STATUTORY INSTRUMENTS

2018 No. 119

TOWN AND COUNTRY PLANNING, ENGLAND

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

Made - - - - 30th January 2018

Laid before Parliament 1st February 2018

Coming into force in accordance with article 1(3) and (4)

The Secretary of State makes the following Order in exercise of the powers conferred by sections 59, 59A, 60, 61(1), 62(1), 69A, 71, 74, 76C and 333(7) of the Town and Country Planning Act 1990(**1**), section 33 of the Growth and Infrastructure Act 2013(**2**) and section 10(3) of the Planning (Listed Buildings and Conservation) Areas Act 1990(**3**).

PART 1

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (Local Authority Consultations etc.) (England) Order 2018.

(2) The amendments made by this Order apply in relation to England only.

(3) This article and articles 7 and 9 come into force on 1st April 2018.

(4) The remaining articles of this Order come into force on 1st June 2018.

(5) Article 7 of this Order applies to housing prior approval(**4**) applications made on or after 1st April 2018.

(6) This Order, except articles 7 and 9, applies to—

(**1**) 1990 c.8; Section 59A was inserted by section 150(2) of the Housing and Planning Act 2016 (c.22) ("the 2016 Act"); Section 60 was amended by section 152 (1) of the 2016 Act; section 62(1) was amended by paragraph 8(2) of Schedule 12 to the 2016 Act; section 69A was inserted by section 17 of the Neighbourhood Planning Act 2017(c.20) ("the 2017 Act"); section 71 was amended by Schedule 12 to the 2016 Act ; section 74(1) was amended by paragraph 17 of Schedule 12 to the 2016 Act; section 76C was inserted by paragraph 5 of Schedule 1 to the Growth and Infrastructure Act 2013 (c.27) and section 333 was amended by paragraph 32(12) of Schedule 10 to the Environment Act 1995 (c.8).

(**2**) 2013 c .27.

(**3**) 1990 c. 9;. Section 10(3) was amended by section 42(7) and paragraph 20 of Schedule 6 to the Planning and Compulsory Purchase Act 2004 c. 5 ("the 2004 Act").

(**4**) See article 7 of this Order for the definition of "housing prior approval".

(a) applications for planning permission(**5**) under Part 3 of the Town and Country Planning Act 1990;

(b) applications for listed building consent(**6**) under the Planning (Listed Buildings and Conservation Areas) Act 1990;

(c) applications for prior approval(**7**) under the Town and Country Planning (General Permitted Development) (England) Order 2015(**8**),

made on or after 1st June 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(**9**) 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(**10**) 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(**11**) 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—

(**5**) See section 336 of the Town and Country Planning Act 1990 for the definition of "planning permission".
(**6**) See section 8 of the Planning (Listed Buildings and Conservation Area) Act 1990 for the definition of "listed building consent".
(**7**) See section 69A of the Town and Country Planning Act 1990 which was inserted by section 17 of the 2017 Act for the definition of "prior approval".
(**8**) S.I. 2015/596; amended by S.I.2016/332, 2016/1040, 2017/391 and 2017/619.
(**9**) S.I. 2015/595; relevant amending instruments are S.I.2017/402 and 2017/571.
(**10**) 1971 c.80.
(**11**) 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(**12**) 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)(**13**) and

(**12**) 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").

(**13**) 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)(**14**) 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)(**15**) 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.

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

(**15**) 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(**16**) 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."

(**16**) S.I. 2015/596.