STATUTORY INSTRUMENTS

2016 No. 944

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (Section 62A Applications) (Amendment) Regulations 2016

Made - - - -	*21st September 2016*
Laid before Parliament	*23rd September 2016*
Coming into force - -	*21st October 2016*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 62A(**a**) and 76C(**b**) of the Town and Country Planning Act 1990 and section 28(2)(a) of the Small Business, Enterprise and Employment Act 2015(**c**):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Section 62A Applications) (Amendment) Regulations 2016 and come into force on 21st October 2016.

(2) In these Regulations—

"the Procedure Order" means the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013(**d**); and

"the Miscellaneous Provisions Regulations" means the Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013(**e**).

Amendments to the Procedure Order

2.—(1) The Procedure Order is amended as follows.

(2) In article 2(1) (interpretation) insert each of the following definitions in the appropriate place—

""the 2013 Regulations" means the Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013(**f**);";

""major development" has the meaning given in regulation 3(5) of the 2013 Regulations;";

(**a**) 1990 c. 8; section 62A was inserted into the Town and Country Planning Act 1990 by section 1(1) of the Growth and Infrastructure Act 2013 (c. 27) and amended by section 153 of the Housing and Planning Act 2016 (c. 22).
(**b**) Section 76C was inserted into the Town and Country Planning Act 1990 by section 1(2) and paragraph 5 of Schedule 1 to the Growth and Infrastructure Act 2013 and amended by section 150(5) and paragraph 18 of Schedule 12 to the Housing and Planning Act 2016.
(**c**) 2015 c. 26.
(**d**) S.I. 2013/2140, amended by S.I. 2013/3194, 2014/1532; there are other amending instruments but none is relevant.
(**e**) S.I. 2013/2142.
(**f**) S.I. 2013/2142.

""non-major development" has the meaning given in regulation 3(5) of the 2013 Regulations;";

""relevant application" has the same meaning as in section 62A of the 1990 Act;".

(3) In article 7 (design and access statements), for paragraph (1) substitute—

"(1) Subject to paragraph (3), a design and access statement must accompany a relevant application in respect of—

(a) major development; or

(b) non-major development any part of which is in a designated area and which consists of—

(i) the provision of one or more dwellinghouses; or

(ii) the provision of a building or buildings where the floor space created by the development is 100 square metres or more.".

(4) After paragraph (3) insert—

"(4) In this article—

"design and access statement" means a statement about—

(a) the design principles and concepts that have been applied to the development concerned; and

(b) how issues relating to access to the development have been dealt with; and

"designated area" means—

(a) a conservation area; or

(b) a World Heritage Site, that being a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention Concerning the Protection of the World Cultural and National Heritage(**a**).".

(5) For articles 13 and 14 (publicity requirements) substitute—

"Publicity for relevant applications: introductory

12A.—(1) For the purposes of articles 13 and 14 a "special development application" means any relevant application which—

(a) is an application in respect of EIA development which is accompanied by an environmental statement;

(b) is in respect of 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; or

(c) is in respect of development which would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981(**b**) (public rights of way) applies.

(2) For the purposes of articles 13 and 14, a "standard major development application" means any relevant application in respect of major development which is not a special development application.

(3) For the purposes of articles 13 and 14, a "standard non-major development application" means any relevant application in respect of non-major development which is not a special development application.

(4) For the purposes of articles 13 and 14, "the requisite notice", in relation to a relevant application, means notice in the form set out in Schedule 2.

(**a**) See http://whc.unesco.org/en/list/

(**b**) 1981 c.69; see section 66(1) for definition of "right of way to which this Part applies".

Publicity for relevant applications: Secretary of State

13.—(1) This article applies where the Secretary of State receives a relevant application which is a valid application within the meaning of article 8.

(2) Where the application is a special development application or a standard major development application, the Secretary of State must—

(a) within 5 working days of receipt of the application, publish the required information about it on a website maintained by the Secretary of State; and

(b) as soon as reasonably practicable following receipt of the application—

(i) make copies of the application and any document accompanying it available on such a website; and

(ii) arrange for the publication of the requisite notice in relation to the application in a newspaper circulating in the locality in which the land to which the application relates is situated.

(3) Where the application is a standard non-major development application, the Secretary of State must—

(a) within 5 working days of receipt of the application, publish the required information about it on a website maintained by the Secretary of State; and

(b) as soon as reasonably practicable following receipt of the application make copies of the application and any document accompanying it available on such a website.

(4) In this article, "the required information", in relation to a relevant application, means—

(a) the address or location of the proposed development;

(b) a description of the proposed development;

(c) the date by which any representations about the application must be made, which must not be before the last day of the period of 14 days beginning with the date on which the information is published;

(d) details of where and when the application may be inspected; and

(e) the Secretary of State's address for receipt of representations about the application.

Publicity for relevant applications: designated planning authority

14.—(1) This article applies where the designated planning authority receives a notice under article 11(2) (information to be provided to the designated planning authority by the Secretary of State in relation to a relevant application).

(2) Where the notice relates to a special development application, the designated planning authority must within 5 working days —

(a) give the requisite notice by site display in at least one place on or near the land to which the application relates for not less than 21 days; and

(b) send a copy of the requisite notice to the Secretary of State.

(3) Where the notice under article 11(2) relates to a standard major development application or a standard non-major development application, the designated planning authority must within 5 working days—

(a) give the requisite notice in relation to the application by—

(i) site display of the requisite notice in at least one place on or near the land to which the application relates for not less than 21 days; or

(ii) serving the requisite notice on each adjoining owner or occupier; and

(b) send a copy of the requisite notice to the Secretary of State.

(4) Where a designated planning authority is required to give the requisite notice in relation to an application under this article by site display, but without any fault or intention

on the part of the authority the notice is removed, obscured or defaced before the 21 day period specified in paragraph (2)(a) or (3)(a)(i) has elapsed, the authority is treated as having complied with the requirements of paragraph (2)(a) or (3)(a)(i) if they have taken reasonable steps to—

(a) protect the notice; and

(b) if necessary, provide for its replacement.

(5) In this article "adjoining owner or occupier" means any owner or occupier of any land adjoining the land to which the application relates.".

(6) In article 23 (time periods for decision) in paragraph (2)—

(a) in sub-paragraph (b) for "any other relevant application" substitute "a relevant application in respect of major development not within sub-paragraph (a)";

(b) omit the "or" after sub-paragraph (b); and

(c) after sub-paragraph (b) insert—

"(ba) in relation to a relevant application in respect of non-major development not within sub-paragraph (a), 8 weeks beginning with the day immediately following that on which the application is received by the Secretary of State; or".

(7) In article 45 (time periods for decision) in paragraph (2)—

(a) in sub-paragraph (a) at the beginning, insert "where the application for listed building consent is connected to a relevant application in respect of major development";

(b) omit the "or" after sub-paragraph (a); and

(c) after sub-paragraph (a) insert—

"(aa) where the application for listed building consent is connected to a relevant application in respect of non-major development, 8 weeks beginning with the day immediately following that on which the application is received by the Secretary of State; or".

(8) After article 49 (other provisions applying to connected listed building applications: written representations) insert—

"PART 8

Review

Review

50.—(1) The Secretary of State must from time to time—

(a) carry out a review of this Order; and

(b) prepare and publish a report setting out the conclusions of the review.

(2) A report prepared under paragraph (1)(b) must, in particular—

(a) set out the objectives intended to be achieved by this Order;

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate; and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(3) The first report must be published by the end of September 2021.

(4) Subsequent reports must be published at intervals not exceeding 5 years.

(5) In this article, "regulatory provision" has the meaning given by section 32 of the Small Business, Enterprise and Employment Act 2015(**a**).".

(9) In Schedule 2 (publicity for applications for planning permission) after the words "NOTICE UNDER ARTICLE" insert "13,".

Amendments to the Miscellaneous Provisions Regulations

3.—(1) For the heading of Part 2 of the Miscellaneous Provisions Regulations, substitute "Applications for which a local planning authority may be designated and period for determination of procedure".

(2) For regulation 3 of the Miscellaneous Provisions Regulations (definition of major development) substitute—

"Applications for which a local planning authority may be designated for the purposes of section 62A of the 1990 Act

3.—(1) The descriptions of application for which the Secretary of State may designate a local planning authority as mentioned in section 62A(1A) of the 1990 Act are either or both of the following—

(a) major development applications;

(b) non-major development applications.

(2) For the purposes of this regulation, the following are "major development applications"—

(a) applications for planning permission for the development of land in England which is major development other than excluded applications;

(b) applications for approval of a matter that, as defined by section 92 of the 1990 Act, is a reserved matter in the case of an outline planning permission for the development of land in England which is major development.

(3) For the purposes of this regulation, the following are "non-major development applications"—

(a) applications for planning permission for the development of land in England which is non-major development other than excluded applications;

(b) applications for approval of a matter that, as defined by section 92 of the 1990 Act, is a reserved matter in the case of an outline planning permission for the development of land in England which is non-major development.

(4) For the purposes of this regulation the following are "excluded applications"—

(a) applications for technical details consent(**b**); and

(b) applications of the kind described in section 73(1) of the 1990 Act.

(5) In this regulation—

"major development" means development which involves 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

(**a**) 2015 c. 26.
(**b**) As described in section 70(2ZZB) of the 1990 Act, and inserted by section 150 of the Housing and Planning Act 2016.

(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;

"non-major development" means development which is not major development;

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

Descriptions of application excluded from definition of relevant application for purposes of section 62A of the 1990 Act

3A.—(1) For the purposes of section 62A of the 1990 Act, an application which is within paragraph (2) is not a relevant application.

(2) The applications are—

(a) any application for planning permission for development carried out before the date of the application(**a**); and

(b) any householder application.

(3) In sub-paragraph (2)(b), "householder application" has the same meaning as in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015(**b**).".

Gavin Barwell
Minister of State
Department for Communities and Local Government

21st September 2016

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 and the Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013. The effect of the Regulations is to make new provision in respect of the circumstances in which an authority may be designated under section 62A of the Town and Country Planning Act 1990, and where, as a consequence, an applicant making certain types of application for planning permission may make those directly to the Secretary of State, rather than to the local planning authority. The Regulations also specify the respective obligations of the Secretary of State and the local planning authority in relation to publicising the making of such an application.

An impact assessment has not been prepared for these Regulations as no significant impact on the costs of business or the voluntary sector is foreseen.

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(**a**) As described in section 73A of the 1990 Act, and inserted by section 32 of the Planning and Compensation Act 1991 (1991 c. 34).
(**b**) S.I. 2015/595.

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