

2009 No. 453

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2009

<i>Made</i>	- - - -	<i>4th March 2009</i>
<i>Laid before Parliament</i>		<i>11th March 2009</i>
<i>Coming into force</i>	- -	<i>6th April 2009</i>

The Secretary of State, in exercise of the powers conferred by sections 59, 61(1), 65, 74(1)(c) and (d), 78(3), 79(4) and 333(7) of the Town and Country Planning Act 1990(a), makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2009 and shall come into force on 6th April 2009.

(2) This Order applies in relation to England only.

Amendment of the Town and Country Planning (General Development Procedure) Order 1995

2. The Town and Country Planning (General Development Procedure) Order 1995(b) is amended in accordance with the following provisions of this Order.

Amendment relating to interpretation

3. In article 1(2) after the entry for “floor space” insert—

““householder application” means —

- (a) an application for planning permission for development of 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,

(a) 1990 c.8. Section 65 was substituted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 16(1), and subsection (2) was subsequently amended by the Agricultural Tenancies Act 1995 (c. 8), section 40 and paragraph 35 of the Schedule. Section 79(4) was amended by the Planning and Compensation Act 1991 (c. 34), paragraph 19 of Schedule 7. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the 1990 Act. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2000 (c.32), they were transferred to the Welsh Ministers.

(b) S.I. 1995/419. Relevant amendments were made by S.I. 1996/1817, S.I. 2000/1627, S.I. 2003/956, S.I. 2003/2047, S.I. 2004/3340.

but does not include—

- (i) an application for change of use, or
- (ii) an application to change the number of dwellings in a building;”.

Amendment relating to consultation before the grant of permission

4. In article 10(2)(l)(ii) for “0.4 hectares” substitute “0.2 hectares”.

Amendments relating to appeals

5. In article 23—

- (a) for paragraphs (1) to (4) substitute—

“(1) An applicant who wishes to appeal to the Secretary of State under section 78 of the Act (right to appeal against planning decisions and failure to take such decisions) shall give notice of appeal to the Secretary of State by—

- (a) serving on the Secretary of State, within the time limit specified in paragraph (2), a completed appeal form, obtained from the Secretary of State, together with such of the documents specified in paragraph (3) as are relevant to the appeal; and
- (b) serving on the local planning authority a copy of the completed appeal form mentioned in paragraph (a), as soon as reasonably practicable, together with a copy of any relevant documents mentioned in paragraph (3)(a)(ii) or paragraph (3)(b)(v), as the case may be.

- (2) The time limit mentioned in paragraph (1) is—

- (a) in the case of a householder appeal, 12 weeks from the date of the notice of the decision or determination giving rise to the appeal;
- (b) in all other cases, six months from—
 - (i) the date of the notice or determination giving rise to the appeal;
 - (ii) the expiry of the period specified in article 20 or, as the case may be article 21; or
 - (iii) in a case in which the authority have served a notice on the applicant in accordance with article 3(2) that they require further information, and the applicant has not provided the information, the date of service of that notice,

or such longer period as the Secretary of State may, at any time, allow.

- (3) The documents mentioned in paragraph (1) are—

- (a) in the case of a householder appeal—
 - (i) a copy of the application which was sent to the local planning authority which has occasioned the appeal;
 - (ii) any other plans, documents or drawings relating to the application which were not sent to the authority, except any plans, documents or drawings relating to amendments to the application proposed after the authority have made their determination;
 - (iii) the notice of the decision or determination.
- (b) in all other cases—
 - (i) a copy of the application which was sent to the local planning authority which has occasioned the appeal;
 - (ii) all plans, drawings and documents sent to the authority in connection with the application;
 - (iii) all correspondence with the authority relating to the application;
 - (iv) any certificate provided to the authority under article 7;

- (v) any other plans, documents or drawings relating to the application which were not sent to the authority, except any plans, documents or drawings relating to amendments to the application proposed after the authority have made their determination;
- (vi) the notice of the decision or determination, if any;
- (vii) if the appeal relates to an application for approval of certain matters in accordance with a condition on a planning permission, the application for that permission, the plans submitted with that application and the planning permission granted.

(4) The Secretary of State may refuse to accept a notice of appeal from an applicant if the completed appeal form required under paragraph (1)(a) and the documents required under paragraph (3) are not served on him within the time limit specified in paragraph (2).”;

(b) after paragraph (6) at the end add—

“(7) In this article “householder appeal” means an appeal under section 78(1) in relation to a householder application, except an appeal against the grant of any planning permission, consent, agreement or approval which is granted subject to conditions.”.

Amendment to notices

6.—(1) In the form of notification set out in Part 2 of Schedule 1, in the section headed ‘Appeals to the Secretary of State’, for the second bullet point substitute—

- As this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority’s decision then you must do so within 12 weeks of the date of this notice.*
- If you want to appeal against your local planning authority’s decision then you must do so within 6 months of the date of this notice. *
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.”.

(2) In Part 1 of Schedule 2, after the notice headed “NOTICE UNDER ARTICLE 6 OF APPLICATION FOR PLANNING PERMISSION”, insert the notice set out in Part 1 of the Schedule to this Order.

(3) In Part 1 of Schedule 2, after the notice headed “NOTICE UNDER ARTICLES 6 AND 9(1) OF APPEAL”, insert the notice set out in Part 2 of the Schedule to this Order.

(4) In Schedule 3, in the notice headed “NOTICE UNDER ARTICLE 8”, before “Signed” insert—

“As this is a householder application, in the event of an appeal against a refusal of planning permission, which is to be dealt with on the basis of representations in writing, any representations made about this application will be sent to the Secretary of State, and there will be no further opportunity to comment at appeal stage.*”.

Transitional provisions

7. The amendments made by this Order do not apply in respect of any application for planning permission, consent, agreement or approval made before 6th April 2009.

Signed by authority of the Secretary of State

4th March 2009

Kay Andrews
Minister of State/Parliamentary Under Secretary of State
Department for Communities and Local Government

SCHEDULE

Article 6(2) and (3)

PART 1

Town and Country Planning (General Development Procedure) Order 1995

NOTICE UNDER ARTICLE 6 OF APPLICATION FOR PLANNING PERMISSION FOR HOUSEHOLDER DEVELOPMENT†

*(to be published in a newspaper and, where relevant, on a website or to be served on
an owner* or a tenant** in the case of an application for planning permission)*

Proposed development at (a).....

I give notice that (b).....

is applying to the (c)Council

for planning permission to (d).....

Any owner* or tenant** who wishes to make representations about this application should write to
the Council at (e).....

by (f)

In the event that an appeal is made against a decision of the Council to refuse to grant planning
permission for the proposed development, and that appeal then proceeds by way of the expedited
procedure under the written representations procedure, any representations made by the owner* or
tenant** to the Council about this application will be passed to the Secretary of State and there
will be no opportunity to make further representations. Any owner or tenant wishing to make
representations should do so at the earliest opportunity.

* “owner” means a person having a freehold interest or a leasehold interest the unexpired term of
which is not less than seven years.

** “tenant” means a tenant of an agricultural holding any part of which is comprised in the land.

Signed.....

On behalf of (delete if not applicable).....

Date

Statement of owners’ rights

The grant of planning permission does not affect owners’ rights to retain or dispose of their
property unless there is some provision to the contrary in an agreement or in a lease.

Statement of agricultural tenants’ rights

The grant of planning permission for non-agricultural development may affect agricultural
tenants’ security of tenure.

† “householder development” means development of an existing dwellinghouse, or development
within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the
dwellinghouse. It does not include a change of use or a change to the number of dwellings in a
building.

Insert:

(a) address or location of the proposed development

(b) applicant’s name

(c) name of Council

(d) description of proposed development

(e) address of the Council as appropriate

(f) date giving a period of 21 days beginning with the date of service, or 14 days beginning with
the date of publication, of the notice (as the case may be)

PART 2

Town and Country Planning (General Development Procedure) Order 1995

NOTICE UNDER ARTICLES 6 AND 9(1) OF APPEAL

(to be published in a newspaper and, where relevant, on a website, or to be served on an owner or a tenant** in the case of an appeal against the refusal to grant planning permission for householder development***)*

Proposed development at (a).....

I give notice that (b)

having applied to the (c)Council

to (d).....

is appealing to the Secretary of State against the refusal of the Council to grant planning permission for the proposed development.

In the event that the appeal is dealt with by the expedited procedure under the written representations procedure†, any representations made by the owner* or tenant** to the Council about the application will be passed to the Secretary of State and there will be no opportunity to make further representations in relation to the appeal.

* “owner” means a person having a freehold interest or a leasehold interest the unexpired term of which is not less than seven years.

** “tenant” means a tenant of an agricultural holding any part of which is comprised in the land.

*** “householder development” means development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse. It does not include a change of use or a change to the number of dwellings in a building.

†The expedited procedures in relation to written representations are set out at Part 1 of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009, SI 2009/ .

Signed.....

On behalf of (delete if not applicable).....

Date.....

Statement of owners’ rights

The grant of planning permission does not affect owners’ rights to retain or dispose of their property, unless there is some provision to the contrary in an agreement or in a lease.

Statement of agricultural tenants’ rights

The grant of planning permission for non-agricultural development may affect agricultural tenants’ security of tenure.

Insert:

(a) address or location of the proposed development

(b) applicant’s name

(c) name of Council

(d) description of the proposed development.

EXPLANATORY NOTE

(This note is not part of the Order)

The Town and Country Planning (General Development Procedure) Order 1995 (“the 1995 Order”) specifies procedures connected with planning applications, appeals to the Secretary of State and related matters so far as these are not laid down in the Town and Country Planning Act 1990. This Order amends the 1995 Order in relation to England.

Article 3 introduces a new defined term of “householder application” into article 1(2) of the 1995 Order.

Article 4 amends the definition of “playing-pitch” in article 10(2)(1)(ii) of the 1995 Order for the purposes of paragraph (z) of the table in article 10(1) in relation to applications for planning permission in England. This table sets out the categories of development and the persons who must be consulted in the case of such development before planning permission may be granted. Paragraph (z) sets out that in the case of development which involves the replacement of the grass surface of a playing pitch on a playing field with an artificial, manmade or composite surface the appropriate consultee is in England, the Sports Council and in Wales, the Sports Council for Wales.

Article 5(a) substitutes new paragraphs (1) to (4) of article 23 of the 1995 Order. In particular it introduces provision for householder appeals. In the case of householder appeals there is a reduced time limit of 12 weeks to make an appeal and a reduced number of documents which are required to be forwarded with the appeal form (which, under the new provisions, must be completed for an appeal to be made) to the Secretary of State.

Article 5(b) adds a definition of “householder appeal” for the purposes of the new paragraphs in article 23 of the 1995 Order.

Article 6 makes amendments to the requisite notices that are set out in Schedules 1 and 3 of the 1995 Order and introduces two new requisite forms into Schedule 2. The amendments and new forms deal with the amendments made by article 5 and related amendments which are being introduced in the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (SI 2009/452).

An impact assessment has been prepared in relation to this Order. This assessment has been placed in the Library of each House of Parliament and copies may be obtained from PSID, Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU (telephone 020 7944 4817).

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STATUTORY INSTRUMENTS

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£5.00