
STATUTORY INSTRUMENTS

2018 No. 566

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018

<i>Made</i>	- - - -	<i>3rd May 2018</i>
<i>Laid before Parliament</i>		<i>8th May 2018</i>
<i>Coming into force</i>	- -	<i>1st October 2018</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 100ZA(6) of the Town and Country Planning Act 1990⁽¹⁾.

In accordance with section 100ZA(7) of the Town and Country Planning Act 1990 the Secretary of State has carried out a public consultation.

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 and come into force on 1st October 2018.

(2) These Regulations apply to pre-commencement conditions⁽²⁾ imposed on a grant⁽³⁾ of planning permission which is granted on or after 1st October 2018.

(3) In these Regulations—

“a substantive response” means a response which—

- (i) states that the applicant does not agree to the imposition of the proposed condition, or
- (ii) provides comments on the proposed condition;

“working day” means a day which is not a Saturday, Sunday or public holiday (where “public holiday” means Christmas Day, Good Friday or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971⁽⁴⁾).

(1) 1990 c. 8; section 100ZA was inserted by section 14(1) of the Neighbourhood Planning Act 2017 (c. 20). For the definition of “prescribed” see sections 100ZA(13) and 336(1).

(2) See section 100ZA(8) of the Town and Country Planning Act 1990 (c. 8) for the definition of “pre-commencement condition”.

(3) See section 100ZA(13) for the meaning of “grant”.

(4) 1971 c. 80.

Imposition of pre-commencement condition without the agreement of the applicant

2.—(1) The requirement under section 100ZA(5) of the Town and Country Planning Act 1990 does not apply, in relation to a relevant grant of planning permission⁽⁵⁾, where—

- (a) the local planning authority or, as the case may be, the Secretary of State gives notice in writing to the applicant that, if planning permission is granted, the authority or the Secretary of State intends to grant that permission subject to the pre-commencement condition specified in the notice, and
- (b) the applicant does not provide a substantive response to the notice before the expiry of the period mentioned in paragraph (4)(d).

(2) Unless paragraph (3) applies, where notice has been given under paragraph (1)(a), the application for planning permission must not be determined until the period given in the notice, in accordance with paragraph (4)(d) for a substantive response to be received has expired.

(3) An application for planning permission may be determined before the period given in the notice in accordance with paragraph (4)(d) has expired if, before that expiry, the local planning authority or, as the case may be, the Secretary of State receives—

- (a) a substantive response, or
- (b) written agreement to the terms of the proposed pre-commencement condition.

(4) A notice referred to in paragraph (1)(a) must include—

- (a) the text of the proposed pre-commencement condition,
- (b) the full reasons for the proposed condition, set out clearly and precisely,
- (c) the full reasons for the proposed condition being a pre-commencement condition, set out clearly and precisely, and
- (d) notice that any substantive response must be received by the authority or, as the case may be, the Secretary of State no later than the last day of the period of 10 working days beginning with the day after the date on which the notice is given.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Dominic Raab
Minister of State
Ministry of Housing, Communities and Local
Government

3rd May 2018

(5) See section 100ZA(13) for the meaning of “relevant grant of planning permission”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 100ZA of the Town and Country Planning Act 1990 (the 1990 Act), which was inserted by section 14 of the Neighbourhood Planning Act 2017, provides that planning permission for the development of land may not be granted subject to a pre-commencement condition (as defined in section 100ZA(8) of the 1990 Act) without the written agreement of the applicant to the terms of the condition. This requirement is subject to such exclusions as may be prescribed by the Secretary of State (see section 100ZA(6)).

Regulation 2 provides that planning permission may be granted subject to a pre-commencement condition without the applicant's written agreement if the applicant has been notified of the intention to impose a pre-commencement condition and has not responded by the date specified in the notice.

The provisions made in these Regulations apply only to conditions on a grant or modification of planning permission granted or modified after the coming into force of these Regulations.

A separate impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sectors is foreseen. The existing impact assessment for primary legislation can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/582706/Summary_of_Impacts_-_House_of_Lords.pdf