Draft Regulations laid before Parliament under section 303(8)(a) of the Town and Country Planning Act 1990, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No.

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 303 and 333(2A) of the Town and Country Planning Act 1990(**1**);

In accordance with section 303(8)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

Citation, commencement, application and expiry

1.—(1) These Regulations may be cited as the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 and shall come into force on the day after the day on which they are made.

(2) These Regulations apply in relation to England only.

(3) These Regulations cease to have effect at the end of the period of seven years beginning with the day on which these Regulations come into force.

(4) These Regulations apply—

(a) to applications for planning permission deemed to have been made, by virtue of section 177(5) of the 1990 Act(**2**) (grant or modification of planning permission on appeals against enforcement notices), in connection with an enforcement notice issued on or after the date on which these Regulations come into force; and

(b) to the following applications, site visits and requests made on or after the date on which these Regulations come into force—

(i) applications for planning permission;

(**1**) 1990 c. 8; section 303 was substituted by section 199 of the Planning Act 2008 (c. 29).

(**2**) Section 177(5) was amended by section 32 of, and paragraphs 8 and 24(3) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and section 123(1) and (6) of the Localism Act 2011 (c. 20).

(ii) applications for approval of reserved matters;

(iii) applications under section 191 (certificate of lawfulness of existing use or development) or 192 (certificate of lawfulness of proposed use or development) of the 1990 Act(**3**);

(iv) applications under section 293A of the 1990 Act(**4**) (urgent crown development applications);

(v) applications for consent for the display of advertisements;

(vi) applications under the General Permitted Development Order referred to in regulation 14;

(vii) site visits to a mining site or a landfill site;

(viii) requests for confirmation that a condition or conditions attached to a grant of planning permission has or have been complied with;

(ix) applications under section 96A(4) of the 1990 Act(**5**) (power to make non-material changes to planning permission); and

(x) applications under section 17 of the Land Compensation Act 1961 (certificates of appropriate alternative development)(**6**).

Interpretation

2.—(1) In these Regulations—

"the 1990 Act" means the Town and Country Planning Act 1990;

"the 1989 Regulations" means the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989(**7**);

"the 2007 Regulations" means the Town and Country Planning (Control of Advertisements) (England) Regulations 2007(**8**);

"the Development Management Procedure Order" means the Town and Country Planning (Development Management Procedure) (England) Order 2010(**9**);

"the General Permitted Development Order" means the Town and Country Planning (General Permitted Development) Order 1995(**10**);

"dwellinghouse" means a building(**11**) which is used as a single private dwellinghouse and for no other purpose;

"glasshouse" means a building which—

(a) has not less than three-quarters of its total external area comprised of glass or other translucent material;

(b) is designed for the production of flowers, fruit, vegetables, herbs or other horticultural produce; and

(c) is used, or is to be used, solely for the purposes of agriculture;

(**3**) Sections 191 and 192 were substituted by section 10(1) of the Planning and Compensation Act 1991 and amended by section 124(3) of the Localism Act (c. 20).
(**4**) Section 293A was inserted by section 82(1) of the Planning and Compulsory Purchase Act 2004 (c. 5).
(**5**) Section 96A was inserted by section 190(1) and (2) of the Planning Act 2008.
(**6**) 1961 c. 33; section 17 was substituted by section 232(3) of the Localism Act 2011 (c. 20).
(**7**) S.I. 1989/193, as amended by S.I. 1990/2473, 1991/2735, 1992/1817, 1992/3052, 1993/3170, 1996/525, 1997/37, 2001/2719. 2002/768, 2005/843, 2006/994, 2008/958 and 2010/472.
(**8**) S.I. 2007/783, to which there are amendments not relevant to these Regulations.
(**9**) S.I. 2010/2184.
(**10**) S.I. 1995/418.
(**11**) "Building" includes any part of a building; *see* the definition of "building" in section 336 of the 1990 Act.

"householder application" has the same meaning as in article 2(1) of the Development Management Procedure Order (interpretation);

"landfill permission" means any planning permission for—

(a) operational development of land designed to be used wholly or mainly for the purpose of; or

(b) any material change of use of land to,

a waste disposal site for the deposit of waste onto or into the land;

"landfill site" means the land to which a landfill permission relates;

"mineral permission" means any planning permission for development consisting of—

(a) the winning and working of minerals; or

(b) the depositing of mineral waste;

"mining site" means—

(a) the aggregate of the land to which any two or more mineral permissions relate where the aggregate of the land—

(i) is worked as a single site; or

(ii) is treated as a single site by the local planning authority for the purposes of Schedule 13 (review of old mineral planning permissions) or Schedule 14 (periodic review of mineral planning permissions) to the Environment Act 1995(**12**); and

(b) in any other case, the land to which a mineral permission relates;

"outline planning permission" and "reserved matters" have the same meaning as in article 2(1) of the Development Management Procedure Order;

"site visit" means entry by a local planning authority on to a mining site or landfill site—

(a) to ascertain whether there is or has been any breach of planning control on the site;

(b) to determine whether any of the powers conferred on the local planning authority by Part 7 of the 1990 Act(**13**) (enforcement) should be exercised in relation to the site;

(c) to determine how any such power should be exercised in relation to the site; or

(d) to ascertain whether there has been any compliance with any requirement imposed as a result of any such power having been exercised in relation to the site; and

"use of land" includes use of land for the winning and working of minerals.

(2) Expressions used in regulation 13 and Schedule 2 have, unless the context otherwise requires, the meaning which they bear in the 2007 Regulations.

Fees for planning applications

3.—(1) Subject to regulations 4 to 9 and paragraph 8(2) of Part 1 of Schedule 1, where an application is made to a local planning authority for planning permission for the development of land or for the approval of reserved matters, a fee shall be paid to that authority.

(**12**) 1995 c. 25; Schedule 13 was amended by sections 76 and 93 of, and paragraph 16 of Part II of Schedule 10 and paragraph 13 of Part I of Schedule 15 to, the Countryside and Rights of Way Act 2000 (c. 37); Schedules 13 and 14 were amended by sections 3 and 4 of, and Part 3 of Schedule 1 and paragraph 60 of Schedule 2 to, the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11) and S.I. 2003/956; Schedule 14 was amended by section 118 of, and paragraph 19 of Schedule 7 to, the Planning and Compulsory Purchase Act 2004 (c. 5).

(**13**) Part 7 was amended by sections 1 to 11 and 84 of, and paragraph 11 of Schedule 1, paragraphs 22 to 33 of Schedule 7 and Part I of Schedule 19 to, the Planning and Compensation Act 1991 (c. 34), section 52 of the Planning and Compulsory Purchase Act 2004, paragraphs 1, 5 and 6 of Schedule 10 (partially in force, *see*S.I. 2009/400) and paragraphs 1 and 3 of Schedule 11 to the Planning Act 2008 (c. 29), S.I. 2003/956 and 2009/1307, and sections 123 to 126 of, and paragraph 17 of Schedule 12 to, the Localism Act 2011 (c. 20)

(2) The fee payable in respect of the application shall be calculated in accordance with Schedule 1.

(3) Where a fee is due in respect of an application, the fee shall be paid to the local planning authority with whom the application is lodged and shall accompany the application.

(4) Where the local planning authority who receive the fee in accordance with paragraphs (1) to (3)—

(a) are not the local planning authority who have to determine the application; and

(b) forward the application to that authority,

they shall remit the fee to that authority at the same time as they forward the application to them.

(5) Any fee paid pursuant to this regulation shall be refunded if the application is rejected as invalid.

Exceptions – access and facilities for disabled persons

4.—(1) Regulation 3 shall not apply where the local planning authority to whom the application is made are satisfied that it relates solely to—

(a) the carrying out of operations—

(i) for the alteration or extension of an existing dwellinghouse; or

(ii) in the curtilage of an existing dwellinghouse (other than the erection of a dwellinghouse) ,

for the purpose, in either case, of providing means of access to or within the dwellinghouse for a disabled person who is resident in, or is proposing to take up residence in, that dwellinghouse, or of providing facilities designed to secure that person's greater safety, health or comfort; or

(b) the carrying out of operations for the purpose of providing means of access for disabled persons to or within a building or premises to which members of the public are admitted (whether on payment or otherwise).

(2) In this regulation, "disabled person" means—

(a) a person who is within any of the descriptions of persons to whom section 29 of the National Assistance Act 1948(**14**) (welfare arrangements for blind, deaf, dumb and crippled persons, etc) applies; or

(b) a child who is disabled for the purposes of Part 3 of the Children Act 1989(**15**) (local authority support for children and families).

Exceptions – permission granted by General Permitted Development Order not applying

5.—(1) Regulation 3 shall not apply where the local planning authority to whom the application is made are satisfied—

(a) that the application relates solely to development which is within one or more of the classes specified in Schedule 2 to the General Permitted Development Order(**16**) (permitted development); and

(**14**) 1948 c. 29; *see* subsection (1) of section 29. That subsection was amended by sections 113(1) and 114 of, and Schedule 4 to, the Mental Health (Scotland) Act 1960 (c. 61), section 195 of, and paragraph 2 of Schedule 23 to, the Local Government Act 1972 (c. 70) and section 108 of, and paragraph 11(2) of Schedule 13 to, the Children Act 1989 (c. 41).

(**15**) 1989 c. 41; *see* section 17(11).

(**16**) Schedule 2 was amended, so far as relevant to these Regulations by S.I. 2001/2718, 2006/1282, 2007/406, 2008/675, 2010/654 and 2011/2056 .

(b) that the permission granted by article 3 of that Order(**17**) (permitted development) does not apply in respect of that development by reason of (and only by reason of)—

(i) a direction made under article 4 of that Order(**18**) (directions restricting permitted development) which is in force on the date when the application is made; or

(ii) the requirements of a condition imposed on a permission granted or deemed to be granted under Part 3 of the 1990 Act(**19**) (control over development) otherwise than by that Order.

(2) The reference in sub-paragraph (1)(a) to an application which relates to development which is within one or more of the classes specified in Schedule 2 to the General Permitted Development Order shall be construed as including an application for planning permission for the continuance of a use of land, or the retention of buildings or works, without compliance with a condition subject to which a previous planning permission has been granted, where the condition in question prohibits or limits the carrying out of any development which is within one or more of those classes.

Exceptions – application relating to same use class necessary because of condition

6. Regulation 3 shall not apply where the local planning authority to whom the application is made are satisfied—

(a) that the application relates solely to the use of a building or other land for a purpose of any class specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987(**20**);

(b) that the existing use of that building or other land is for another purpose of the same class; and

(c) that the making of an application for planning permission in respect of the use to which the application relates is necessary by reason of (and only by reason of) the requirements of a condition imposed on a permission granted or deemed to be granted under Part 3 of the 1990 Act.

Exceptions – consolidation of subsisting minerals permissions

7. Regulation 3 shall not apply to impose a fee in relation to an application to a local planning authority for permission to carry out development consisting of the winning and working of minerals where the application—

(a) is for a permission which consolidates two or more subsisting permissions; and

(b) does not seek permission for development which is not authorised by a subsisting permission.

Exemptions – second application relating to development on same site etc.

8.—(1) Where all the conditions set out in paragraph (2) are satisfied, regulation 3 shall not apply to—

(a) an application for planning permission which is made following the granting of planning permission for development which the local planning authority are satisfied

(**17**) Article 3 was amended by section 76(7) of the Utilities Act 2000 (c. 27) and S.I. 1999/293, 1999/1783, 2003/956, 2006/1282 and 2011/1824.
(**18**) Article 4 was substituted by S.I. 2010/654.
(**19**) Part 3 was amended, so far as relevant to these Regulations, by section 16(1) of the Transport and Works Act 1992 (c. 42), sections 40 and 41of the Planning and Compulsory Purchase Act 2004 (c. 5), section 190 of the Planning Act 2008 (c. 29) and paragraph 2 of Part 1 of Schedule 9 (partially in force, *see* S.I. 2012/628)) to the Localism Act 2011 (c.20).
(**20**) S.I. 1987/764; the Schedule was amended by S.I. 1991/1567, 1992/610, 1994/724, 1995/297, 2005/84, 2006/220, 2006/1282 and 2010/653.