

2009 No. 2261

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009

<i>Made</i>	- - - -	<i>1st September 2009</i>
<i>Laid before Parliament</i>		<i>8th September 2009</i>
<i>Coming into force</i>	- -	<i>1st October 2009</i>

The Secretary of State, in exercise of the powers conferred by sections 59, 62, 71, 74(1), 96A 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 No. 3) (England) Order 2009 and shall come into force on 1st October 2009.

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

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

2.—(1) The Town and Country Planning (General Development Procedure) Order 1995(b) is amended as follows.

(2) In article 4C (design and access statements) after paragraph (1)(c) insert—

“(d) development that is the subject of an application referred to in article 10B(1)(b)”.

(3) In article 4E (applications for planning permission)—

(a) in paragraph (1)(c) after “of the Act” insert “or is referred to in article 10B(1)(b)”; and

(b) omit paragraph (4).

(4) After article 4E insert—

“Applications for non-material changes to planning permission

4F.—(1) This article applies in relation to an application made under section 96A(4) of the Act (power to make non-material changes to planning permission).

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- (a) 1990 c.8. Section 62 was substituted by section 42 of the Planning and Compulsory Purchase Act 2004 (c.5). Section 71 was substituted by section 16(2) of, and paragraph 15 of Schedule 2 to, the Planning and Compensation Act 1991 (c. 34); see section 71(4) for the definition of “prescribed”. Section 96A was inserted by section 190 of the Planning Act 2008 (c.29). 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 2006 (c.32), they were transferred to the Welsh Ministers.
- (b) S.I. 1995/419. Relevant amendments were made by S.I. 2005/2087, 2006/1282, 2008/550, 2009/453 and 2009/1304.

(2) An application in relation to which this article applies must be made in writing to the local planning authority on a form published by the Secretary of State (or a form to substantially the same effect).

(3) At the same time as making an application in relation to which this article applies the applicant must give notice to any person (other than the applicant) who is an owner of the land to which the application relates or a tenant of an agricultural holding any part of which is comprised in the land to which the application relates, stating—

- (a) what the application is for and where the person can view a copy of it; and
- (b) that any representations about the application must be made to the local planning authority within 14 days of the date when the notice is given.

(4) Where notice is given under paragraph (3), the local planning authority must, in determining an application, take into account any representations made within 14 days beginning with the date when the notice was given.

(5) Where a local planning authority receive an application made in accordance with paragraph (2) they must give the applicant notice in writing of their decision on the application within 28 days of receipt of the application or such longer period as may be agreed in writing between the applicant and the authority.”

(5) In article 10 (consultations before the grant of permission),

(a) after paragraph (1)(iv) insert—

“(v) the development is not EIA development and is the subject of an application in relation to which article 10B applies.”; and

(b) in paragraph (4) after “this article” insert “or article 10B”.

(6) After article 10A insert—

“Consultations before the grant of planning permission pursuant to section 73 or the grant of a replacement planning permission subject to a new time limit

10B.—(1) This article applies in relation to—

- (a) an application made pursuant to section 73 of the Act (determination of applications to develop land without conditions previously attached); and
- (b) an application for planning permission where the development that is the subject of the application—
 - (i) has not yet begun; and
 - (ii) was granted planning permission on or before 1st October 2009 subject to a time limit imposed by or under section 91 (general condition limiting duration of planning permission) or 92 (outline planning permission) of the Act which has not expired (“the previous planning permission”).

(2) Before granting planning permission on an application in relation to which this article applies, the local planning authority must consult such authorities or persons falling within a category set out in the table in article 10 as the local planning authority consider appropriate.”

(7) In article 11A (duty to respond to consultation), in paragraph (1), after sub-paragraph (a) insert—

“(aa) article 10B;”.

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

1st September 2009

Bill McKenzie
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends, in relation to England, the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) which sets out the procedure for matters including planning applications.

The Order prescribes the application procedure for non-material changes to planning permission for the purposes of the new section 96A of the Town and Country Planning Act 1990 which was inserted by section 190 of the Planning Act 2008. Applicants must apply on a standard form, and must notify other owners, and notice of a decision must be given within 28 days (article 2(4)).

The Order modifies the consultation requirements in respect of applications under section 73 of the Town and Country Planning Act 1990 to vary conditions attached to a previous permission (article 2(5), (6) and (7)). The requirement in article 4E(4) to provide information sufficient to identify the previous permission is removed (article 2(3)(b)).

The Order also amends the procedure for planning applications which are made for a planning permission to replace an extant permission, granted on or before 1st October 2009, for development which has not yet begun, with a new planning permission subject to a new time limit. For such applications, the requirement to provide a design and access statement will not apply; consultation requirements are modified; and plans and drawings will not have to be provided (article 2(2), (3)(a), (5), (6) and (7)).

An impact assessment has been prepared in relation to this Order. The assessment has been placed in the Library of each House of Parliament and copies may be obtained from the Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU (Telephone 020 7944 3676).

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STATUTORY INSTRUMENTS

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