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STATUTORY INSTRUMENTS

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**2015 No. 595**

**The Town and Country Planning (Development Management Procedure) (England) Order 2015**

**Part 1**

**Preliminary**

**Interpretation**

2.—(1) In this Order, unless the context otherwise requires—

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

“the 2004 Act” means the Planning and Compulsory Purchase Act 2004;

“the 2011 Regulations” mean the Town and Country Planning (Environmental Impact Assessment Regulations 2011<sup>(1)</sup>);

“access”, in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;

“appearance” means the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;

“contaminated land” has the same meaning as in Part 2A of the Environmental Protection Act 1990<sup>(2)</sup>;

“dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building;

“EIA application”, “EIA development”, “environmental information” and “environmental statement” have the same meanings respectively as in regulation 2(1) of the 2011 Regulations (interpretation);

“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000 (general interpretation)<sup>(3)</sup>;

“flat” means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally;

“flood” has the same meaning as in section 1 of the Flood and Water Management Act 2010<sup>(4)</sup>;

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(1) S.I. 2011/1824, amended by S.I. 2012/637, 2013/2140 and 2013/2879.

(2) 1990 c. 43; see section 78A(2) which was inserted by section 57 of the Environment Act 1995 (c. 25) and amended by section 86 of the Water Act 2003 (c.37).

(3) 2000 c. 7; section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

(4) 2010 c. 29.

“floor space” means the total floor space in a building or buildings;

“householder application” means—

- (a) an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse, or
- (b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development,

but does not include an application for change of use or an application to change the number of dwellings in a building;

“infrastructure manager” means any person who in relation to relevant railway land—

- (a) is responsible for developing or maintaining the land; or
- (b) manages or uses the land, or permits the land to be used for the operation of a railway;

“landscaping”, in relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes—

- (a) screening by fences, walls or other means;
- (b) the planting of trees, hedges, shrubs or grass;
- (c) the formation of banks, terraces or other earthworks;
- (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
- (e) the provision of other amenity features;

“layout” means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;

“listed building” has the same meaning as in section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (listing of buildings of special architectural or historic interest)(5);

“major development” means development involving any one or more of the following—

- (a) the winning and working of minerals or the use of land for mineral-working deposits;
- (b) waste development;
- (c) the provision of dwellinghouses where—
  - (i) the number of dwellinghouses to be provided is 10 or more; or
  - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more;

“mining operations” means the winning and working of minerals in, on or under land, whether by surface or underground working;

“minor commercial application” means—

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(5) 1990 c. 9. Section 1 is amended by paragraph 8 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24).

- (a) an application for planning permission for development of an existing building or part of a building currently in use for any of the purposes falling within Part A of the Schedule to the Town and Country Planning (Use Classes) Order 1987(6), or
- (b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development,

where such an application does not include a change of use, a change to the number of units in a building, or development that is not wholly at ground floor level or that would increase the gross internal area of a building,

“outline planning permission” means a planning permission for the erection of a building, which is granted subject to a condition requiring the subsequent approval of the local planning authority with respect to one or more reserved matters;

“the Permitted Development Order” means Town and Country Planning (General Permitted Development) Order 2015(7);

“planning obligation” means an obligation entered into by agreement or otherwise by any person interested in land pursuant to section 106 of the 1990 Act (planning obligations)(8);

“proposed highway” has the same meaning as in section 329 of the Highways Act 1980 (further provision as to interpretation)(9);

“qualifying European site” means—

- (a) a European offshore marine site within the meaning of regulation 15 of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(10); or
- (b) a European site within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010(11);

“relevant railway land” means land—

- (a) forming part of any operational railway; or
- (b) which is authorised to be used for the purposes of an operational railway under—
  - (i) a planning permission granted or deemed to be granted,
  - (ii) a development consent granted by an order made under the Planning Act 2008(12), or
  - (iii) an Act of Parliament,

including viaducts, tunnels, retaining walls, sidings, shafts, bridges, or other structures used in connection with an operational railway and excluding car parks, offices, shops, hotels or any other land which, by its nature or situation, is comparable with land in general rather than land which is used for the purpose of an operational railway;

“reserved matters” in relation to an outline planning permission, or an application for such permission, means any of the following matters in respect of which details have not been given in the application—

- (a) access;

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(6) S.I. 1987/76. Part A of the Schedule was amended by S.I. 2005/84 and 2015/597.

(7) S.I. 2015/596.

(8) Section 106 was amended by section 12(1) of the Planning and Compensation Act 1991 (c. 34), section 33 of the Greater London Authority Act 2007 (c. 24), section 174 of the Planning Act 2008 (c. 29) and paragraph 3 of Schedule 2 to the Growth and Infrastructure Act 2013 (c. 27).

(9) 1980 c. 66.

(10) S.I. 2007/1842, regulation 15 was amended by S.I. 2012/1928.

(11) S.I. 2010/490, regulation 8 was amended by S.I. 2012/1927.

(12) 2008 c. 29.

- (b) appearance;
- (c) landscaping;
- (d) layout; and
- (e) scale;

“scale” except in the term ‘identified scale’, means the height, width and length of each building proposed within the development in relation to its surroundings;

“section 278 agreement” means an agreement entered into pursuant to section 278 of the Highways Act 1980 (agreements as to execution of works)(**13**);

“by site display” means by the posting of the notice by firm fixture to some object, sited and displayed in such a way as to be easily visible and legible by members of the public;

“site of special scientific interest” has the same meaning as in Part 2 of the Countryside and Wildlife Act 1981(**14**);

“special road” means a highway or proposed highway which is a special road in accordance with section 16 of the Highways Act 1980 (general provision as to special roads)(**15**);

“strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015(**16**)

“trunk road” means a highway or proposed highway which is a trunk road by virtue of sections 10(1) (general provision as to trunk roads) or 19 (certain special roads and other highways to become trunk roads) of the Highways Act 1980(**17**) or any other enactment or any instrument made under any enactment; and

“waste development” means any operational development designed to be used wholly or mainly for the purpose of, or material change of use to, treating, storing, processing or disposing of refuse or waste materials.

(2) In this Order and in relation to the use of electronic communications or electronic storage for any purpose of this Order which is capable of being carried out electronically—

- (a) the expression “address” includes any number or address used for the purpose of such communications or storage, except that where this Order imposes any obligation on any person to provide a name and address to any other person, the obligation is not fulfilled unless the person on whom it is imposed provides a postal address; and
- (b) references to documents, maps, plans, drawings, certificates or other documents, or to copies of such things, include references to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (7) apply where an electronic communication is used by a person for the following purposes—

- (a) fulfilling any requirement in this Order to give or send any application, notice or other document to any other person; or
- (b) lodging an application, certificate or other document referred to in article 34(4) or (5) with an authority mentioned in that article,

(13) 1980 c. 66. Section 278 was substituted by section 23 of the New Roads and Street Works Act 1991 (c. 22).

(14) 1981 c.69. See section 28 which was substituted by section 75 of, and paragraph 5 of Schedule 9 to, the Countryside and Rights of Way Act 2000 (c.37) and amended by section 105(1) of, and paragraph 79 of Part 1 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16) and section 148 of, and paragraph 2 of Part 2 of Schedule 13 to the Marine and Coastal Access Act 2009 (c. 23).

(15) Section 16 was amended by section 36 of, and paragraphs 21 and 24 of Schedule 2 to, the Planning Act 2008 (c. 29).

(16) 2015 c. 7.

(17) Section 19 was amended by section 21 of the New Roads and Street Works Act 1991 (c. 22).

and in those paragraphs, “the recipient” means the person mentioned in sub-paragraph (a) of this paragraph, or the authority mentioned in sub-paragraph (b), as the case may be.

(4) The requirement is fulfilled, or (as the case may be) the application or other document is taken to have been lodged, if the document transmitted by the electronic communications is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4), “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(6) Where the electronic communication is received by the recipient outside the recipient’s business hours, it is taken to have been received on the next working day; and for this purpose—

- (a) “working day” means a day which is not a Saturday, Sunday, bank holiday or other public holiday; and
- (b) “bank holiday” has the same meaning as in paragraph 1 of Schedule 1 to the Banking and Financial Dealings Act 1971<sup>(18)</sup>;

(7) A requirement in this Order that any application, notice or other document should be in writing is fulfilled where the document meets the criteria in paragraph (4), and “written” and related expressions are to be construed accordingly.

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<sup>(18)</sup> 1971 c. 80.