

This Statutory Instrument supersedes the draft of the same title which was laid before Parliament and published on 23rd March 2015 (ISBN 978-0-11-113402-3). It is being issued free of charge to all known recipients of that Statutory Instrument.

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

2017 No.

TOWN AND COUNTRY PLANNING, ENGLAND

**The Town and Country Planning (Fees for Applications,
Deemed Applications, Requests and Site Visits) (England)
(Amendment) Regulations 2017**

Made - - - - - **

Coming into force in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred by sections 303(1), (1A), (2), (4), (5) and (6) and 333(2A) of the Town and Country Planning Act 1990(a), makes the following Regulations.

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 and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017 and come into force on the twenty eighth day after the day on which they are made.

(2) In these Regulations “the 2012 Regulations” means the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(b).

Amendments in relation to an increase in application fees

2.—(1) The 2012 Regulations are amended as follows.

(2) In regulation 11—

(a) in paragraph (3)(b) for “£195” substitute “£234”;

(a) 1990 c.8. Section 303 was substituted by section 199 of the Planning Act 2008 (c.29). Section 303(1A) was inserted by section 1(2) of, and paragraph 10 of Schedule 1 to, the Growth and Infrastructure Act 2013 (c.27). There are other amendments to section 303 which are not relevant to these Regulations. Section 333(2A) was inserted by section 118(1) of, and paragraph 14 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c.5).

(b) S.I. 2012/2920, amended by S.I. 2013/2153, which in particular inserted new regulations 2A, 9A and 11A, and S.I.s 2014/357 and 2014/2026.

- (b) in paragraph (6)(a) for “£385” substitute “£462”; and
 - (c) in paragraph (6)(b) for “£19,049” substitute “£22,859”, for “£115” substitute “£138” and for “£250,000” substitute “£300,000”.
- (3) In regulation 15—
- (a) in paragraph (4) for “£331” substitute “£397”; and
 - (b) in paragraph (5) for “£110” substitute “£132”.
- (4) In paragraph (1) of regulation 16—
- (a) in sub-paragraph (a) for “£28” substitute “£34”; and
 - (b) in sub-paragraph (b) for “£97” substitute “£116”.
- (5) In regulation 17—
- (a) the first provision is numbered as paragraph (1);
 - (b) in paragraph (1)(a) for “£28” substitute “£34”; and
 - (c) in paragraph (1)(b) for “£195” substitute “£234”.
- (6) In paragraph (2) of regulation 18, for “£195” substitute “£234”.
- (7) In Part 1 of Schedule 1—
- (a) in paragraphs 3(1) and 4(2) for “£385” substitute “£462”;
 - (b) in paragraphs 5 and 6(b) for “£195” substitute “£234”;
 - (c) in paragraph 7(1)—
 - (i) in paragraph (a) for “£57” substitute “£68”;
 - (ii) in paragraph (b) for “£575” substitute “£690”;
 - (iii) in paragraph (c) for “£195” substitute “£234”; and
 - (d) in paragraph 14(2)—
 - (i) in paragraph (a) for “£385” substitute “£462”;
 - (ii) in paragraph (b) for “£9,527” substitute “£11,432”, for “£115” substitute “£138” and for “£125,000” substitute “£150,000”.
- (8) In Part 2 of Schedule 1 (scale of fees), in the “Fee Payable” column of the table, for any fee of an amount specified in Column 1 of the table below, substitute the increased amount specified in Column 2.

<i>Column 1 – amount in £ specified in the scale of fees table in Part 2 of Schedule 1 to the 2012 Regulations</i>	<i>Column 2 – increased amount</i>
£80	£96
£115	£138
£126	£151
£172	£206
£195	£234
£214	£257
£339	£407
£385	£462
£423	£508
£1,690	£2,028
£2,150	£2,580
£9,527	£11,432
£19,049	£22,859
£29,112	£34,934
£31,725	£38,070
£32,100	£38,520

£65,000	£78,000
£125,000	£150,000
£250,000	£300,000

(9) In Schedule 2 in the table, for “£110” in both places it occurs, substitute “£132” and for “£385” substitute “£462”.

Amendments in relation to permission in principle

3.—(1) The 2012 Regulations are amended as follows.

(2) In regulation 1—

(a) after paragraph (4)(b)(i) insert—

“(iiza) applications for permission in principle;”(a) and

(b) in paragraph (4)(b)(ix) omit “to planning permission”.

(3) In paragraph (1) of regulation 3, after “development of land” insert “, for permission in principle”.

(4) In regulation 8—

(a) in paragraph (1) at the end of sub-paragraph (a) omit “or” and after that sub-paragraph insert—

“(aa) an application for permission in principle which is made following the granting of permission in principle for development which the local planning authority are satisfied is development of the same character or description as the development to which the application relates, on an application for permission in principle made by or on behalf of the same applicant; or”;

(b) in paragraph (2)(a) after “planning permission” insert “, grant of permission in principle”; and

(c) in paragraph (2)(b) at the end of paragraph (i) omit “or” and after that paragraph insert—

“(ia) in the case of an application for permission in principle, to the same site as that to which the grant of permission in principle 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”.

(5) In regulation 9—

(a) in paragraph (1) after sub-paragraph (a) insert—

“(aa) an application for permission in principle which is made following the withdrawal (before notice of the decision was issued) of a valid application for permission in principle made by or on behalf of the same applicant;”;

(b) in paragraph (1) after sub-paragraph (b) insert—

“(ba) an application for permission in principle which is made following the refusal of permission in principle (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 permission in principle made by or on behalf of the same applicant;”;

(c) in paragraph (1) after sub-paragraph (c) insert—

“(ca) an application for permission in principle which is made following the making of an appeal to the Secretary of State under section 78(2) of the 1990 Act (right of appeal against failure to take planning decisions) in relation to a valid application for permission in principle made by or on behalf of the same applicant;”;

(d) in paragraph (2)(b)(i) after “planning permission” insert “or permission in principle”;

(a) See sections 58A and 59A of the 1990 Act (which were inserted by section 150 of the Housing and Planning Act 2016 (c.22)).

- (e) in paragraph (2)(c) after “planning permission” insert “or permission in principle”; and
- (f) after paragraph (2)(d) insert—

“(da) in the case of an application for planning permission which is in the form of an application for technical details consent, that the earlier application was also in the form of an application for technical details consent;”(a).

(6) In paragraph (1) of regulation 9A, after “planning permission” insert “, or permission in principle”.

(7) In paragraph (2) of regulation 12, after “planning permission” insert “or permission in principle, as the case may be,”.

(8) In regulation 17—

- (a) in the heading after “planning permission” insert “or permission in principle”; and
- (b) in paragraph (1) omit the words “to planning permission”.

(9) In Schedule 1—

(a) in Part 1—

- (i) in paragraph 1(3)(a) after “planning permission” insert “or permission in principle”;
- (ii) in paragraph 8(1)(a) after “planning permission” insert “or permission in principle”;
- (iii) in paragraph 8(1)(b) after “Development Management Procedure Order (general provisions in relation to applications)” insert “or article 5D(1) of the Town and Country Planning (Permission in Principle) Order 2017, as the case may be.”;(b)
- (iv) in paragraph 10(1)(a) after “planning permission” insert “or permission in principle”;
- (v) in paragraph 10(2) after “planning permission” insert “, permission in principle”; and

(b) in the table in Part 2—

- (i) in the entry relating to category 1, in the second column (fee payable), after subparagraph (1) insert—

“(1A) Where the application is for permission in principle, £402 for each 0.1 hectare of the site area.”;

- (ii) in the entry relating to category 2, in the second column (fee payable), after subparagraph (1) insert—

“(1A) Where the application is for permission in principle, £402 for each 0.1 hectare of the site area.”;

- (iii) in the entry relating to category 3, in the second column (fee payable), after subparagraph (1) insert—

“(1A) Where the application is for permission in principle, £402 for each 0.1 hectare of the site area.”.

(a) See section 70(2ZZB) of the Town and Country Planning Act 1990 (c.8) for the meaning of “technical details consent”.
(b) S.I. 2017/402, article 5D was inserted by the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 S.I. xxx

Amendments in relation to fees for pre-application advice given by a Mayoral development corporation or an urban development corporation

- 4.—(1) In regulation 2 of the 2012 Regulations—
- (a) before the definition of “the 1990 Act” insert—
 - ““the 1980 Act” means the Local Government, Planning and Land Act 1980;”(a);
 - (b) after the definition of “landfill site” insert—
 - ““Mayoral development corporation” means a corporation which is—
 - (a) established for a Mayoral development area, and
 - (b) specified as the local planning authority for the purposes of Part 3 of the 1990 Act for all or part of that area, - by an order made by the Secretary of State under section 198 of the Localism Act 2011;
 - ”(b); and
 - (c) after the definition of “site visit” omit the word “and” and insert—
 - ““urban development corporation” means a corporation which is—
 - (a) established for an urban development area by an order made by the Secretary of State under section 135 of the 1980 Act; and
 - (b) specified as the local planning authority for the purposes of Part 3 of the 1990 Act, for all or part of that area in an order made by the Secretary of State under section 149 of the 1980 Act; and”.
- (2) After regulation 2A of the 2012 Regulations insert—

“Pre-application advice given by a Mayoral development corporation or an urban development corporation

2B.—(1) Subject to paragraph (2), where a Mayoral development corporation or an urban development corporation (“the corporation”), gives advice to a person at the request of that person about applying for any permission, approval or consent under Part 3 of the 1990 Act (“pre-application advice”), the corporation shall charge that person a fee.

(2) The corporation may only charge a fee for pre-application advice under paragraph (1) if—

- (a) a fee schedule has been adopted by the corporation in accordance with paragraphs (3) and (4);
- (b) the requirements of paragraph (5) have been met;
- (c) the fee schedule has come into effect on or before the date on which the request for pre-application advice is made;
- (d) the fee schedule meets the requirements in paragraph (6);
- (e) the fee schedule provides for a fee to be charged for that advice; and
- (f) the fee is calculated in accordance with the fee schedule.

(3) A fee schedule is adopted when the corporation resolves to adopt it.

(4) A corporation may only adopt a fee schedule if it has published a copy of the proposed fee schedule—

(a) 1980 c.65. Section 135 was amended by section 179(4) of the Leasehold Reform, Housing and Urban Development Act 1993 c.28; section 149 has been amended by sections 3 and 4 of, and Schedule 1 to, and paragraph 44(6) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). See also sections 7 and 7A of the 1990 Act (c.8). Section 7A of the 1990 Act was inserted by section 222 of the Localism Act 2011 (c.20). For the definition of “urban development area” see section 134 of the 1980 Act.

(b) 2011 c.20. For the definition of “Mayoral development area” see section 197 of the Act.

- (a) in one or more newspapers, whose circulation or combined circulations cover the corporation's area; and
 - (b) on its website,
- at least 21 days before the fee schedule is adopted.
- (5) Within 5 days of adopting the fee schedule, the corporation must publish a copy of it on its website and make hard copies of it available on request.
- (6) The fee schedule referred to in paragraph (2) must—
- (a) set out how a fee charged under paragraph (1) is to be calculated; and
 - (b) specify the date on which it comes into effect, which may not be earlier than 10 days after the day on which it is adopted.
- (7) The corporation may amend a fee schedule at any time and, in relation to the charging of a fee under paragraph (1) for advice to which the amendment relates, paragraphs (2) to (6) apply but as if for “fee schedule” there were substituted “amended fee schedule”.

Amendments in relation to fees for certain applications under the General Permitted Development Order

5.—(1) In regulation 2 of the 2012 Regulations in the definition of “the General Permitted Development Order” for “Order 1995” substitute “(England) Order 2015”**(a)**.

(2) Omit regulation 5 of the 2012 Regulations.

(3) In regulation 14 of the 2012 Regulations for sub-paragraphs (za) to (b) of paragraph (1) substitute—

- “(za) for an application under any Part of that Schedule relating to development which involves the making of any material change in the use of any buildings or other land, except for an application under Part 4 (temporary buildings and uses), £96;
- (zb) for an application under Part 3 of that Schedule relating to development consisting of the making of a material change in the use of any buildings or other land and building operations in connection with that change of use, £206;
- (a) for an application under Parts 4 (temporary buildings and uses), 6 (agricultural and forestry), 7 (non-domestic extensions, alterations etc), 11 (heritage and demolition) or 14 (renewable energy) of that Schedule, £96; and
- (b) for an application under Part 16 of that Schedule (communications), £462.”

Amendments consequential on the Town and Country Planning (Development Management Procedure) Order 2015

6.—(1) The 2012 Regulations are amended as follows.

(2) In paragraph (1) of regulation 2 in the definition of “the Development Management Procedure Order” for “2010” substitute “2015”**(b)**.

(3) In regulation 9—

(a) for paragraph (2)(a)(ii) substitute—

- “(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 27 (applications made under a planning condition) or 34 (time periods for decisions) of the Development Management Procedure Order or article 5S of the Town and Country Planning (Permission in Principle) Order 2017, as the case may be)

(a) S.I. 2015/596, amended by S.I. 2016/332, 2016/1040 and 2017/391.

(b) S.I. 2015/595, amended by S.I. 2017/571.

the period for the giving of notice of a decision on the earlier valid application expired; or”(a); and

(b) for paragraph (3) substitute—

“(3) In this regulation “valid application” has the same meaning as in article 34(4) of the Development Management Procedure Order or article 5S(3) of the Town and Country Planning (Permission in Principle) Order 2017, as the case may be.”

(4) In regulation 9A in paragraph (3), for the definition of “valid application” substitute—

““valid application” is—

(a) where the application is made to a local planning authority, to have the same meaning as in article 34(4) of the Development Management Procedure Order or article 5S(3) of the Town and Country Planning (Permission in Principle) Order 2017, as the case may be;

(b) where the application is made under section 62A of the 1990 Act, to have the same meaning as in article 8(4) of the the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013.”(b).

(5) In regulation 11 in paragraph (5)(a)(ii) for “article 35” substitute “article 39”.

(6) In paragraph (8) of regulation 11A for the words from “article 29(3)” to the end substitute “article 8(4) of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013.”

(7) In Part 1 of Schedule 1—

(a) in paragraph 7(1) for “article 18(1)(b) or (c)” substitute “article 20(1)(b) or (c)”; and

(b) in paragraph 8(1)(b) for “article 10(1)” substitute “article 11(1)”.

Transitional provision

7. The amendments made by regulations 2 and 5 of these Regulations do not apply to—

(a) applications—

(i) made, or

(ii) 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) in connection with an enforcement notice issued,

before the date on which these regulations come into force “the coming into force date”;

(b) requests made before the coming into force date; and

(c) site visits which take place before the coming into force date.

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

Name

Minister of State

Date

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 of these Regulations provides for an increase of approximately 20% for all existing fees to be paid to local planning authorities in respect of applications, deemed applications,

(a) S.I. 2017/402 article 5S was inserted by the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 S.I. xxx

(b) S.I. 2013/2140 to which there are amendments not relevant to these Regulations.

requests or site visits in respect of which a fee is payable under the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (S.I. 2012/2920), “the 2012 Regulations”. The increase was offered by Government to all local planning authorities in Command Paper 9352 (paragraph 2.15) if they agreed that the additional money would be re-invested within their planning department. All local planning authorities accepted the offer.

Regulation 3 of these Regulations makes consequential changes to the 2012 Regulations so that a fee will be payable for applications for permission in principle. Permission in principle is a new route to planning permission, see sections 58A and 59A of the Town and Country Planning Act 1990 (c. 8), which were inserted by section 150 of the Housing and Planning Act 2016 (c.22).

Regulation 4(2) of these Regulations inserts new regulation 2B into the 2012 Regulations, so that Mayoral development corporations and urban development corporations can charge for giving advice, in their area, about planning applications at the pre-application stage. Regulation 4(1) inserts into the 2012 Regulations definitions relevant to new regulation 2B. Under section 303(10) of the Town and Country Planning Act 1990, Mayoral development corporations and urban development corporations will be under a duty to secure that, taking one financial year with another, the income from pre-application fees does not exceed the cost to them of giving that advice.

Regulation 5(2) omits regulation 5 of the 2012 Regulations. This means that a planning application fee may be charged by local planning authorities where they have made a direction withdrawing permitted development rights under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596 “the General Permitted Development Order 2015”) or where permitted development rights have been withdrawn by a condition imposed on a planning permission. Regulation 5(3) is made in consequence of the introduction of new classes of permitted development rights under the General Permitted Development Order 2015, which came into force on 15th April 2015 and the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2017 (S.I. 2017/39) which came into force on 6th April 2017. Class CA of Part 4 of Schedule 2 to that Order permits the provision of temporary state-funded schools on vacant commercial land, Class E of Part 4 of Schedule 2 to that Order permits the temporary use of buildings or land for film making, Class C of Part 7 of that Schedule permits the erection of a collection facility within the curtilage of a shop and Class J(c) of Part 14 of that Schedule permits the installation, alteration or replacement of solar PV equipment with a generating capacity of up to one megawatt on the roof of a non-domestic building. Each of the new permitted development rights are subject to certain matters about which the applicant must seek the prior approval of the local planning authority. Where such an application is made, the fee will be £96.

Cross-references have been updated in the 2012 Regulations following the making of the Town and Country Planning (Development Management Procedure) (England) Order 2015 S.I. 2015/595 and the General Permitted Development Order 2015.

Regulation 7 is a transitional provision. It provides that the changes made by these Regulations, including the increased fees and the introduction of a fee for a prior approval in relation to the new permitted development rights, will only apply where an application, request or site visit is made or deemed to have been made on or after the coming into force date of these Regulations.

An impact assessment was prepared in relation to regulation 5(3) of these Regulations, in respect of the new permitted development rights introduced by the General Permitted Development Order 2015. This covered fees for the prior approvals associated with those rights. The assessment was published alongside that Order at <http://www.legislation.gov.uk/uksi/2015/596/impacts> and copies may be inspected at the Planning Directorate, Department for Communities and Local Government, Fry Building, 2 Marsham Street, London SW1P 4DF. Command Paper 9352 is available on www.gov.uk or copies may be inspected at the Planning Directorate of the Department for Communities and Local Government at the address given above.

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