

The Chief Planning Officer
Local Planning Authorities in England

9 September 2010

Chief Planning Officer Letter:

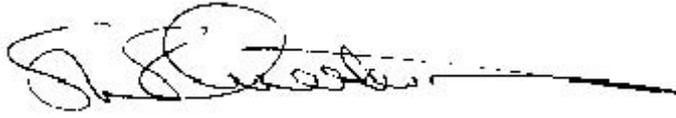
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) ORDER 2010

I am writing to you to advise you of changes to the Town and Country Planning (General Development Procedure) Order 1995 (GDPO).

A consolidated version of the Order, entitled the Town and Country Planning (Development Management Procedure) (England) Order 2010 (DMPO) has been laid before Parliament today and will come in to force on October 1st. The consolidated Order includes the original Order and all amendments made to it up until 6 April 2010.

The new Order also includes an amendment that will allow, in certain circumstances, applicants with partially implemented outline planning permissions to apply for a replacement planning permission with a new time limit. The Department will shortly revise the November 2009 guidance on greater flexibility for planning permissions, to reflect this change. The revised guidance will also update the legal position in respect of appeals against refusal or non determination by local authorities of applications for non-material amendments to existing planning permissions. Copies of the statutory instruments currently before Parliament can be found at <http://www.legislation.gov.uk/>.

I attach some Q and A which provides further information on the changes. If you would like to discuss these matters in more detail, please contact Neil Holdsworth (neil.holdsworth@communities.gsi.gov.uk).

A handwritten signature in black ink, appearing to read "Steve Quartermain". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

STEVE QUARTERMAIN
Chief Planner

Q and A

Changes to the Town and Country Planning (Development Management Procedure) Order 2010 (the GDPO)

From October 1st 2010, the GDPO will be consolidated and renamed the Town and Country Planning (Development Management Procedure) (England) Order 2010 (the DMPO). The draft Order, laid before Parliament on 9th September, is available online at www.legislation.gov.uk

What does consolidation involve?

The GDPO was made in 1995 and has been amended on 16 occasions. Consolidation essentially merges together the original Order and subsequent amending orders in to one. Consolidation in itself does not reflect a change in policy or change the material effect of the law itself. It is considered to result in more useable and updated legislation, with benefits to all users.

As part of the consolidation, the Order has also been restructured to form a more accurate reflection of the actual stages applicants go through when submitting a planning application, along with a few minor updates to the drafting of the Order. A 'table of destinations' identifying the updated references for provisions in the GDPO, has been set out in table 1, below.

Why has the Order been renamed?

It was considered desirable to change the name of the Order from GDPO to DMPO to avoid confusion with the General Permitted Development Order (GPDO).

Have any changes been made?

Yes. The Government has decided to allow applications for a replacement planning permission subject to a new time limit to be used in instances where the development permitted was clearly intended, at the time of the initial decision, to be implemented in phases, and one or more of those phases have commenced.

The new provision is set out in article 18 of the DMPO. Further detailed commentary on this change, together with commentary on the other drafting changes is set out in the explanatory memorandum.

Why is the Government changing the provisions for applications for the grant of a replacement planning permission subject to a new time limit?

The change was brought forward in response to concerns raised by applicants that the measures brought forward in 2009 do not apply in the case of outline planning permissions that are implemented in phases, and where one or more phases have already commenced. Following informal consultation with interested parties, it was considered desirable to amend the legislation to account for these circumstances, but only where the development was required or expressly permitted at the outline stage to be implemented in phases.

Further details of this change can be found in the explanatory memorandum to the SI. An update will also be issued in the forthcoming revision to the 2009 guidance on greater flexibility for planning permissions.

Why are you changing the guidance in respect of appeal rights for an application for a non-material change to a planning permission?

Paragraphs 59 and 60 of the 2009 guidance indicated that there is a right of appeal against applications submitted for non-material amendments to planning permissions. The Department has given this more scrutiny and concluded that the Planning Inspectorate do not have jurisdiction to determine such appeals. The guidance will be amended to reflect this.

How do I find out where a GDPO provision is in the new DMPO?

Table 1 sets out where the former articles of the GDPO can be found in the DMPO, together with their new headings.

Any questions relating to the Development Management Procedure Order should be addressed in the first instance to Neil Holdsworth at the Department for Communities and Local Government:

Neil.holdsworth@communities.gsi.gov.uk

0303 444 1716

Table 1 – Table of Destinations

GDPO - Previous provision number	DMPO - New provision number	Heading in DMPO
Articles 1 and 2	Article 1	Citation, commencement and application
Article 1	Article 2	Interpretation
Article 2A	Article 3	Development to include certain internal operations
Article 2B	Article 34	Local development orders
Article 3	Article 4	Applications for outline planning permission
Article 4	Article 5	Applications for approval of reserved matters
Article 4A	Article 7	Applications in respect of Crown land
Article 4B	Article 15	Major infrastructure projects: economic impact report
Article 4C	Article 8	Design and access statements
[Article 4D]	[omitted]	[Access statements: Wales]
Article 4E	Article 6	Applications for planning permission

Article 4F	Article 9	Applications for non-material changes to planning permission
Article 5	Article 10	General provisions relating to applications
[Article 5A]	[omitted]	[Declaration to accompany application to a local planning authority in Wales for planning permission for certain telecommunications developments]
Article 6	Article 11	Notice of applications for planning permission
Article 7	Article 12	Certificates in relation to notice of applications for planning permission
Articles 8 and 9 (part)	Article 13	Publicity for applications for planning permission
Article 9 (part)	Article 32	Notice of appeal
Article 10 (part)	Article 16	Consultations before the grant of permission
Article 10 (part)	Schedule 5	Consultations before the grant of permission
Article 10A	Article 17	Consultations before the grant of planning permission: urgent Crown development
Article 10B	Article 18	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
Article 11	Article 19	Consultation with county planning authority
Article 11A	Article 20	Duty to respond to consultation
Article 11B	Article 21	Duty to respond to consultation: annual reports
Article 12	Article 22	Applications relating to county matters
Article 13	Article 23	Representations by parish council before determination of application
Article 14	Article 25	Directions by the Secretary of State
Article 15	Article 26	Development affecting certain existing and proposed highways
Article 16	Article 24	Notification of mineral applications
Article 17	Article 27	Development not in accordance with the development plan
Article 18	Article 14	Notice of reference of applications to the Secretary of State
Article 19	Article 28	Representations to be taken into account
Article 20	Article 29	Time periods for decision
Article 21	Article 30	Applications made under planning condition
Article 22	Article 31	Written notice of decision or determination relating to a planning application
Article 23	Article 33	Appeals
Article 24	Article 35	Certificate of lawful use or development
Article 25	Article 36	Register of applications
Article 25A	Article 37	Register of local development orders

Article 26	Article 38	Register of enforcement and stop notices
Article 27	Article 39	Directions
Article 27A	Article 40	Withdrawal of consent to use of electronic communications
Article 28	Article 41	Revocations, transitional provisions and savings
Schedule 1	-	
Part 1	Schedule 1	Letter to be sent to applicant on receipt of application
Part 2	Schedule 6	Notification where planning permission refused or granted subject to conditions
Schedule 2	Schedule 2	Notices under articles 11 and 32
Schedule 3	Schedule 3	Publicity for applications for planning permission
Schedule 4	Schedule 8	Certificate of lawful use or development
Schedule 4A	Schedule 4	Major infrastructure projects: economic impact report
Schedule 5	Schedule 9	Statutory instruments revoked in so far as they apply to England
-	Schedule 7 [new]	Notices under article 34