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STATUTORY INSTRUMENTS

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**2010 No. 2184**

**The Town and Country Planning (Development Management Procedure) (England) Order 2010**

**PART 4**

**Determination**

**Directions by the Secretary of State**

**25.**—(1) The Secretary of State may give directions restricting the grant of permission by a local planning authority, either indefinitely or during such a period as may be specified in the directions, in respect of any development or in respect of development of any class so specified.

(2) The Secretary of State may give directions that development which is both of a description set out in Column 1 of the table in Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (descriptions of development and applicable thresholds and criteria for the purposes of the definition of “Schedule 2 development”)(<sup>(1)</sup>) and of a class described in the direction is EIA development for the purposes of those Regulations.

(3) A local planning authority shall deal with applications for planning permission for development to which a direction given under this article applies in such manner as to give effect to the direction.

**Development affecting certain existing and proposed highways**

**26.**—(1) Where an application is made to a local planning authority for planning permission for development which consists of or includes—

- (a) the formation, laying out or alteration of any access to or from any part of a trunk road which is either a special road or, if not a special road, a road subject to a speed limit exceeding 40 miles per hour; or
- (b) any development of land within 67 metres (or such other distance as may be specified in a direction given by the Secretary of State under this article) from the middle of—
  - (i) any highway (other than a trunk road) which the Secretary of State has provided, or is authorised to provide, in pursuance of an order under Part 2 of the Highways Act 1980 (trunk roads, classified roads, metropolitan roads, special roads)(<sup>(2)</sup>) and which has not for the time being been transferred to any other highway authority;
  - (ii) any highway which the Secretary of State proposes to improve under Part 5 of that Act (improvement of highways) and in respect of which notice has been given to the local planning authority;
  - (iii) any highway to which the Secretary of State proposes to carry out improvements in pursuance of an order under Part 2 of that Act; or

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(1) [S.I. 1999/293](#). Column 1 of the table in Schedule 2 was amended by [S.I. 2006/3295](#) and [2007/1067](#).

(2) [1980 c. 66](#).

- (iv) any highway which the Secretary of State proposes to construct, the route of which is shown on the development plan or in respect of which the Secretary of State has given notice in writing to the relevant local planning authority together with maps or plans sufficient to identify the route of the highway,

the local planning authority shall notify the Secretary of State by sending to the Secretary of State a copy of the application and any accompanying plans and drawings.

- (2) An application referred to in paragraph (1) shall not be determined unless—
  - (a) the local planning authority receive a direction given under article 25 (and the authority must then determine the application in accordance with the terms of that direction);
  - (b) they receive notification by or on behalf of the Secretary of State that the Secretary of State does not propose to give any such direction in respect of the development to which the application relates; or
  - (c) a period of 28 days (or such longer period as may be agreed in writing between the local planning authority and the Secretary of State) from the date when notification was given to the Secretary of State has elapsed without receipt of such a direction.
- (3) The Secretary of State may, in respect of any case or any class or description of cases, give a direction specifying a different distance for the purposes of paragraph (1)(b).

#### **Development not in accordance with the development plan**

27. A local planning authority may in such cases and subject to such conditions as may be prescribed by directions given by the Secretary of State under this Order grant permission for development which does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated.

#### **Representations to be taken into account**

28.—(1) A local planning authority shall, in determining an application for planning permission, take into account any representations made, where any notice of, or information about, the application has been—

- (a) given by site display under article 11 or 13, within 21 days beginning with the date when the notice was first displayed by site display;
- (b) served on—
  - (i) an owner of the land or a tenant of an agricultural holding under article 11; or
  - (ii) an adjoining owner or occupier under article 13,
 within 21 days beginning with the date when the notice was served on that person, provided that the representations are made by any person who they are satisfied is such an owner, tenant or occupier; or
- (c) published in a newspaper under article 11 or 13 or on a website under article 13, within the period of 14 days beginning with the date on which the notice or information was published,

and the representations and periods in this article are representations and periods prescribed for the purposes of section 71(2)(a) of the 1990 Act (consultations in connection with determinations under section 70)(3).

(2) A local planning authority shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with paragraph (1)(b) (i), and such notice is notice prescribed for the purposes of section 71(2)(b) of the 1990 Act.

(3) Paragraphs (1) and (2) apply to applications referred to the Secretary of State under section 76A (major infrastructure projects) or 77 (reference of applications to Secretary of State) of the 1990 Act(4) and to applications made to the Secretary of State under section 293A(2) of the 1990 Act (applications for urgent Crown development)(5) and paragraphs (1)(b) and (2) apply to appeals to the Secretary of State made under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)(6), as if the references to—

- (a) a local planning authority were to the Secretary of State; and
- (b) determining an application for planning permission were to determining such application or appeal, as the case may be.

### **Time periods for decision**

**29.**—(1) Subject to paragraph (7), where a valid application has been received by a local planning authority, they shall within the period specified or referred to in paragraph (2)(7) give the applicant notice of their decision or determination or notice that the application has been referred to the Secretary of State.

- (2) The period specified or referred to in this paragraph is—
  - (a) in relation to an application for major development, 13 weeks beginning with the day immediately following that on which the application is received by the local planning authority;
  - (b) in relation to an application for development which is not major development, 8 weeks beginning with the day immediately following that on which the application is received by the local planning authority; or
  - (c) in relation to any development, unless the applicant has already given notice of appeal to the Secretary of State, such extended period as may be agreed in writing between the applicant and the local planning authority.
- (3) In this article “valid application” means an application which consists of—
  - (a) an application which complies with the requirements of article 5 or article 6, as the case may be;
  - (b) in a case to which article 8 applies, the design and access statement;
  - (c) the certificate required by article 12;
  - (d) subject to paragraph (4), the particulars or evidence required by the authority under section 62(3) of the 1990 Act (applications for planning permission)(8); and
  - (e) any fee required to be paid in respect of the application and, for this purpose, lodging a cheque for the amount of a fee is to be taken as payment,

and a valid application shall be taken to have been received when the application, and such of the documents, particulars or evidence referred to above as are required to be included in, or to

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(4) Section 76A was inserted by section 44 of the 2004 Act and section 77 was amended by paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34), section 40(2)(d) of the 2004 Act and is to be amended by paragraphs 1 and 2 of Schedule 10 to the Planning Act 2008 (c. 29) on a date to be appointed.

(5) Section 293A was inserted by section 82(1) of the 2004 Act.

(6) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991, sections 40(2)(e) and 43(2) of the 2004 Act and paragraphs 1 and 3 of Schedule 10 (amendments in force for certain purposes and to come into force for remaining purposes on a date to be appointed, *see* S.I. 2009/400) and paragraphs 1 and 2 of Schedule 11 to the Planning Act 2008.

(7) In relation to an application for EIA development, *see* S.I. 1999/293.

(8) Section 62 was substituted by section 42(1) of the 2004 Act.

accompany, the application have been lodged with the appropriate authority mentioned in article 10(1) and the fee required to be paid has been paid.

(4) Paragraph (3)(d) only applies if—

- (a) before the application is made the local planning authority publish, for the purposes of paragraph (3), a list of requirements on their website; and
- (b) the particulars or evidence that the authority require to be included in the application fall within that list.

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

- (a) sub-paragraph (a) or (b) of paragraph (2), as the case may be, shall have effect as if, for “the application is received by the local planning authority”, there were substituted “the local planning authority are satisfied that they have received the full amount of the fee”; and
- (b) sub-paragraph (c) of that paragraph shall have effect as if, at the end, there were added “once the authority are satisfied that they have received the full amount of the fee”.

(6) A local planning authority shall provide such information about applications made under article 5 or 6 (including information as to the manner in which any such application has been dealt with) as the Secretary of State may by direction require; and any such direction may include provision as to the persons to be informed and the manner in which the information is to be provided.

(7) Subject to paragraph (8), a local planning authority shall not determine an application for planning permission, where any notice of, or information about, the application has been—

- (a) given by site display under article 11 or 13, before the end of the period of 21 days beginning with the date when the notice was first displayed by site display;
- (b) served on—
  - (i) an owner of the land or a tenant of an agricultural holding under article 11; or
  - (ii) an adjoining owner or occupier under article 13,
 before the end of the period of 21 days beginning with the date when the notice was served on that person; or
- (c) published in a newspaper under article 11 or 13 or on a website under article 13, within the period of 14 days beginning with the date on which the notice or information was published,

and the periods in this paragraph are periods prescribed for the purposes of section 71(1) of the 1990 Act (consultations in connection with determinations under section 70)(9).

(8) Where, under paragraph (7), more than one of the prescribed periods applies, the local planning authority shall not determine the application before the end of the later or latest of such periods.

### **Applications made under planning condition**

**30.** Where an application has been made to a local planning authority for any consent, agreement or approval required by a condition or limitation attached to a grant of planning permission (other than an application for approval of reserved matters or an application for approval under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (development by electronic communications code operators)(10)) the authority shall give notice to the applicant of their decision on the application within a period of 8 weeks beginning with the day

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(9) Section 71(1) was substituted by section 16(2) of the Planning and Compensation Act 1991.

(10) S.I. 1995/418; Part 24 of Schedule 2 was amended by S.I. 2001/2718, 2003/2155 and 2004/945.

immediately following that on which the application is received by the authority, or such longer period as may be agreed by the applicant and the authority in writing.

### **Written notice of decision or determination relating to a planning application**

**31.—(1)** When the local planning authority give notice of a decision or determination on an application for planning permission or for approval of reserved matters—

- (a) where planning permission is granted, the notice shall—
  - (i) include a summary of their reasons for the grant of permission;
  - (ii) include a summary of the policies and proposals in the development plan which are relevant to the decision to grant permission; and
  - (iii) where the permission is granted subject to conditions, state clearly and precisely their full reasons for each condition imposed, specifying all policies and proposals in the development plan which are relevant to the decision;
- (b) where planning permission is refused, the notice shall state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision;
- (c) where—
  - (i) the Secretary of State has given a direction restricting the grant of planning permission for the development for which application is made; or
  - (ii) the Secretary of State or a Government Department has expressed the view that the permission should not be granted (either wholly or in part) or should be granted subject to conditions,the notice shall give details of the direction or of the view expressed; and
- (d) where sub-paragraph (a)(iii), (b) or (c) applies the notice shall be accompanied by a notification in the terms (or substantially in the terms) set out in Schedule 6.

(2) Where—

- (a) the applicant for planning permission has submitted an environmental statement; and
- (b) the local planning authority have decided (having taken environmental information into consideration) to grant permission (whether unconditionally or subject to conditions),

the notice given to the applicant in accordance with article 29(1) shall include a statement that environmental information has been taken into consideration by the authority.