
STATUTORY INSTRUMENTS

2021 No. 746

The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2021

PART 2

Amendments to 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 in accordance with articles 3 to 19.

Amendment of article 2 (interpretation)

3.—(1) Article 2 is amended in accordance with paragraphs (2) to (6).

(2) After the definition of “contaminated land” insert—

““criminal justice accommodation” means—

- (a) a prison within the meaning of the Prison Act 1952⁽²⁾; or
- (b) a place for the detention of young persons within the meaning of section 43 of that Act;”.

(3) After the definition of “floor space” insert—

““health service hospital” means a hospital vested in—

- (a) an NHS body within the meaning of paragraph 7(4) of Schedule 3 to the Care Act 2014⁽³⁾; or
- (b) the Secretary of State for the purpose of his functions under the National Health Services Act 2006⁽⁴⁾;

“hospital” means—

- (a) an institution for the reception and treatment of persons suffering from illness;
- (b) a maternity home; or
- (c) an institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation,

and includes clinics, dispensaries and out-patient departments maintained in connection with any such home or institution;”.

(4) After the definition of “householder application” insert—

(1) [S.I. 2015/595](#). Relevant amending instruments are [S.I. 2017/402](#), [S.I. 2017/571](#), [S.I. 2018/119](#), [S.I. 2020/505](#) and [S.I. 2020/1398](#).
(2) [1952 c. 52](#). Section 43 was substituted by section 38(1) of the Criminal Justice and Courts Act [2015 \(c. 2\)](#).
(3) [2014 c. 23](#).
(4) [2006 c. 41](#), as amended by the Health and Social Care Act [2012 \(c. 7\)](#).

““illness” includes mental disorder within the meaning of the Mental Health Act 1983⁽⁵⁾ and any injury or disability requiring medical or dental treatment or nursing;”.

(5) After the definition of “public holiday” insert—

““public service infrastructure development” means major development, which is not EIA development, where the main purpose of the development is—

(a) the provision of—

- (i) a health service hospital;
- (ii) a school or institution within the further education sector; or
- (iii) an institution within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992⁽⁶⁾; or
- (iv) criminal justice accommodation; or

(b) works for the extension or alteration of—

- (i) a health service hospital;
- (ii) a school or institution within the further education sector; or
- (iii) an institution within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992; or
- (iv) criminal justice accommodation;”.

(6) After the definition of “scale” insert—

““school or institution within the further education sector” means a school or institution within the further education sector which is—

- (a) an Academy within the meaning of the Academies Act 2010⁽⁷⁾;
- (b) a school maintained by a local authority as defined in section 142(1) of the School Standards and Framework Act 1998⁽⁸⁾;
- (c) a school which is specially organised to make special educational provision for pupils with special educational needs and is approved by the Secretary of State under section 342 of the Education Act 1996⁽⁹⁾;
- (d) an independent education institution approved under section 41 of the Children and Families Act 2014⁽¹⁰⁾; or
- (e) an institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992;”.

Insertion of new article 9A

4. After article 9 insert—

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- (5) 1983 c. 20. See section 1(2); section 1(2) was substituted by section 1(1) and (2) of the Mental Health Act 2007 (c. 12).
 - (6) 1992 c. 13. Section 91 was amended by paragraph 1 of Schedule 11 to the Learning and Skills Act 2000 (c. 21) (“the 2000 Act”), paragraph 13 of Schedule 8 to the Apprenticeship Skills and Learning Act 2009 (c. 22), paragraph 26 of Schedule 8 and paragraph 25 of Schedule 11 to the Higher Education and Research Act 2017 (c. 29), regulation 4 of S.I. 2019/1027.
 - (7) 2010 c. 32. See the definitions in sections 1A to 1C and 15 of that Act. Sections 1A to 1C were inserted by section 53(7) of the Education Act 2011 (c. 21) (“the 2011 Act”).
 - (8) 1998 c. 31 (“the 1998 Act”). In the definition the words “local authority” were substituted by paragraph 10(2) of Schedule 2(1) to S.I. 2010/1158.
 - (9) 1996 c. 56 (“the 1996 Act”). Section 342 was substituted by paragraph 82 of Schedule 30 to the 1998 Act and amended by section 142 and paragraph 1 of Schedule 2 to the Education and Skills Act 2008 (c. 25) and paragraph 37 of Schedule 3 to the Children and Families Act 2014 (c. 6).
 - (10) 2014 c. 6.

“Fire Statements

9A.—(1) Paragraph (4) applies to an application for planning permission for—

- (a) development which involves the provision of one or more buildings⁽¹¹⁾ to which paragraph (2) applies (“a relevant building”);
- (b) development of an existing relevant building; or
- (c) development within the curtilage of a relevant building.

(2) This paragraph applies to a building which satisfies the height condition in paragraph (3) and contains—

- (a) two or more dwellings; or
- (b) educational accommodation.

(3) The height condition is that—

- (a) the building is 18 metres or more in height; or
- (b) the building contains 7 or more storeys.

(4) An application for planning permission to which this paragraph applies, must, except where paragraph (6) applies, be accompanied by a statement (“a fire statement”) about the fire safety design principles, concepts and standards that have been applied to the development.

(5) A fire statement must—

- (a) be on a form published by the Secretary of State (or a form substantially to the same effect); and
- (b) include the particulars specified or referred to in the form.

(6) This paragraph applies—

- (a) where—
 - (i) the application is for a material change in use of a relevant building; and
 - (ii) the material change of use would result in the building no longer being a relevant building;
- (b) where the application is—
 - (i) for a material change in use of land or buildings within the curtilage of a relevant building; and
 - (ii) the material change of use would not result in the provision of one or more relevant buildings;

(c) to an application for outline planning permission⁽¹²⁾;

(d) to an application for permission to develop land without compliance with conditions previously attached made pursuant to section 73 of the 1990 Act.

(7) For the purpose of paragraph (3)—

- (a) the height of a building is to be measured from ground level to the top floor surface of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms);
- (b) when determining the number of storeys a building has—
 - (i) any storey which is below ground level is to be ignored; and

⁽¹¹⁾ See section 336 of the 1990 Act for the definition of “building”.

⁽¹²⁾ See section 92 of the 1990 Act for the definition of “outline planning permission”.

- (ii) any mezzanine floor is a storey if its internal floor area is at least 50% of the internal floor area of the largest storey in the building which is not below ground level.
- (8) For the purpose of this article a storey is treated as below ground level if any part of the finished surface of the ceiling of the storey is below the ground level immediately adjacent to that part of the building.
- (9) In this article—
- “16 to 19 Academy” has the meaning given by section 1B of the Academies Act 2010⁽¹³⁾;
- “boarder” includes a student who boards during the week but not at weekends;
- “dwelling” includes a flat;
- “educational accommodation” means—
- (a) residential accommodation for the use of students who are boarders at school in connection with them attending a school; or
- (b) residential accommodation for the use of students attending higher education courses, further education courses or courses at 16 to 19 Academies;
- “further education” has the meaning given by section 2 of the Education Act 1996⁽¹⁴⁾;
- “ground level”, in relation to a building, means the level of the surface of the ground immediately adjacent to the building or, where the level of the surface of the ground on which the building is situated or is to be situated is not uniform, the level of the lowest part of the surface of the ground adjacent to it;
- “higher education course” means a course of any description mentioned in Schedule 6 to the Education Reform Act 1988⁽¹⁵⁾ or an equivalent course outside England;
- “school” has the meaning given by section 4 of the Education Act 1996⁽¹⁶⁾.”.

Amendment of article 11 (general provisions relating to applications)

5. In article 11, in paragraph (2), before sub-paragraph (d) insert—
- “(ca) in the case of an application to which article 9A applies, the fire statement;”.

Amendment of article 15 (publicity for applications for planning permission)

6. In article 15, after paragraph (10A) insert—
- “(10B) In this article, in the case of an application for public service infrastructure development, in paragraphs (3)(a), (4)(a)(i), and (6), “21 days” is to be read, in each place it occurs, as if it were a reference to “18 days”. ”.

Amendment of article 18 (consultations before the grant of permission)

- 7.—(1) Article 18 is amended in accordance with paragraphs (2) and (3).
- (2) In paragraph (5)(b) for “subject to paragraph (6)” substitute—

(13) 2010 c. 32. Section 1B was inserted by section 53(7) of the 2011 Act.

(14) 1996 c. 56. Section 2 has been amended by section 110(1) of the 2000 Act, paragraph 7 of Schedule 2 to [S.I. 2010/1158](#), sections 156 and 177, paragraph 6(2) of Schedule 7(2), paragraph 33 of Schedule 21 and paragraph 1 of Schedule 22(3) to the Education Act 2002 (c. 32) (“the 2002 Act”).

(15) 1988 c. 40.

(16) Section 4 has been amended by section 51, paragraph 10 of Schedule 7 and paragraph 1 of Schedule 8 to the Education Act 1997 (c. 44), paragraph 1 of Schedule 22 to the 2002 Act, paragraph 9 of Schedule 13 to the 2011 Act; paragraph 97 of Schedule 1 to [S.I. 2010/1080](#) and regulation 7 of [S.I. 2019/1027](#).

“subject to paragraphs (6) and (8)”.

(3) After paragraph (7) insert—

“(8) In the case of an application for public service infrastructure development, in paragraph (5)(b), “21 days” is to be read, in each place it occurs, as if it were a reference to “18 days”.”.

Amendment of article 19 (consultations before the grant of planning permission: urgent Crown development)

8.—(1) Article 19 is amended in accordance with paragraphs (2) and (3).

(2) In paragraph (5)(b) for “subject to paragraph (6)” substitute—

“subject to paragraphs (6) and (8)”.

(3) After paragraph (7) insert—

“(8) In the case of an application for public service infrastructure development, in paragraph (5)(b), “21 days” is to be read, in each place it occurs, as if it were a reference to “18 days”.”.

Substitution of article 21 (consultation with county planning authority)

9. For article 21 substitute—

“21.—(1) Subject to paragraph (2) the period prescribed for the purposes of paragraph 7(7)(c) of Schedule 1 to the 1990 Act (local planning authorities: distribution of functions) is 21 days.

(2) In the case of an application for public service infrastructure development, in paragraph (1), “21 days” is to be read as if it were a reference to “18 days”.”.

Amendment of article 22 (duty to respond to consultation)

10.—(1) Article 22 is amended in accordance with paragraphs (2) and (3).

(2) For paragraph (3) substitute—

“(3) Subject to paragraph (6) the period prescribed for the purposes of section 54(4) of the 2004 Act is—

(a) the period of 21 days beginning with the day on which—

(i) the document on which the views of the consultee are sought is received by the consultee, or

(ii) where there is more than one such document and they are sent on different days, the last of those documents is received by the consultee, or

(b) such other period as may be agreed in writing between the consultee and the consultor.”.

(3) After paragraph (5) insert—

“(6) In the case of an application for public service infrastructure development, where the requirements to consult contained in paragraph (1)(a), (b), (c), (h) or (i) apply, the prescribed period of 21 days in paragraph (3) is to be read as if it were a reference to 18 days.”.

Amendment of article 24 (recommendations by district planning authority before determination of county matters)

- 11.—(1) Article 24 is amended in accordance with paragraphs (2) and (3).
- (2) In paragraph (1) for “Subject to paragraph (2)” substitute—
“Subject to paragraphs (2) and (3)”.
- (3) After paragraph (2) insert—
“(3) In the case of an application for planning permission for public service infrastructure development, in paragraph (1) “21 days” is to be read as if it were a reference to “18 days”.”.

Amendment of article 25 (representations by parish council before determination of application)

- 12.—(1) Article 25 is amended in accordance with paragraphs (2) and (3).
- (2) At the beginning of paragraph (1) insert—
“Subject to paragraph (5)”.
- (3) After paragraph (4) insert—
“(5) In the case of an application for planning permission for public service infrastructure development, in paragraph (1) and sub-paragraph (c) of paragraph (2) “21 days” is to be read as if it were a reference to “18 days”.”.

Amendment of article 25A (representations by neighbourhood forum before determination of application)

13. For Article 25A substitute—
- “25A.—(1) Where a neighbourhood forum for a neighbourhood area are given information in relation to an application under paragraph 8A(1) or paragraph 8A(1B) of Schedule 1 to the 1990 Act (local planning authorities: distribution of functions)
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- (a) subject to paragraph (2) the forum must, as soon as practicable, notify the local planning authority who are determining the application whether the forum proposes to make representations about the manner in which the application should be determined, and must make any representations to that authority within 21 days of the notification to the forum of the application; and
- (b) article 25(2) to (4) applies in relation to any such application as if any reference to a council of a parish or to the parish (however expressed) were a reference to the neighbourhood forum or neighbourhood area, as appropriate.
- (2) In the case of an application for public service infrastructure development, in paragraph (1), “21 days” is to be read as if it were a reference to “18 days”.”.

Amendment of article 33 (representations to be taken into account)

- 14.—(1) Article 33 is amended in accordance with paragraph (2).
- (2) For paragraph (7) substitute—
“(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 computation is for the purpose of the period specified in sub-paragraphs (a), (b) (c) or (g) of paragraph (1); or
- (c) the application is made under section 293A(2) of the 1990 Act.
- (8) In the case of an application for public service infrastructure development, in sub-paragraphs (d),(e) and (g) of paragraph (1), “21 days” is to be read, in each place it occurs, as if it were a reference to “18 days”.

Amendment of article 34 (time periods for decisions)

- 15.**—(1) Article 34 is amended in accordance with paragraphs (2) to (5).
- (2) In sub-paragraph (aa) of paragraph (2) after “major development” insert—
“or an application for development which is public infrastructure development.”
 - (3) In paragraph (4), before sub-paragraph (c) insert—
“(ba) in the case of an application to which article 9A applies, the fire statement;”
 - (4) In paragraph (5), before sub-paragraph (c) insert—
“(ba) in the case of an application to which article 9A applies, the fire statement;”
 - (5) After paragraph (9C) insert—
“(10) In the case of an application for public service infrastructure development, in sub-paragraphs (d),(e), and (g) of paragraph (9), in each place it occurs, “21 days” is to be read as if it were a reference to “18 days”.

Amendment of article 40 (register of applications)

- 16.** In article 40, in paragraph (4) for sub-paragraph (a) substitute—
- “(a) a copy (which may be photographic or in electronic form) of—
 - (i) the application;
 - (ii) the plans and drawings submitted in relation to the application;
 - (iii) any accompanying design and access statement provided in accordance with article 9; and
 - (iv) any accompanying fire statement provided in accordance with article 9A;”

Amendment of Schedule 1 (letter to be sent to an applicant on receipt of application)

- 17.** In Schedule 1 for “in the case of applications for technical details consent for major development, 10 weeks,” in both places, substitute—
“in the case of applications for technical details consent for major development and applications for planning permission for public service infrastructure development, 10 weeks.”

Amendment of Schedule 3 (publicity for applications for planning permission)

- 18.** In the first form in Schedule 3 in the last box beginning with the word “Insert” for paragraph (f) substitute—
- “(f) date giving a period (as the case may be, and subject to (fa)) of—
 - (i) 21 days beginning with the date when the notice is first displayed 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;
- (fa) in the case of an application for public service infrastructure development, date giving a period of—
- (i) 18 days beginning with the date when the notice is first displayed 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) 18 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.”.

Amendment of Schedule 4 (consultations before the grant of permission)

- 19.**—(1) Schedule 4 is amended in accordance with paragraphs (2) and (3).
- (2) In the table, in paragraph (s), in the column headed “Consultee”, in paragraph (b), for “the Garden History Society” substitute “The Gardens Trust”.
- (3) In the table, after paragraph (zf) insert—

“(zg) Development falling within any of the following descriptions involving one or more buildings to which paragraph (2) of article 9A of this Order applies (“a relevant building”)—	The Health and Safety Executive”
(i) development which will involve or is likely to involve the provision of one or more relevant buildings;	
(ii) development of an existing relevant building except development consisting of a material change in use of a relevant building which would result in the building no longer being a relevant building;	
(iii) development within the curtilage of a relevant building except development consisting of a material change in use of land or buildings within the curtilage of a relevant building which would not result in the provision of one or more relevant buildings.	
