

2021 No.

TOWN AND COUNTRY PLANNING, ENGLAND

**The Town and Country Planning (Development Management
Procedure and Section 62A Applications) (England)
(Amendment) Order 2021**

Made - - - - - ***

Laid before Parliament ***

Coming into force

The Secretary of State makes this Order in exercise of the powers conferred by sections 59(1), 62(1), 62A(1), 69(1), 71(1) and (2), 74(1), 76C(2) and (3) and 333(1) and (2A) of the Town and Country Planning Act 1990(a).

PART 1

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2021.

(2) This Order comes into force on []

(3) This Order applies to applications for planning permission made on or after [1st August 2021].

PART 2

Amendments to the Town and Country Planning (Development Management Procedure) (England) Order 2015

2. The Town and Country Planning (Development Management Procedure) (England) Order 2015(b) is amended in accordance with articles 3 to 7.

(a) 1990 c.8. (“the 1990 Act”) Section 59 was amended by the Planning (Wales) Act 2015, (2015 anaw 4), see sections 27 and 55 and Schedules 4 and 7. Section 62 was amended by paragraph 8(2) of Schedule 12 to the Housing and Planning Act 2016 (c.22) (“the 2016 Act”). Section 62A was inserted by section 1 of the Growth and Infrastructure Act 2013 (c.27) (“the 2013 Act”) and amended by section 153 of the 2016 Act. Section 69 was substituted by paragraph 3 of Schedule 6 to the Planning and Compulsory Purchase Act 2004 (c.5) (“the 2004 Act”) and section 69(2) and (4) were amended by section 190 of the Planning Act 2008 (c.29). Section 71 was amended by Schedule 12 of the 2016 Act; section 74(1) was amended by paragraph 17 of Schedule 12 to the 2016 Act; section 76C was added by paragraph 5 of Schedule 1 to the 2013 Act and amended by paragraph 18 of Schedule 12 to the 2016 Act and section 333 was amended by paragraph 32(12) of, and Schedule 10 to, the Environment Act 1995 (c.8), and section 118(1) of, and Schedule 6 to, the 2004 Act. There are other amendments not relevant to this instrument.

(b) S.I. 2015/595. Relevant amending instruments are S.I. 2017/402, S.I. 2017/571, S.I. 2018/119, S.I. 2020/505 and S.I. 2020/1398.

3. After article 9 insert—

“Fire Statements

9A.—(1) Paragraph (4) applies to an application for planning permission for—

- (a) development which involves the provision of one or more buildings(a) to which paragraph (2) applies (“a relevant building”);
- (b) development of an existing relevant building; or
- (c) development within the curtilage of a relevant building.

(2) This paragraph applies to a building which satisfies the height condition in paragraph (3) and contains—

- (a) two or more dwellings; or
- (b) educational accommodation.

(3) The height condition is that—

- (a) the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms) is 18 metres or more in height; or
- (b) the building contains 7 or more storeys (ignoring any storey which is below ground level).

(4) An application for planning permission to which this paragraph applies must, except where paragraph (6) applies, be accompanied by a statement (“a fire statement”) about the fire safety design principles, concepts and standards that have been applied to the development.

(5) A fire statement must—

- (a) be on a form published by the Secretary of State (or a form to substantially the same effect); and
- (b) include the particulars specified or referred to in the form.

(6) Paragraph (4) does not apply—

- (a) where—
 - (i) the application is for a material change in use of a relevant building, and
 - (ii) the material change of use would result in the building no longer being a relevant building;
- (b) where the application is for a material change in use of land or buildings within the curtilage of a relevant building;
- (c) to an application for outline planning permission(b);
- (d) to an application for permission to develop land without compliance with conditions previously attached made pursuant to section 73 of the 1990 Act.

(7) For the purposes of paragraph (3)—

- (a) a storey is treated as below ground level if any part of the finished surface of the ceiling of the storey is below the ground level;
- (b) any reference to the height of a storey of a building is to be construed as a reference to its height when measured from ground level to the top of the floor surface of the storey.

(8) In this article—

“16 to 19 Academy” has the meaning given by section 1B of the Academies Act 2010(c);

(a) See section 336 of the 1990 Act for the definition of “building”.

(b) See section 92 of the 1990 Act for the definition of “outline planning permission”.

(c) Section 1B was inserted by section 53(7) of the Education Act 2011 (c.21).

“dwelling” includes a flat;

“educational accommodation” means—

(a) residential accommodation for the use of students whilst they are attending boarding school, or

(b) residential accommodation for the use of students attending higher education courses, further education courses or courses at 16 to 19 Academies;

“further education” has the meaning given by section 2 of the Education Act 1996(a);

“ground level” means the level of the surface of the ground immediately adjacent to the building in question, or where the level of the surface of the ground on which it is situated or is to be situated is not uniform, the level of the lowest part of the surface of the ground adjacent to it;

“higher education course” means a course of any description mentioned in Schedule 6 to the Education Reform Act 1988 or an equivalent course undertaken outside England and Wales;

“school” has the meaning given by section 4 of the Education Act 1996.”

4. In article 11, in paragraph (2), before sub-paragraph (d) insert—

“(cc) in the case of an application to which article 9A applies, the fire statement;”.

5.—(1) Article 34 is amended in accordance with paragraphs (2) and (3).

(2) In paragraph (4), before sub-paragraph (c) insert—

“(bb) in the case of an application to which article 9A applies, the fire statement;”.

(3) In paragraph (5), before sub-paragraph (c) insert—

“(bb) in the case of an application to which article 9A applies, the fire statement;”.

6. In article 40, in paragraph (4), for sub-paragraph (a) substitute—

“(a) a copy (which may be photographic or in electronic form) of—

- (i) the application;
- (ii) the plans and drawings submitted in relation to the application;
- (iii) any accompanying design and access statement provided in accordance with article 9; and
- (iv) any accompanying fire statement provided in accordance with article 9A;”.

7.—(1) Schedule 4 (consultation before the grant of permission) is amended in accordance with paragraphs (2).

(2) After paragraph (zf) insert—

(a) Section 4 has been amended by the Education Act 1997 (c.44), section 51, Schedule 7, paragraph 10 and Schedule 8, paragraph 1; the Education Act 2002 (c.32), Part 3 of Schedule 22; the Childcare Act 2006 (c.21), section 95; S.I. 2010/1080; the Education Act 2011 (c.21), Schedule 13, paragraph 9(2); and S.I. 2019/1027. There are other amendments to section 4 which are not relevant to this instrument.

(zg)

Development falling within any of the following descriptions involving one or more buildings to which paragraph (2) of article 9A of this Order applies (“a relevant building)—

The Health and Safety Executive

- (i) development which will involve or is likely to involve the provision of a relevant building;
 - (ii) subject to (iv), development of an existing relevant building;
 - (iii) subject to (v), development within the curtilage of a relevant building;
 - (iv) sub-paragraph (ii) does not apply in the case of development consisting of a material change in use of a relevant building which would result in the building no longer being a relevant building;
 - (v) sub-paragraph (iii) does not apply in the case of development consisting of a material change in use of land or buildings within the curtilage of a relevant building.
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PART 3

Amendments to the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013

8. The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013(a) is amended in accordance with articles 9 and 10.

9. After article 7 insert—

“Fire statements

7A.—(1) Paragraph (4) applies to a relevant application(b) for planning permission which is for development which is for—

- (a) development which involves the provision of one or more buildings to which paragraph (2) applies (“a relevant building”);
- (b) development of an existing relevant building; or
- (c) development within the curtilage of a relevant building.

(2) This paragraph applies to a building which satisfies the height condition in paragraph (3) and contains—

- (a) two or more dwellings; or
- (b) educational accommodation.

(3) The height condition is that—

- (a) the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms) is 18 metres or more in height; or
- (b) the building contains 7 or more storeys (ignoring any storey which is below ground level).

(4) An application for planning permission to which this paragraph applies must, except where paragraph (6) applies, be accompanied by a statement (“a fire statement”) about the fire safety design principles, concepts and standards that have been applied to the development.

(5) A fire statement must—

- (a) be on a form published by the Secretary of State (or a form to substantially the same effect); and
- (b) include the particulars specified or referred to in the form.

(6) This paragraph applies—

- (a) where—
 - (i) the application is for a material change in use of a relevant building, and
 - (ii) the material change of use would result in the building no longer being a relevant building;
- (b) where the application is for a material change in use of land or buildings within the curtilage of a relevant building;
- (c) to an application for outline planning permission.

(7) For the purposes of paragraph (3)—

(a) S.I. 2013/2140. Amendments have been made which are not relevant to this Order.

(b) See section 62A(2) for the definition of “relevant application”.

- (a) a storey is treated as below ground level if any part of the finished surface of the ceiling of the storey is below the ground level;
- (b) any reference to the height of a storey of a building is to be construed as a reference to its height when measured from ground level to the top of the floor surface of the storey.

(8) In this article—

“16 to 19 Academy” has the meaning given by section 1B of the Academies Act 2010);

“dwelling” includes a flat;

“educational accommodation” means—

(a) residential accommodation for the use of students whilst they are attending boarding school, or

(b) residential accommodation for the use of students attending higher education courses, further education courses or courses at 16 to 19 Academies;

“further education” has the meaning given by section 2 of the Education Act 1996;

“ground level” means the level of the surface of the ground immediately adjacent to the building in question, or where the level of the surface of the ground on which it is situated or is to be situated is not uniform, the level of the lowest part of the surface of the ground adjacent to it;

“higher education course” means a course of any description mentioned in Schedule 6 to the Education Reform Act 1988 or an equivalent course undertaken outside England and Wales;

“school” has the meaning given by section 4 of the Education Act 1996.”

10. In article 8, in paragraph (1), before sub-paragraph (bb) insert—

“(ba) in a case to which article 7A applies, the fire statement;”.

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

Name

Parliamentary Under Secretary of State

Date

Ministry of Housing, Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning (Development Management Procedure) (England) Order 2015 (“DMPO 2015”) and the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 (“the Section 62A Order”) to impose new procedural requirements before the grant of permission for development involving one or more relevant high rise residential buildings.

Article 3 of this Order inserts new provisions to DMPO 2015 to require a fire statement to be submitted with certain applications for planning permission for development.

Article 4 and 5 of this Order make consequential amendments to articles 11 and 34 of DMPO 2015 in respect of the procedures for acknowledgement and determination of applications.

Article 6 of this Order adds a fire statement to the list of documents which must be placed on the planning register kept by a Local Planning Authority.

Article 7 of this Order amends the Table in Schedule 4 of DMPO 2015 by inserting in the Table a new description of development proposal which triggers duties in relation to consultation with the Health and Safety Executive before the grant of planning permission involving high rise residential buildings.

Articles 8 to 10 of this Order make similar amendments to the Section 62A Order. The Section 62A Order prescribes the procedures for certain applications for planning permission made to the Secretary of State.

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