



# Planning Act 2008

## 2008 CHAPTER 29

### PART 9

#### CHANGES TO EXISTING PLANNING REGIMES

### CHAPTER 2

#### OTHER CHANGES TO EXISTING PLANNING REGIMES

#### *Planning permission*

#### **188 Local development orders: removal of requirement to implement policies**

- (1) Section 61A of TCPA 1990 (local development orders) is amended as set out in subsections (2) and (3).
- (2) Omit subsection (1) (requirement to implement policies).
- (3) In subsection (2) for “A local development order may” substitute “ A local planning authority may by order (a local development order) ”.
- (4) In paragraph 2 of Schedule 4A to TCPA 1990 (revision of local development orders) omit sub-paragraphs (4) and (5).

#### **Commencement Information**

- I1** S. 188 in force at 23.6.2009 for E. by [S.I. 2009/1303](#), **art. 2(a)**
- I2** S. 188 in force at 30.4.2012 for W. by [S.I. 2012/802](#), **art. 2(a)**

*Status: Point in time view as at 08/09/2022.*

*Changes to legislation: Planning Act 2008, Cross Heading: Planning permission is up to date with all changes known to be in force on or before 16 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## **189 Compensation where development order or local development order withdrawn**

(1) Section 108 of TCPA 1990 (compensation for refusal or conditional grant of planning permission formerly granted by development order or local development order) is amended as follows.

(2) After subsection (2) insert—

“(2A) Where—

- (a) planning permission granted by a development order for development in England of a prescribed description is withdrawn by the issue of directions under powers conferred by the order, or
- (b) planning permission granted by a local development order for development in England is withdrawn by the issue of directions under powers conferred by the order,

this section applies only if the application referred to in subsection (1)(b) is made before the end of the period of 12 months beginning with the date on which the directions took effect.”

(3) After subsection (3A) insert—

“(3B) This section does not apply if—

- (a) in the case of planning permission granted by a development order, the condition in subsection (3C) is met;
- (b) in the case of planning permission granted by a local development order, the condition in subsection (3D) is met.

(3C) The condition referred to in subsection (3B)(a) is that—

- (a) the planning permission is granted for development in England of a prescribed description,
- (b) the planning permission is withdrawn in the prescribed manner,
- (c) notice of the withdrawal was published in the prescribed manner not less than 12 months or more than the prescribed period before the withdrawal took effect, and
- (d) either—
  - (i) the development authorised by the development order had not started before the notice was published, or
  - (ii) the development order includes provision in pursuance of section 61D permitting the development to be completed after the permission is withdrawn.

(3D) The condition referred to in subsection (3B)(b) is that—

- (a) the planning permission is granted for development in England,
- (b) the planning permission is withdrawn by the revocation or amendment of the local development order, or by the issue of directions under powers conferred by the local development order,
- (c) notice of the revocation, amendment or directions was published in the prescribed manner not less than 12 months or more than the prescribed period before the revocation, amendment or directions (as the case may be) took effect, and
- (d) either—

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- (i) the development authorised by the local development order had not started before the notice was published, or
  - (ii) the local development order includes provision in pursuance of section 61D permitting the development to be completed after the permission is withdrawn.”
- (4) After subsection (4) insert—
- “(5) Regulations under this section prescribing a description of development may (in particular) do so by reference to one or more classes or descriptions of development specified in a development order.
- (6) In this section “prescribed” means prescribed by regulations made by the Secretary of State.”

#### Commencement Information

**I3** S. 189 in force at 6.4.2010 for E.W. by [S.I. 2010/566](#), [art. 3\(a\)](#) (with [art. 4](#))

## 190 Power to make non-material changes to planning permission

- (1) TCPA 1990 is amended as follows.
- (2) After section 96 insert—

*“Non-material changes to planning permission*

### **96A Power to make non-material changes to planning permission**

- (1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.
- (2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.
- (3) The power conferred by subsection (1) includes power—
  - (a) to impose new conditions;
  - (b) to remove or alter existing conditions.
- (4) The power conferred by subsection (1) may be exercised only on an application made by or on behalf of a person with an interest in the land to which the planning permission relates.
- (5) An application under subsection (4) must be made in the form and manner prescribed by development order.
- (6) Subsection (7) applies in relation to an application under subsection (4) made by or on behalf of a person with an interest in some, but not all, of the land to which the planning permission relates.
- (7) The application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest.

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- (8) A local planning authority must comply with such requirements as may be prescribed by development order as to consultation and publicity in relation to the exercise of the power conferred by subsection (1).”
- (3) In section 5(3) (purposes for which Broads Authority is the sole local district planning authority) for “97” substitute “ 96A ”.
- (4) In section 69(1) (register of applications etc)—
- (a) after paragraph (a) insert—
    - “(aa) applications for non-material changes to planning permission under section 96A;”,
  - (b) in subsection (2)(a) after “(1)(a)” insert “ and (aa) ”, and
  - (c) in subsection (4) after “(1)(a)” insert “ , (aa) ”.
- (5) In section 286(1) (challenges to validity on ground of authority's powers) after paragraph (a) insert—
- “(aa) an application for non-material changes to planning permission under section 96A;”.
- (6) In Schedule 1 (local planning authorities: distribution of functions), in paragraph 3(1), after paragraph (a) insert—
- “(aa) applications for non-material changes to planning permission under section 96A;”.

#### **Commencement Information**

- I4** S. 190(1)-(3) (5) (6) in force at 1.10.2009 for E.W. by [S.I. 2009/2260](#), **art. 3**
- I5** S. 190(4) in force at 6.4.2010 for E.W. by [S.I. 2010/566](#), **art. 3(b)**

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