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STATUTORY INSTRUMENTS

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**2013 No. 2140**

**The Town and Country Planning (Section 62A Applications)  
(Procedure and Consequential Amendments) Order 2013**

**PART 3**

**Consultation**

**Consultations before the grant of permission**

**17.**—(1) Before granting planning permission for development which, in the Secretary of State’s opinion, falls within a category set out in the Table in Schedule 5 to the 2010 Order, the Secretary of State must consult the authority or person mentioned in relation to that category, except where—

- (a) the Secretary of State is specified as the consultee;
- (b) the Secretary of State is required to consult the authority so mentioned under article 18;
- (c) the authority or person so mentioned has advised the Secretary of State that they do not wish to be consulted; or
- (d) the development proposed by the relevant application falls within a category of development for which standing advice has been provided to the Secretary of State by the authority or person so mentioned in relation to that category of development.

(2) The exception in paragraph (1)(c) does not apply where, in the opinion of the Secretary of State, the development falls within paragraph (zc) of the Table in Schedule 5 to the 2010 Order.

(3) The exception in paragraph (1)(d) does not apply where—

- (a) the development is an EIA development; or
- (b) the standing advice was issued more than 2 years before the date of the application for planning permission for the development and the guidance has not been amended or confirmed as being extant by the authority or person within that period.

(4) Where, by or under this article, the Secretary of State is required to consult any authority or person (“the consultee”) before granting planning permission—

- (a) he must send a copy of the application to the consultee; and
- (b) subject to paragraph (5), he must not determine the application until at least 21 days after the date on which a copy of the application was sent to the consultee.

(5) Paragraph (4)(b) does not apply if before the end of the period referred to in that sub-paragraph the Secretary of State has received a substantive response (within the meaning of article 19(2)) concerning the application from the consultee.

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

**Consultation with relevant authority**

**18.**—(1) Subject to paragraph (2), the Secretary of State must, before determining—

- (a) a relevant application for planning permission; or
- (b) a relevant application for approval of reserved matters,

notify the relevant authority giving a period of at least 21 days, beginning no earlier than the date the Secretary of State sends the notice under article 11(2) in relation to the application, within which to make representations about the application (including as to the manner in which the application is to be determined) and the Secretary of State must take into account any such representations received.

(2) Paragraph (1) does not apply if before the end of the period referred to in that paragraph the Secretary of State has received a substantive response (within the meaning of article 19(2)) concerning the application from each relevant authority notified under paragraph (1).

(3) In this article “relevant authority” means—

- (a) the designated planning authority; and
- (b) where the designated planning authority is not the district planning authority, the district planning authority; and
- (c) where the designated planning authority is not the county planning authority, the county planning authority; and
- (d) where the council of a parish are given information in relation to a relevant application pursuant to paragraph 8(1) of Schedule 1 to the 1990 Act<sup>(1)</sup>, the parish council.

### **Duty to respond to consultation**

**19.**—(1) An authority or person consulted under article 17 or 18 must give a substantive response to that consultation before the end of the period of 21 days beginning with the day on which—

- (a) the document on which the authority or person’s views are sought; or
- (b) where there is more than one such document and they are sent on different days, the last of those documents,

is received by the consultee, or such other period as may be agreed in writing between the consultee and the Secretary of State.

(2) For the purposes of this article, a substantive response is one which—

- (a) states that the consultee has no comment to make;
- (b) states that, on the basis of the information available, the consultee is content with the development proposed;
- (c) refers the Secretary of State to current standing advice by the consultee on the subject of the consultation; or
- (d) provides advice to the Secretary of State.

### **Notification of mineral applications**

**20.**—(1) Where notice has been given for the purposes of this article to the Secretary of State as respects land which is in the area of the designated planning authority and specified in the notice—

- (a) by the Coal Authority that the land contains coal; or
- (b) by the Crown Estate Commissioners that it contains silver or gold,

the Secretary of State must not determine any relevant application for planning permission to win and work any mineral on that land, without first notifying the body or person who gave the notice that an application has been made.

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(1) Paragraph 8(1) of Schedule 1 was substituted by paragraph 53 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34). There are amendments to paragraph 8 which are not relevant to this Order.

- (2) In this article, “coal” means coal other than that—
- (a) won or worked during the course of operations which are carried on exclusively for the purpose of exploring for coal; or
  - (b) which it is necessary to dig or carry away in the course of activities carried on for purposes which do not include the getting of coal or any product of coal.

#### **Information to be published following representation period**

**21.** Within 5 working days of the end of the representation period or as soon as reasonably practicable thereafter, the Secretary of State must make copies of the following documents available on the website referred to in article 13—

- (a) the designated planning authority’s completed questionnaire and any document accompanying it; and
- (b) any written representations made in relation to the application which were received within the representation period.

#### **Hearings etc**

**22.** Before determining a relevant application the person appointed by the Secretary of State under section 76D of the 1990 Act, or, where a direction has been given under section 76E(1) of the 1990 Act, the Secretary of State, must consider the application—

- (a) at a hearing<sup>(2)</sup>; or
- (b) on the basis of representations in writing<sup>(3)</sup>.

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(2) The Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013 (S.I. 2013/2141) make provision in relation to such hearings.

(3) The Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/2142) make provision in relation to applications considered on the basis of written representations.