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STATUTORY INSTRUMENTS

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**2018 No. 119**

**The Town and Country Planning (Local Authority Consultations etc.) (England) Order 2018**

**PART 2**

**Amendment of the Town and Country Planning (Development Management Procedure) (England) Order 2015**

**Amendment of the Town and Country Planning (Development Management Procedure) (England) Order 2015**

**2.** The Town and Country Planning (Development Management Procedure) (England) Order 2015(1) is amended as follows.

**Amendment of article 2**

**3.** In article 2 (interpretation)—

(a) in paragraph (1), after the definition of “proposed highway” insert—

““public holiday” means Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971(2) is a bank holiday in England;” and

(b) in paragraph (6), for the words after “purpose” substitute—

““working day” means a day which is not a Saturday, Sunday or public holiday.”

**Amendment of article 15**

**4.** After article 15(10) insert—

“(10A) In this article, when computing the number of days, any day which is a public holiday must be disregarded unless—

(i) the application is an EIA application(3) accompanied by an environmental statement; or

(ii) the application is one to which paragraph (11) applies.”.

**Substitution of article 33**

**5.** For article 33 (representations to be taken into account) substitute—

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(1) [S.I. 2015/595](#); relevant amending instruments are [S.I.2017/402](#) and [2017/571](#).

(2) [1971 c.80](#).

(3) For the definition of “EIA application” see article 2(1) of [S.I. 2015/595](#).

### “Representations to be taken into account

**33.—(1)** A local planning authority must, in determining an application for planning permission, take into account any representations made where any notice of, or information about, the application has been—

- (a) given by site display under article 13, within 21 days beginning with the date when the notice was first displayed by site display;
- (b) served on an owner of the land or a tenant of an agricultural holding under article 13, within 21 days beginning with the date when the notice was served on that person provided that the representations are made by any person who they are satisfied is such an owner or tenant;
- (c) published in a newspaper under article 13, within the period of 14 days beginning with the date on which the notice was published;
- (d) given by site display under article 15, within 21 days beginning with the date when the notice was first displayed by site display;
- (e) served on an adjoining owner or occupier under article 15, within 21 days beginning with the date when the notice was served on that person, provided that the representations are made by any person who they are satisfied is such an owner or occupier;
- (f) published in a newspaper or a website under article 15, within the period of 14 days beginning with the date on which the notice or information was published; and
- (g) served on an infrastructure manager under article 16, within 21 days beginning with the date when the notice was served on that person provided that the representations are made by any person who they are satisfied is such an infrastructure manager.

(2) For an EIA application accompanied by an environmental statement a local planning authority must, in determining the relevant application, take into account any representations made where any notice of, or information about the application has been—

- (a) given by site display under article 13 or 15, within 30 days beginning with the date when the notice was first displayed by site display; and
- (b) published in a newspaper under article 13 or 15, or on a website under article 15, within the period of 30 days beginning with the date on which the notice or information was published.

(3) The representations and periods in this article are representations and periods prescribed<sup>(4)</sup> for the purposes of section 71(2)(a) of the 1990 Act (consultations in connection with determinations under section 70).

(4) A local planning authority must give notice of their decision to every person who has made representations which they were required to take into account in accordance with paragraph (1)(b) and such notice is the notice prescribed for the purposes of section 71(2)(b) of the 1990 Act.

(5) Paragraphs (1) to (4) apply to applications referred to the Secretary of State under section 77 of the 1990 Act (reference of applications to the Secretary of State)<sup>(5)</sup> and

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(4) For the definition of “prescribed” see section 71(4) of the Town and Country Planning Act 1990 which was substituted by paragraph 5 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34) (“the 1991 Act”).

(5) Section 77 was amended by paragraph 20 of Schedule 12 to the 2016 Act; paragraph 11 of Schedule 4 to the Infrastructure Act 2015 (c. 7) (“the 2015 Act”); paragraph 10 of Schedule 12 to the Localism Act 2011(c. 20) (“the 2011 Act”) and is to be amended by paragraphs 1 and 2 of Schedule 10 to the Planning Act 2008 (c.29) (“the 2008 Act”), on a date to be appointed.

to applications made to the Secretary of State under section 293A(2) of the 1990 Act (application for urgent Crown development)(6) as if—

- (a) a reference to a local planning authority were a reference to the Secretary of State; and
- (b) a reference to determining an application for planning permission were a reference to determining such application.

(6) Paragraphs (1)(b),(e) and (g) and (4) apply to appeals made to the Secretary of State under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)(7) as if—

- (a) a reference to a local planning authority were a reference to the Secretary of State; and
- (b) a reference to determining an application for planning permission were a reference to determining such appeal.

(7) In this article, when computing the number of days, any day which is a public holiday must be disregarded unless—

- (a) the application is an EIA application accompanied by an environmental statement;
- (b) the application is one to which sub-paragraph (a), (b), (c), or (g) of paragraph (1) apply; or
- (c) the application is made under section 293A(2) of the 1990 Act.”.

#### **Amendment of article 34**

6. In article 34 (time periods for decisions) for paragraph (9) substitute—

“(9) A local planning authority must not determine an application for planning permission where any notice of, or information about, the application has been—

- (a) given by site display under article 13, before the end of the period of 21 days beginning with the date when the notice was first displayed by site display;
- (b) served on an owner of the land or a tenant of an agricultural holding under article 13, before the end of the period of 21 days beginning with the date when the notice was served on that person;
- (c) published in a newspaper under article 13, within the period of 14 days beginning with the date on which the notice was published;
- (d) given by site display under article 15, before the end of the period of 21 days beginning with the date when the notice was first displayed by site display;
- (e) served on an adjoining owner or occupier under article 15, before the end of the period of 21 days beginning with the date when the notice was served on that person;
- (f) published in a newspaper or a website under article 15 within the period of 14 days beginning with the date on which the notice or information was published; and
- (g) served on an infrastructure manager under article 16, before the end of the period of 21 days beginning with the date when the notice was served on that person.

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(6) Inserted by section 82(1) of the 2004 Act.

(7) Section 78 was amended by paragraph 21 of Schedule 2 to the 2016 Act; paragraph 11 of Schedule 12 to the 2011 Act; paragraph 12 of Schedule 4 to the Infrastructure Act 2015 (c. 7); section 17(2) of the 1991 Act; section 43 of the 2004 Act and Schedule 11 to the 2008 Act.

(9A) For an EIA application accompanied by an environmental statement a local planning authority must not determine an application for planning permission where any notice of, or information about, the application has been—

- (a) given by site display under article 13 or 15, before the end of the period of 30 days beginning with the date when the notice was first displayed by site display; and
- (b) published in a newspaper under article 13 or 15 or on a website under article 15, within the period of 30 days beginning with the date on which the notice or information was published.

(9B) The periods in paragraphs (9) and (9A) are periods prescribed for the purposes of section 71(1) of the 1990 Act (consultations in connection with determinations under section 70).

(9C) When computing the number of days in sub-paragraphs (d) to (f) of paragraph (9), any day which is a public holiday must be disregarded.”.

### **Amendment of Article 40**

7. In article 40 (register of applications) after paragraph (4) insert—

“(4A) The register must also contain the following information in respect of every housing prior approval application relating to their area—

- (a) a copy (which may be photographic or in electronic form) of each application together with any accompanying written description, plans, drawings and any statement specifying the net increase in dwellinghouses proposed by the development (for this purpose, “net increase in dwellinghouses” is the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development);
- (b) the date on which the application was received;
- (c) a copy (which may be photographic or in electronic form) of any planning obligation or section 278 agreement proposed or entered into in connection with the application or any decision of the local planning authority or the Secretary of State in respect of the application;
- (d) particulars of any modification to any planning obligation or section 278 agreement included in the register in accordance with sub-paragraph (c);
- (e) particulars of any direction given under the 1990 Act or this Order in respect of this application;
- (f) the decision, if any, of the local planning authority in respect of the application, including details of any conditions subject to which permission was granted, the date of such decision, and the name of the local planning authority;
- (g) the reference number, the date and effect of any decision of the Secretary of State in respect of the application, whether on appeal or on a reference under section 77 of the 1990 Act (reference of applications to the Secretary of State).

(4B) In paragraph (4A)—

“housing prior approval application” means a prior approval application which is—

- (a) required by the terms of any planning permission granted by the Permitted Development Order<sup>(8)</sup> for development which will create a net increase in dwellinghouses, before such development may begin; and
- (b) made in accordance with the requirements of that Order.”

### Amendment of Schedule 3

8. In Schedule 3 (publicity for applications for planning permission)—

(a) in the first notice, in the last box beginning with the word “Insert”, for paragraph (f) substitute—

“(f) date giving a period (as the case may be) of—

(i) 21 days beginning with the date when the notice is first displayed where visible or accessible on or near the site or served on an owner and/or occupier of adjoining land under article 15(4) or (5);

(ii) 14 days beginning with the date when the notice is published in a newspaper; or

(iii) 21 days beginning with the date when the notice is served on an infrastructure manager under article 16;

and when computing the number of days in sub-paragraphs (i) and (ii), any day which is a public holiday must be disregarded”.

(b) in the third notice, in the last box beginning with the word “Insert”, for paragraph (g) substitute—

“(g) date giving a period (as the case may be) of—

(i) 21 days beginning with the date when the notice is first displayed where visible or accessible on or near the site under article 15(4A); or

(ii) 21 days beginning with the date when the notice is first served on an infrastructure manager under article 16;

and when computing the number of days in sub-paragraph (i), any day which is a public holiday must be disregarded”.

### Amendment of Schedule 4

9. In Schedule 4 (consultations before the grant of permission), before paragraph (a) (consultations before the grant of planning permission) insert—

“(aa) in paragraphs (e) and (f), “relevant nuclear site” means a site which is—

(i) a nuclear site (within the meaning given in section 112(1) of the Energy Act 2013)**(9)**;

(ii) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998)**(10)**; or

(iii) a new nuclear build site (within the meaning given in regulation 2A of those Regulations)**(11)**.”.

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**(9)** 2013 c.32; amendments have been made which are not relevant to this Order.

**(10)** S.I. 1998/494; definition inserted by S.I. 2014/469.

**(11)** Regulation 2A inserted by S.I. 2014/469.