
DRAFT STATUTORY INSTRUMENTS

2012 No.

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

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)⁽¹⁾ 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 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;

⁽¹⁾ 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).

- (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.