
 S T A T U T O R Y I N S T R U M E N T

2005 No.

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Development Procedure) (Amendment) (No. 2) (England)
Order 2005

<i>Made</i>	- - - -	2005
<i>Laid before Parliament</i>		2005
<i>Coming into force</i>	- -	2005

The First Secretary of State, in exercise of the powers conferred upon him by sections 59, 61(1), 61A, 62, 69, 71, 74, 78 and 193 of, and paragraph 1(1) and (2) of Schedule 4A to, the Town and Country Planning Act 1990^(c), hereby 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. 2) (England) Order 2005 and shall come into force on 2005.

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

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

2. The Town and Country Planning (General Development Procedure) Order 1995^(d) is amended in accordance with the following provisions of this Order.

Reserved matters

3.—(1) In article 1(2) (interpretation)—

(a) after the definition of “the Act” insert—

““appearance” means the aspects of a building or place which determine the visual impression it makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;”;

^(c) 1990 c. 8. Section 61A and Schedule 4A were inserted by the Planning and Compulsory Purchase Act 2004 (c. 5) (“the 2004 Act”), section 40 and Schedule 1; sections 62 and 69 were substituted by the 2004 Act, sections 42 and 118(1) and Schedule 6; section 71 was amended by the Planning and Compulsory Purchase Act 1991 (c. 34) (“the 1991 Act”), section 16(2); section 74 was amended by the 1991 Act, sections 19(2), 32, 84 and Schedules 7 and 19 and by the Greater London Authority Act 1999 (c. 29), section 425(2); section 78 was amended by the 1991 Act, section 17(2) and by the 2004 Act, sections 40 and 43; section 193 was substituted by the 1991 Act, section 10(1).

^(d) S.I. 1995/419. Relevant amendments were made by S.I. 1995/1139 and 2003/956.

- (b) for the definition of “landscaping” substitute—
- ““landscaping”, in relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes screening by fences, walls or other means, the planting of trees, hedges, shrubs or grass, the formation of banks, terraces or other earthworks, the laying out or provision of gardens, courts or squares, water features, sculpture, or public art and the provision of other amenity features;”;
- (c) after the definition of “landscaping” insert—
- ““layout”, in relation to a proposed development, means the way in which buildings, routes and open spaces within the development proposed are provided, situated and orientated in relation to each other and to buildings and spaces outside that development;”;
- (d) for the definition of “reserved matters” substitute—
- ““reserved matters” in relation to an outline planning permission, or an application for such permission, means any of the following matters in respect of which details have not been given in the application—
- (a) access;
 - (b) appearance;
 - (c) landscaping;
 - (d) layout; and
 - (e) scale, within the upper and lower limit for the height, width and length of each building stated in the application for planning permission in accordance with article 3(4),
- and in this definition, “access” means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; and in this definition, “site” means the site or part of the site in respect of which outline planning permission is granted;”
- ;
- (e) after the definition of “reserved matters” insert—
- ““scale”, in relation to a proposed development, means the height, width and length of each building proposed within that development in relation to its surroundings;”.
- (2) After paragraph (2) of article 3 (applications for outline planning permission) insert—
- “(3) Where layout is a reserved matter the application for outline planning permission shall state the approximate location of buildings, routes and open spaces included in the development proposed.
- (4) Where scale is a reserved matter the application for outline planning permission shall state the upper and lower limit for the height, width and length of each building included in the development proposed.
- (5) Where access is a reserved matter the application for outline planning permission shall state the area or areas where access points to the development proposed will be situated.”.

Local Development Orders

4. After article 2 (application) insert—

“Local Development Orders

2A.—(1) Where a local planning authority propose to make a local development order they shall first prepare—

- (a) a draft of the order; and
- (b) a statement of their reasons for making the order.

(2) The statement of reasons shall contain—

- (a) a description of the development which the order would permit;
- (b) a statement of the policies which the order would implement; and
- (c) a plan or statement identifying the land to which the order would relate.

(3) Where a local planning authority have prepared a draft local development order, they shall consult, in accordance with paragraph (5), such of the following persons as they consider would be affected by the order if made—

- (a) if the local planning authority is not a London borough council, the body recognised by direction of the Secretary of State under section 2(1) of the Planning and Compulsory Purchase Act 2004 as the regional planning body for the region in which the local planning authority's area is situate;
- (b) if the local planning authority is a London borough council, the Mayor of London;
- (c) a local planning authority, county council or parish council any part of whose area is in or adjoins the area of the local planning authority;
- (d) the Countryside Agency^(e);
- (e) the Environment Agency^(f);
- (f) the Historic Buildings and Monuments Commission for England^(g);
- (g) English Nature^(h);
- (h) the Strategic Rail Authority⁽ⁱ⁾;
- (i) the Highways Agency;
- (j) a Regional Development Agency^(j) whose area is in or adjoins the area of the local planning authority;
- (k) any person—
 - (i) to whom the electronic communications code applies by virtue of a direction given under section 106(3)(a) of the Communications Act 2003^(k); and
 - (ii) who owns or controls electronic communications apparatus situated in any part of the area of the local planning authority;
- (l) any of the following persons who exercise functions in any part of the area of the local planning authority—
 - (i) Strategic Health Authority^(l);
 - (ii) person to whom a licence has been granted under section 6(1)(b) and (c) of the Electricity Act 1989^(m);
 - (iii) person to whom a licence has been granted under section 7(2) of the Gas Act 1986⁽ⁿ⁾;
 - (iv) sewerage undertaker;
 - (v) water undertaker;

^(e) See section 1(1) of the National Parks and Access to the Countryside Act 1949 (c.97), as substituted by the Environmental Protection Act 1990 (c. 43), section 130 and Schedule 8, paragraph 1, and as amended by S.I. 1999/416.

^(f) See section 1(1) of the Environment Act 1995 (c. 25).

^(g) See section 32 of the National Heritage Act 1983 (c. 47).

^(h) See section 73(1) of the Countryside and Rights of Way Act 2000 (c. 37).

⁽ⁱ⁾ See section 201 of the Transport Act 2000 (c. 38).

^(j) See section 1 of the Regional Development Agencies Act 1998 (c. 45).

^(k) 2003 c. 21.

^(l) See section 1(1) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17).

^(m) 1989 c. 29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27).

⁽ⁿ⁾ 1986 c. 44. Section 7 was substituted by the Gas Act 1995 (c. 45) and section 7(2) was amended by the Utilities Act 2000, sections 3(2), 76(1) and (3), and Schedule 6 paragraphs 1 and 4.

- (m) voluntary bodies some or all of whose activities benefit any part of the local planning authority's area;
- (n) bodies which represent the interests of different racial, ethnic or national groups in the local planning authority's area;
- (o) bodies which represent the interests of different religious groups in the local planning authority's area;
- (p) bodies which represent the interests of disabled persons in the local planning authority's area;
- (q) bodies which represent the interests of persons carrying on business in the local planning authority's area.

(4) The local planning authority shall also consult, in accordance with paragraph (5), any person with whom, in the opinion of the authority, they would have been required to consult on an application for planning permission for the development proposed to be permitted by the order.

(5) In consulting in accordance with paragraphs (3) and (4) the local planning authority shall—

- (a) send a copy of the draft order and the statement of reasons to the consultees;
- (b) specify a consultation period of not less than 28 days; and
- (c) take account of all representations received by them during the period specified.

(6) A local planning authority which complies with the requirements of paragraphs (3) and (4) shall at the same time—

- (a) make a copy of the order and statement of reasons available for inspection—
 - (i) at their principal office during normal working hours; and
 - (ii) at such other places within their area as they consider appropriate;
- (b) publish on their website—
 - (i) the draft local development order and the statement of reasons;
 - (ii) a statement that those documents are available for inspection and the places where and times when they can be inspected;
 - (iii) the date by which representations on the draft local development order must be received, which shall be not less than 28 days after the date of first publication on the website;
- (c) give notice by local advertisement of—
 - (i) the draft local development order and the statement of reasons;
 - (ii) the availability of those documents for inspection, and the places where and times when they can be inspected;
 - (iii) the date by which representations on the draft local development order must be received, which shall be not less than 28 days from the date on which the notice was first published.

(7) Where the order would grant planning permission for development specified in the order, the local planning authority shall also give notice of their proposal to make the order—

- (a) by displaying in at least one place on or near to that site a notice in the appropriate form set out in Schedule 2 to this Order or in a form substantially to the same effect, and, subject to paragraph (8), leaving the notice in position for 28 days beginning with the date on which it is first displayed; and
- (b) by serving a copy of that notice on every person whom the authority knows to be the owner or tenant of any part of the site whose name and address is known to the authority.

(8) Where the notice referred to in paragraph (7)(a) is, without any fault or intention of the authority, removed, obscured or defaced before the period of 28 days has elapsed, the authority shall be treated as having complied with the requirements of that paragraph if they have taken reasonable steps for the protection of the notice, and, if necessary, its replacement.

(9) A local planning authority shall, in considering a proposal to make a local development order, take into account any representations made, where any notice of the proposal has been—

- (a) published on the authority's website or by local advertisement in accordance with paragraph (6), that are received by the date specified pursuant to that paragraph;
- (b) given by site display under paragraph (7)(a), within 28 days beginning with the date on which the notice was first displayed; or
- (c) served on an owner of the land or a tenant under paragraph (7)(b), within 28 days beginning with the date on which the notice was served on that person provided that the representations are made by a person who satisfies the authority that he is such an owner or tenant.

(10) Where—

- (a) a local planning authority have complied with paragraphs (3) to (5) in relation to a draft local development order which would (if adopted) implement a policy in a development plan document (whether or not adopted), and
- (b) that policy is modified so that the local development order would no longer implement it,

the local planning authority may not adopt the local development order without first modifying it so as to ensure that it implements the modified policy.

(11) Where a draft local development order is modified in accordance with paragraph (10), the local planning authority shall before taking any further step in connection with the adoption of the order consult in accordance with paragraphs (3) and (4) and publicise the draft in accordance with paragraphs (6) to (8).

(12) Subject to paragraphs (10) and (11), a local planning authority shall send a copy of a draft local development order and the statement of reasons relating to that order to the Secretary of State at any time after they have complied with the requirements of paragraph (9).

(13) Subject to paragraph (14), a local planning authority shall not take any further step in connection with the adoption of a local development order until either—

- (a) the Secretary of State has notified the authority in writing that he does not intend to make a direction under section 61B(1) of the Act; or
- (b) a period of 21 days has elapsed from the date on which the draft was sent to the Secretary of State, and the Secretary of State has neither notified the authority—
 - (i) that he intends to make such a direction; or
 - (ii) that he requires more time to reach his decision.

(14) If the Secretary of State gives notice under paragraph (13)(b)(ii), the authority shall not take any further step in connection with the adoption of the order unless the Secretary of State gives notice under paragraph (13)(a).

(15) A local development order must not be made so as to grant planning permission—

- (a) for development affecting a listed building;
- (b) for development within a conservation area;
- (c) for development which is—
 - (i) Schedule 1 development within the meaning of regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999^(°); or
 - (ii) Schedule 2 development within the meaning of that regulation unless the local planning authority has, before making the order, complied with those Regulations as if the order were an application for planning permission for the development in question; or
- (d) for development which—

(°) S.I. 1999/293 to which there are amendments not relevant to this instrument.

- (i) is likely, for the purposes of the Conservation (Natural Habitats, &c.) Regulations 1994^(P), to have a significant effect on a European site in Great Britain (either alone or in combination with other plans or projects); and
 - (ii) is not directly connected with or necessary to the management of the site,
- and for the purposes of this paragraph, “European site” has the same meaning as in regulation 10 of those Regulations.
- (16) Where a local planning authority revoke a local development order the authority shall—
- (a) publish on their website a statement that the local development order has been revoked;
 - (b) give notice of the revocation by local advertisement; and
 - (c) give written notice of the revocation to every person whom the local planning authority consulted under paragraphs (3) or (4) before the making of the order.

(17) In this article a requirement to give notice by local advertisement is a requirement to publish the notice in as many newspapers as will secure that the press coverage (taken as a whole) extends to the whole of the area to which the local development order relates.”.

Applications for planning permission

5.—(1) After article 4A (applications in respect of Crown land) insert—

“Applications for planning permission

4B.—(1) Subject to the following provisions of this article, an application for planning permission shall—

- (a) be made in writing to the local planning authority —
 - (i) on a form published by the Secretary of State (or a form to substantially the same effect); or
 - (ii) where the local planning authority has consented to applications being made electronically, on a form published electronically by the Secretary of State and provided to the applicant, using electronic communication for that purpose;
- (b) include the particulars specified in the form;
- (c) except where the application is made under section 73 of the Act (determination of applications to develop land without conditions previously attached), be accompanied by—
 - (i) a plan which identifies the land to which it relates;
 - (ii) any other plans and drawings and information necessary to describe the development which is the subject of the application; and
 - (iii) except where the application is made by electronic communication or the local planning authority indicate that a lesser number is required, 3 copies of the form and its accompanying plans, drawings and information submitted with it.

(2) Any plans or drawings required to be provided by paragraph (1)(c)(i) or (ii) shall be drawn to an identified scale and, in the case of plans, shall show the direction of North.

(3) Subject to article 3(3) and (4), in the case of an application for outline planning permission, details need not be given of any reserved matters.

(4) An application for planning permission under section 73 of the Act must give sufficient information to enable the local planning authority to identify the previous grant of planning permission and the conditions with which the applicant seeks not to comply.

(5) Where an application is made using electronic communications to transmit a form to the local planning authority, the applicant shall be taken to have agreed—

- (a) to the use of such communications by the local planning authority for the purposes of his application;

^(P) S.I. 1994/2716; relevant amendments were made by S.I. 2000/192.

- (b) that his address for those purposes is the address incorporated into, or otherwise logically associated with, his application; and
- (c) that his deemed agreement under this paragraph shall subsist until he gives notice in writing of the withdrawal of his consent to the use of electronic communications under article 27A of this Order.”.

Design and access statements

6.—(1) After article 4B insert—

“Design and access statements

4C.—(1) This article applies to an application for planning permission which is not an application for planning permission for—

- (a) engineering or mining operations;
- (b) development of an existing dwelling-house where no part of that dwelling house or its curtilage is within a designated area; or
- (c) a change in the use of land or buildings.

(2) An application for planning permission to which this article applies shall be accompanied by a statement (“a design and access statement”) about—

- (a) the design principles and concepts that have been applied to the development; and
- (b) how issues relating to access to the development have been dealt with.

(3) In relation to the design principles and concepts applied to the development, a design and access statement shall—

- (a) demonstrate the steps taken to appraise the context of the development and how the design of the development responds to that context;
- (b) explain the following aspects of the development—
 - (i) proposed use;
 - (ii) quantum;
 - (iii) layout;
 - (iv) scale;
 - (v) landscaping;
 - (vi) appearance; and
 - (vii) response to context.

(4) In relation to issues concerning access to the development, a design and access statement shall—

- (a) explain the policy or approach adopted to access, and how policies relating to access in relevant local development documents have been taken into account;
- (b) state what, if any, consultation has been undertaken and what account has been taken of the outcome of any such consultation;
- (c) explain—
 - (i) how any specific issues which might affect access to the development have been addressed;
 - (ii) how prospective users will be able to access the development from the existing transport network;
 - (iii) why the main points of access to the site and the layout of access routes within the site have been chosen; and
 - (iv) how features which ensure access to the development will be maintained.

(5) In this article—

“designated area” means—

- (a) a National Park;
- (b) land to which section 28(1) of the Wildlife and Countryside Act 1981⁽⁹⁾ (areas of special scientific interest) applies;
- (c) a conservation area;
- (d) an area of outstanding natural beauty designated under section 82 of the Countryside and Rights of Way Act 2000;
- (e) a world heritage site;
- (f) the Broads;

“quantum” means—

- (a) in relation to residential development, the number of proposed units for residential use; and
- (b) in relation to all other forms of development, the proposed floor space for each proposed use forming part of the development; and

“response to context” means how the physical, social, economic and policy context of the development has informed its design in relation to each of the aspects specified in paragraph (3)(b)(i) to (vii).”.

(2) In paragraph (4)(a) of article 25 (register of applications) after “thereto” insert “and of any accompanying design and access statement provided in accordance with article 4B”.

General provisions relating to applications

7.—(1) In article 1(2)—

- (a) after the definition of “by local advertisement” insert—

““major development” means development involving any 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 dwelling-houses where—
 - (i) the number of dwelling-houses to be provided is 10 or more; or
 - (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 paragraph (c)(i); or
- (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;”;

- (b) after the definition of “trunk road” insert—

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

- (c) omit the definition of “1988 Regulations”.

(2) For article 5 (substitute—

“General provisions relating to applications

5.—(1) Any application made under article 4 or 4B, shall be made—

- (a) where the application relates to land in Greater London or a metropolitan county, to the local planning authority;
- (b) where the application relates to land in England which is in neither Greater London nor a metropolitan county and—
 - (i) that land is in a National Park, or

⁽⁹⁾ 1981 c. 69. Section 28 was substituted by the Countryside and Rights of Way Act 2000 (c. 37), section 75(1) and paragraph 1 of Schedule 9.

(ii) the application relates to a county matter,
to the county planning authority;

(c) in any other case, to the district planning authority.

(2) For the purposes of this article and article 20, and subject to paragraph (3), a valid application shall be taken to have been received when each of the following events has occurred—

- (a) an application which complies with the requirements of article 4 or article 4B, as the case may be, has been lodged with the appropriate authority mentioned in paragraph (1) together with the certificate or other documents required by article 7;
- (b) in a case to which article 4C applies, the design and access statement has been lodged with that authority;
- (c) the particulars or evidence required by the authority under section 62(3) of the Act (applications for planning permission) have been lodged with that authority; and
- (d) any fee required to be paid in respect of the application has been paid to that authority and, for this purpose, lodging a cheque for the amount of a fee is to be taken as payment.

(3) Paragraph (2)(c) only applies if the authority has required an application for planning permission to include such particulars or be accompanied by such evidence as they think necessary—

- (a) before the application is made; or
- (b) within 5 days of an application having been made.

(4) When the local planning authority receive a valid application it shall, as soon as reasonably practicable, send to the applicant an acknowledgement of the application in the terms (or substantially in the terms) set out in Part 1 of Schedule 1.

(5) Where an application is made to a county planning authority in accordance with paragraph (1), that authority shall, as soon as reasonably practicable, send a copy of the application and of any accompanying plans, drawings and information to the district planning authority, if any.

(6) Where, after sending an acknowledgement as required by paragraph (4) of this article, the local planning authority consider that the application is invalid, they shall as soon as reasonably practicable notify the applicant that his application is invalid.

(7) In this article, “county matter” has the meaning given to that expression in paragraph 1(1) of Schedule 1 to the Act (local planning authorities — distribution of functions).”.

(3) In article 8(7) (publicity for applications) omit the definitions of “major development” and “waste development”.

Time periods for decision

8.—(1) Article 20 (time periods for decision) is amended as follows—

(a) for paragraphs (1) and (2) substitute—

“(1) Subject to paragraph (6), where a valid application has been received by a local planning authority, they shall, within the period specified in paragraph (2) give the applicant notice of their decision or determination or notice that the application has been referred to the Secretary of State.

(2) The period specified in this paragraph is—

- (a) in relation to an application for major development, a period of 13 weeks beginning with the day immediately following that on which a valid application is taken to have been received by the local planning authority;
- (b) in relation to an application for development which is not major development, a period of 8 weeks beginning with the day immediately following that on which a valid application is taken to have been received by the local planning authority;
- (c) in relation to any development, such extended period as may be agreed in writing between the applicant and the local planning authority except where the applicant has already given notice of appeal to the Secretary of State; or

- (d) where a fee due in respect of an application has been paid by a cheque which is subsequently dishonoured, the appropriate period specified in (a) to (c) calculated from the date when the authority are satisfied that they have received the full amount of the fee.”;

(b) omit paragraph (3);

(c) in paragraph (4) for “regulation 3 of the 1988 Regulations” substitute “4B”.

(2) In Part 1 of Schedule 1 (letter to be sent by local planning authority on receipt of application) for “*eight week beginning with the date*” substitute “*13 weeks in the case of applications for major development or 8 weeks in all other cases beginning with the day immediately following the date*”.

Certificate of lawful use or development

9.—(1) In article 24(1) for the words “in writing” substitute “made on a form published by the Secretary of State (whether or not that form is modified by the local planning authority), or where the local planning authority has consented to applications being made electronically, on a form published electronically by the Secretary of State and provided to the applicant using electronic communication for that purpose;”.

(2) After article 24(3) insert—

“(3A) Where an application is made using electronic communications to transmit a form to the local planning authority, the applicant shall be taken to have agreed—

- (a) to the use of such communications by the authority for the purposes of his application;
- (b) that his address for that purpose is the address incorporated into, or otherwise logically associated with, his application; and
- (c) that his deemed agreement under this paragraph shall subsist until he gives notice in writing of the withdrawal of his consent to the use of electronic communications under article 27A of this Order.”.

(3) After article 24(10) insert—

“(10A) An applicant who wishes to appeal to the Secretary of State under section 195 of the Act (appeal against refusal or failure to give a decision) shall give notice of appeal to the Secretary of State within six months of—

- (a) the date of the notice of the decision or determination giving rise to the appeal;
- (b) the expiry of the period specified in paragraph (8); or
- (c) in a case where the authority have served a notice on the applicant in accordance with paragraph (7) that they require further information, and he has not provided the information, the date of service of that notice,

or such longer period as the Secretary of State may, at any time, allow.”.

Register of applications etc

10.—(1) In article 25(1) (register of applications) for “article 26” substitute “articles 25A and 26”.

(2) After article 25 insert –

“Register of Local Development Orders

25A—(1) The register kept by each local planning register authority under article 25 shall include as Part III a Part relating to local development orders.

(2) Part III of the register shall consist of 2 sections—

- (a) the first (“Section 1”) shall contain copies of draft local development orders which have been prepared but not adopted by the authority; and
- (b) the second (“Section 2”) shall contain—
 - (i) copies of local development orders which have been adopted by the authority;
 - (ii) particulars of the revocation of any local development order made by the authority, including the date on which the revocation took effect; and

(iii) particulars of the modifications made to any local development order, including the date on which the modifications took effect.

(3) A copy of each draft local development order must be placed on the register when the draft order is sent for consultation in accordance with article 2A(3) of this Order.

(4) A copy of each local development order must be placed on the register within 14 days of the date of its adoption.

(6) In this article a reference to a local development order includes a reference to the statement of reasons for making that order.”.

Signed by authority of the First Secretary of State

Date 2005

Minister of State
Office of the Deputy Prime Minister