p>(1) where the application is for outline planning permission and—</p>

<i>Category of Development</i>	<i>Fee Payable</i>
<p>agricultural purposes (other than buildings in category 4).</p>	<p>(a) the site area does not exceed 2.5 hectares, £385 each 0.1 hectare of the site area;</p> <p>(b) the site area exceeds 2.5 hectares, £9,527; and an additional £115 for each additional hectare in excess of 2.5 hectares, subject to a maximum in total of £125,000;</p> <p>(2) in other cases—</p> <p>(a) where the area of gross floor space to be created by the development does not exceed 465 square metres, £80;</p> <p>(b) where the area of gross floor space to be created by the development exceeds 465 square metres but does not exceed 540 square metres, £385;</p> <p>(c) where the area of the gross floor space to be created by the development exceeds 540 square metres but does not exceed 4215 square metres, £385 for the first 540 square metres, and an additional £385 for each 75 square metres in excess of 540 square metres; and</p> <p>(d) where the area of gross floor space to be created by the development exceeds 4215 square metres, £19,049; and an additional £115 for each 75 square metres in excess of 4215 square metres, subject to a maximum in total of £250,000.</p>
<p>4. The erection of glasshouses on land used for the purposes of agriculture.</p>	<p>(1) Where the area of gross floor space to be created by the development does not exceed 465 square metres, £80;</p> <p>(2) where the area of gross floor space to be created by the development exceeds 465 square metres, £2,150.</p>
<p>5. The erection, alteration or replacement of plant or machinery.</p>	<p>(1) Where the site area does not exceed 5 hectares, £385 for each 0.1 hectare of the site area;</p> <p>(2) where the site area exceeds 5 hectares, £19,049; and an additional £115 for each 0.1 hectare in excess of 5 hectares, subject to a maximum in total of £250,000.</p>

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 No. 2920*

<i>Category of Development</i>	<i>Fee Payable</i>
6. The enlargement, improvement or other alteration of existing dwellinghouses.	(1) Where the application relates to one dwellinghouse, £172; (2) where the application relates to two or more dwellinghouses, £339.
7. The carrying out of operations (including the erection of a building) within the curtilage of an existing dwellinghouse, for purposes ancillary to the enjoyment of the dwellinghouse as such, or the erection or construction of gates, fences, walls or other means of enclosure along a boundary of the curtilage of an existing dwellinghouse.	£172.
8. The construction of car parks, service roads and other means of access on land used for the purposes of a single undertaking, where the development is required for a purpose incidental to the existing use of the land.	£195.
9. The carrying out of any operations connected with exploratory drilling for oil or natural gas.	(1) Where the site area does not exceed 7.5 hectares, £385 for each 0.1 hectare of the site area; (2) where the site area exceeds 7.5 hectares, £28,750; and an additional £115 for each 0.1 hectare in excess of 7.5 hectares, subject to a maximum in total of £250,000.
10. The carrying out of any operations not coming within any of the above categories.	(1) In the case of operations for the winning and working of minerals— (a) where the site area does not exceed 15 hectares, £195 for each 0.1 hectare of the site area; (b) where the site area exceeds 15 hectares, £29,112; and an additional £115 for each 0.1 hectare in excess of 15 hectares, subject to a maximum in total of £65,000; (2) in any other case, £195 for each 0.1 hectare of the site area, subject to a maximum in total of £1,690.
<i>II Uses of Land</i>	
11. The change of use of a building to use as one or more separate dwellinghouses.	(1) Where the change of use is from a previous use as a single dwellinghouse to use as two or more single dwellinghouses— (a) where the change of use is to use as 50 or fewer dwellinghouses, £385 for each additional dwellinghouse;

<i>Category of Development</i>	<i>Fee Payable</i>
	<p>(b) where the change of use is to use as more than 50 dwellinghouses, £19,049; and an additional £115 for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £250,000;</p> <p>(2) in all other cases—</p> <p>(a) where the change of use is to use as 50 or fewer dwellinghouses, £385 for each dwellinghouse;</p> <p>(b) where the change of use is to use as more than 50 dwellinghouses, £19,049; and an additional £115 for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £250,000.</p>
<p>12. The use of land for—</p> <p>(a) the disposal of refuse or waste materials;</p> <p>(b) the deposit of material remaining after minerals have been extracted from land; or</p> <p>(c) the storage of minerals in the open.</p>	<p>(1) Where the site area does not exceed 15 hectares, £195 for each 0.1 hectare of the site area;</p> <p>(2) where the site area exceeds 15 hectares, £29,112; and an additional £115 for each 0.1 hectare in excess of 15 hectares, subject to a maximum in total of £65,000.</p>
<p>13. The making of a material change in the use of a building or land (other than a material change of use in category 11 or 12(a), (b) or (c)).</p>	£385.

SCHEDULE 2

Regulation 13

Fees for Advertisements

Scale of Fees in Respect of Applications for Consent to Display Advertisements

<i>Category of Development</i>	<i>Fee Payable</i>
<p>1. Advertisements displayed externally on business premises, the forecourt of business premises or other land within the curtilage of business premises, wholly with reference to all or any of the following matters—</p> <p>(a) the nature of the business or other activity carried on on the premises;</p> <p>(b) the goods sold or the services provided on the premises; or</p>	£110.

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<i>Category of Development</i>	<i>Fee Payable</i>
(c) the name and qualifications of the person carrying on such business or activity or supplying such goods or services.	
2. Advertisements for the purpose of directing members of the public to, or otherwise drawing attention to the existence of, business premises which are in the same locality as the site on which the advertisement is to be displayed but which are not visible from that site.	£110.
3. All other advertisements.	£385.

SCHEDULE 3

Regulation 20

Statutory instruments revoked in so far as they apply to England

<i>Title of instrument</i>	<i>Reference</i>
The Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989.	S.I. 1989/193.
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) Regulations 1990.	S.I. 1990/2473.
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) Regulations 1991.	S.I. 1991/2735.
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) Regulations 1992.	S.I. 1992/1817.
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (No. 2) Regulations 1992.	S.I. 1992/3052.
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) Regulations 1993.	S.I. 1993/3170.
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) Regulations 1997.	S.I. 1997/37.
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2001.	S.I. 2001/2719.
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2002.	S.I. 2002/768.

<i>Title of instrument</i>	<i>Reference</i>
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2006.	S.I. 2006/994.
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008.	S.I. 2008/958.
The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2010.	S.I. 2010/472.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate, with amendments, the provisions of the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 (“the 1989 Regulations”) and subsequent amending instruments, in so far as they apply to England.

These Regulations provide for the payment of fees to local planning authorities in respect of applications made under Part 3 of the Town and Country Planning Act 1990 for planning permission for development or for approval of matters reserved by an outline planning permission and in respect of applications for consent for the display of advertisements; in respect of applications for planning permission deemed to have been made, by virtue of section 177 of the 1990 Act, in connection with an appeal against an enforcement notice; in connection with an application for a certificate of lawful use or development or a certificate of appropriate alternative development under section 17 of the Land Compensation Act 1961; or in connection with site visits. These Regulations also make provision for a fee to be paid to the Secretary of State in respect of applications for urgent Crown development.

The main changes are:

- (a) the increase of all existing fees by approximately 15%;
- (b) regulation 1(2) provides that these Regulations are to cease to have effect seven years after they come into force;
- (c) fees in respect of deemed applications are to be paid to the local planning authority, rather than half to the local planning authority and half to the Secretary of State (regulation 10);
- (d) fees paid in respect of an application deemed to be made in relation to the use of the land as a caravan site are to be treated the same as other applications for the purposes of refunds (regulation 10(13)). Under the 1989 Regulations, such a deemed application was excluded from the provisions providing for such a refund;
- (e) fees are to be payable to the Secretary of State in connection with applications for urgent crown development (regulation 12);

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- (f) applications for adverts on multiple charging points for electric vehicles are to be treated the same as those for multiple adverts on parking meters, litter bins, benches and bus shelters (regulation 13(4));
- (g) fees are to be payable to local planning authorities in respect of an application for a certificate of appropriate alternative development (regulation 18); and
- (h) regulation 19 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after the Regulations come into force. Following the review it will fall to the Secretary of State to consider whether the Regulations should be allowed to expire as regulation 1(2) provides, be revoked early, or continue in force with or without amendment. A further instrument would be needed to continue the Regulations in force with or without amendments or to revoke them early.

Some drafting amendments have been made and there are transitional and savings provisions.

An impact assessment has been prepared in relation to these Regulations. It has been placed in the library of each House of Parliament and copies may be obtained from the Planning Directorate, Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU (Telephone 030 3444 1646) or on the website: www.communities.gov.uk.