

2017 No. 402

TOWN AND COUNTRY PLANNING, ENGLAND

**The Town and Country Planning (Permission in Principle) Order
2017**

<i>Made</i> - - - -	<i>20th March 2017</i>
<i>Laid before Parliament</i>	<i>23rd March 2017</i>
<i>Coming into force</i> - -	<i>15th April 2017</i>

The Secretary of State, in exercise of the powers conferred by sections 59, 59A, 61(1), 62, 65, 70(2ZZC), 71, 71A, 74, 78 and 107(4A) of the Town and Country Planning Act 1990(a), makes the following Order.

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Town and Country Planning (Permission in Principle) Order 2017 and comes into force on 15th April 2017.

Interpretation

2. In this Order—

“the 1990 Act” means the Town and Country Planning Act 1990;

“brownfield land register” means a register kept under regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017(b);

“dwelling” includes a flat contained within a building of one or more flats;

(a) 1990 c. 8; section 59A was inserted by section 150(2) of the Housing and Planning Act 2016 (c. 22) (“the 2016 Act”); section 62 was substituted by section 42(1) of the Planning and Compulsory Purchase Act 2004 (c. 5) (“the 2004 Act”) and amended by paragraphs 7 and 8 of Schedule 12 to the 2016 Act; section 65 was substituted by section 16(1) of the Planning and Compensation Act 1991 (c. 34) (“the 1991 Act”) and relevant amendments are made by paragraph 9 of Schedule 12 to the 2016 Act; section 70(2ZZC) was inserted by section 150(3) of the 2016 Act; section 71 was amended by section 16 of, and paragraph 15 of Schedule 7 to, the 1991 Act and by paragraph 15 of Schedule 12 to the 2016 Act; section 71A was inserted by section 15 of the 1991 Act and amended by paragraph 16 of Schedule 12 to the 2016 Act; section 74 was amended by sections 19(1) and 84(6) of, and paragraph 17 of Schedule 7 and Part 1 of Schedule 19 to, the 1991 Act, paragraph 9 of Schedule 12 to the Localism Act 2011 (c. 20) (“the 2011 Act”) and paragraph 17 of Schedule 12 to the 2016 Act; section 78 was amended by section 17(2) of the 1991 Act, section 43(2) of the 2004 Act, paragraph 7 of Schedule 7 and paragraphs 1 and 2 of Schedule 11 to the Planning Act 2008 Act (c. 29), section 123 of the 2011 Act and paragraph 8 of Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27) and by paragraph 21 of Schedule 12 to the 2016 Act; and section 107(4A) was inserted by paragraph 28 of Schedule 12 to the 2016 Act.

(b) S.I. 2017/403.

“flat” means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally;

“housing development” means development for the provision of dwellings^(a); and

“non-housing development” means development other than housing development.

PART 2

Permission in principle: brownfield land register

Prescribed particulars for land allocated in a brownfield land register

3. For the purposes of section 59A(2)(c) of the 1990 Act, to allocate land for development in a brownfield land register an entry in the register for the land (in addition to including an indication that the land is allocated for development for the purposes of section 59A of the 1990 Act) must include the information required by regulation 15 of, and Schedule 2 to, the Town and Country Planning (Brownfield Land Register) Regulations 2017.

Permission in principle on allocation of land in a brownfield land register

4. Permission in principle is hereby granted for development of land allocated in Part 2 of a brownfield land register consisting of—

- (a) housing development for the provision of a number of dwellings falling within the range specified in the relevant entry in the brownfield land register; and
- (b) where the relevant entry in the brownfield land register specifies non-housing development of the land, non-housing development of a description falling within the description in that entry.

Direction by local planning authority as to when permission in principle takes effect

5. A local planning authority may direct that permission in principle granted pursuant to article 4 takes effect on a date specified in the direction instead of the date provided for in section 59A(4)(a) or (b) of the 1990 Act.

PART 3

Permission in principle: general

Planning register: permission in principle

6.—(1) The planning register kept by each local planning register authority must also include, as Part 2A, a part relating to permission in principle.

(2) In respect of every permission in principle granted pursuant to article 4 in relation to land in the local planning register authority’s area, Part 2A of the planning register must contain—

- (a) a copy (which may be photographic or in electronic form) of the entry in the brownfield land register which relates to the land;
- (b) the date the permission in principle takes effect and the date it expires; and
- (c) the name of the local planning authority which allocated the land in the brownfield land register.

(a) Development is defined in section 55 of the 1990 Act and includes material change of use of buildings.

(3) Every entry in Part 2A of the planning register must be made by the local planning register authority within 14 days of the land being entered in Part 2 of the brownfield land register.

(4) In this article—

“local planning register authority” has the same meaning as in article 40 of the Town and Country Planning (Development Management Procedure) (England) Order 2015(a); and

“planning register” means the register kept by a local planning register authority under article 40 of that Order.

Prescribed period for the purposes of section 70(2ZZC) of the 1990 Act

7. For the purposes of section 70(2ZZC) of the 1990 Act the prescribed period for a permission in principle granted pursuant to article 4 is 5 years.

PART 4

Miscellaneous

Amendments to secondary legislation in relation to permission in principle

8. The Schedule, which contains amendments to secondary legislation, has effect.

Review

9.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provisions contained in this Order; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published by 15th April 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(b) requires that a report published under this article must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this article, “regulatory provision” has the same meaning as given by sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

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

Gavin Barwell
Minister of State

20th March 2017

Department for Communities and Local Government

(a) S.I. 2015/595.

(b) 2015 c. 26.

Amendments to secondary legislation

Amendment of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011

1.—(1) The Town and Country Planning (Environmental Impact Assessment) Regulations 2011(a) are amended as follows.

(2) In regulation 61 for paragraph (2) substitute—

“(2) Subject to paragraph (3), where it falls to an authority to determine an EIA application, articles 27 (applications made under planning condition) and 34 (time periods for decision) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 shall have effect as if for each of the references in article 27(2) and 34(2)(a) and (b) to a period of 8 and 13 weeks respectively there were substituted a reference to a period of 16 weeks.

(3) Where it falls to an authority to determine an application for technical details consent for EIA development, article 34 (time periods for decisions) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 shall have effect as if for each reference in article 34(2) to a period of 5 or 10 weeks respectively there were substituted a reference to a period of 16 weeks.”.

Amendment of the Town and Country Planning (Development Management Procedure) (England) Order 2015

2.—(1) The Town and Country Planning (Development Management Procedure) (England) Order 2015(b) is amended as follows.

(2) In article 15 (publicity for applications for planning permission)—

(a) after paragraph (4) insert—

“(4A) In a case of an application for technical details consent to which neither paragraph (2) nor paragraph (4) applies, the application must be publicised—

(a) in accordance with the requirements of paragraph (7), and

(b) by giving requisite notice by site display in at least one place on or near the land to which the application relates for not less than 21 days.”;

(b) in paragraph (5) for “neither paragraph (2) nor paragraph (4) applies” substitute “paragraphs (2), (4) or (4A) do not apply”; and

(c) in paragraph (6) after “paragraph (3)(a), (4)(a)(i)” insert “, (4A)(b)”.

(3) In article 18 (consultations before grant of permission)—

(a) in paragraph (1) at the beginning insert “Subject to paragraph (1A),”;

(b) after paragraph (1) insert—

“(1A) Paragraph (1) does not apply in relation to an application for technical details consent unless the authority or person mentioned in relation to a category in the Table in Schedule 4 has advised the local planning authority by a valid notice that they wish to be consulted in relation to the development.

(1B) For the purposes of paragraph (1A) a notice is valid if it specifies a particular site and it was given in writing to the local planning authority before the date on which the permission in principle to which the application for technical details consent relates was granted.”.

(a) S.I. 2011/1824 to which there are amendments not relevant to this Order.

(b) S.I. 2015/595.

- (4) In article 34 (time period for decisions)—
- (a) in sub-paragraph (a) of paragraph (2), at the beginning insert “subject to sub-paragraph (aa),”;
 - (b) after sub-paragraph (a) of paragraph (2) insert—
 - “(aa) in relation to an application for technical details consent for major development, 10 weeks beginning with the day immediately following that on which the application is received by the local planning authority;”;
 - (c) in sub-paragraph (b) of paragraph (2), at the beginning insert “subject to sub-paragraph (bb),”;
 - (d) after sub-paragraph (b) of paragraph (2) insert—
 - “(bb) in relation to an application for technical details consent which is not major development, 5 weeks beginning with the day immediately following that on which the application is received by the local planning authority;”.
- (5) In article 37(3) (appeals) after paragraph (iii) of sub-paragraph (b) insert—
- “(iiia) where the application was an application for technical details consent, details of the relevant permission in principle;”.
- (6) In Schedule 1 (letter to be sent to an applicant on receipt of application) for “in case of applications for major development, 13 weeks, or in all other cases, 8 weeks,” in both places, substitute—
- “in the case of applications for technical details consent for major development, 10 weeks,*
 - in the case of other applications for major development, 13 weeks,*
 - in the case of applications for technical details consent which is not major development, 5 weeks,*
 - in the case of any other applications, 8 weeks.”.*
- (7) In Schedule 3 (requisite notice) at the end insert the notice set out below—

“Town and Country Planning (Development Management Procedure) (England) Order 2015

NOTICE UNDER ARTICLE 15(4A) OR ARTICLE 16 OF APPLICATION FOR PLANNING PERMISSION (TECHNICAL DETAILS CONSENT)

(to be displayed by site display on or near the site or served on infrastructure manager)

Proposed development (a)

I give notice that (b) **is**
applying to the (c) Council for technical details
consent (a form of planning permission) to (d).....

The proposed development relates to permission in principle granted by the council, details of which are available at (e)

The proposed development to which the application relates is situated within 10 metres of relevant railway land.*

Members of the public may inspect copies of

- the application
- the plans
- and other documents submitted with it

at (f) during
all reasonable hours until (g)

Anyone who wishes to make representations about this application should write to the Council at (h)
..... by (g)
.....

Signed..... (Council's authorised officer)

On behalf of (c)..... Council

Date.....

* delete as appropriate

Insert:

(a) address or location of proposed development

(b) applicant's name

(c) name of the Council

(d) description of the proposed development

(e) details of where the relevant permission in principle is available

(f) address at which the documents may be inspected

(g) date, giving a period of at least 21 days, beginning with the date when the notice is first displayed where visible or accessible on or near the site or served on the infrastructure manager (as the case may be)

(h) address of the Council".

Amendment of the Town and Country Planning (Compensation) (England) Regulations 2015

3.—(1) The Town and Country Planning (Compensation) (England) Regulations 2015(a) are amended as follows.

(2) After regulation 1 insert—

“Compensation for revocation or modification of permission in principle granted by development order

1A.—(1) Paragraph (2) applies where, in relation to development on particular land—

- (a) permission in principle granted by a development order is revoked or modified pursuant to section 97(1)(b) of the 1990 Act (including section 97 as applied by section 100 of the Act), and
- (b) on an application made under Part 3 of the 1990 Act before the end of the period of 12 months beginning with the date on which the revocation or modification takes effect, outline planning permission (within the meaning in section 92 of the 1990 Act) is refused for development of a description that is the same as, or falls within, the development described in the permission in principle (before it was revoked or modified).

(2) Subject to paragraph (3), where paragraph (1) applies section 107 of the 1990 Act shall apply as if the permission in principle granted by the development order had been granted by the local planning authority under Part 3 of the 1990 Act, and had been revoked or modified by an order under section 97(1)(a) of the 1990 Act.

(3) Paragraph (2) does not apply if the order under section 97 of the 1990 Act to revoke or modify the permission in principle is made at least 12 months and not more than 5 years before the revocation or modification takes effect.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which applies in England only, makes provisions in relation to permission in principle. Permission in principle and its effect are described in sections 58A, 59A and 70(2ZZA) to (2ZZC) of the Town and Country Planning Act 1990 (“the 1990 Act”) (those provisions were inserted by section 150 of the Housing and Planning Act 2016 (c. 22)).

Article 3 prescribes the particulars which a register under section 14A of the Planning and Compulsory Purchase Act 2004 (“brownfield land register”) must contain if the land in question is to be granted permission in principle as land allocated in that qualifying document.

Article 4 grants permission in principle to any land entered in Part 2 of the brownfield land register. The Town and Country Planning (Brownfield Land Register) Regulations 2017 (S.I. 2017/403) provide that local planning authorities must enter land in Part 2 of the brownfield land register where they allocate land for residential development (which is defined in those Regulations as development the main purpose of which is housing development). The permission granted by article 4 of this Order is an ‘in principle’ permission for development of land. Planning permission, in the form of technical details consent, would still be needed before development of the land could begin.

Article 5 provides that a local planning authority may, by direction, set the date when permission in principle in relation to a particular allocation comes into force.

(a) S.I. 2015/598, as amended by S.I. 2016/331.

Article 6 requires that each local planning register authority, as Part 2A of their planning register, must keep a register of any permission in principle, and sets out what each entry for permission in principle must contain and the date by which the entry must be made.

Article 7 prescribes the period of 5 years as the period during which a technical details application must be determined in accordance with the permission in principle.

Article 8 and the Schedule set out a number of amendments to secondary legislation relating to permission in principle and technical details consent. In particular the amendments to the Town and Country Planning (Development Management Procedure) (England) Order 2015 (S.I. 2015/595) make a number of changes to the application procedure for planning permission in the form of technical details consent. The Schedule also inserts into the Town and Country Planning (Compensation) (England) Regulations 2015 (S.I. 2015/598) a new provision (regulation 1A) for compensation in relation to the modification or revocation of permission in principle granted under article 4 of this Order. This provides that where such permission in principle for development is modified or revoked by an order under section 97 of the 1990 Act and subsequent to that modification or revocation (but within 12 months) an application for outline planning permission is refused for that development then compensation is payable under section 107 of the 1990 Act in the same way as for the modification or revocation of a planning permission. Paragraph (3) of new regulation 1A provides that compensation is not payable if at least 12 months' notice of the revocation or modification is given (but the notice may not be given more than 5 years before the revocation or modification is to take effect).

Article 9 provides for a review of the Order by 15th April 2022.

An Impact Assessment was prepared in relation to section 150 of the Housing and Planning Act 2016 and can be found at www.parliament.uk/documents/impact-assessments/IA16-002C.pdf and a further Impact Assessment is being prepared in relation to the policies in this Order and will be published at www.legislation.gov.uk. Copies may be obtained from the Planning Directorate, Department for Communities and Local Government, Fry Building, 2 Marsham Street, London SW1P 4DF.

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