EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (FEES AND CONSEQUENTIAL AMENDMENTS) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities, and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Matthew Pennycook, Minister of State at the Ministry of Housing, Communities, and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Lucy Hargreaves, Deputy Director for Planning – Development Management, at the Ministry of Housing, Communities, and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Stephen Borrows at the Ministry of Housing, Communities, and Local Government Telephone: 0303 4440000 or email: PDMCorrespondence@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends primary legislation and the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, to reflect the two new routes to planning permission for Crown development in England introduced by the Levelling-up and Regeneration Act 2023 ('LURA') into the Town and Country Planning Act 1990 ('TCPA'). The amendments made by this instrument are in addition to those made by Schedule 10 to the LURA.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

Planning permission for Crown development

5.1 In recent years, Government departments have faced challenges securing planning permission for their own development, especially for urgent projects which are in response to national emergencies. The existing framework for securing planning permission for nationally important and urgent Crown development, within section 293A of the TCPA, which was introduced in 2006 when the Crown was made subject to planning control, has never been used. This process requires Ministers to carry out a 21-day consultation before making a decision and for an inquiry to be held where the local planning authority requests which means decisions cannot be made urgently.

5.2 To this end, other routes for securing planning permission have been used where planning permission is sought for nationally important urgent projects. This includes Special Development Orders, under section 59 of the TCPA, which have been used to permission temporary lorry facilities at Manston Airfield.

5.3 In addition, departments have experienced issues in securing permission through local planning authorities for nationally important planned projects such as prisons or defence facilities. In some cases, decisions have been delayed slowing down government capital investment programmes; while some national security projects involved sensitive information which cannot be readily shared with local planning authorities.

5.4 The LURA made provision to address these challenges. Section 109 of the LURA inserts new sections 293B to 293J into the TCPA to provide two new routes for applications for planning permission for Crown development in England. Sections 293B and 293C provide a route for such applications where the development is considered to be of national importance and where there is also considered to be a need for the development to be carried out as a matter of urgency ('Urgent Crown Development'). Sections 293D to 293J provide a route for such applications where development is considered to be of national importance but is not considered to be urgent ('Crown Development').

5.5 The new routes allow an appropriate authority (as defined in section 293 of the TCPA, such as a government department) to apply to the Secretary of State for planning permission instead of the local planning authority. The new routes apply to England only and replace the existing urgent Crown development provisions in section 293A of the TCPA, which remain in place for Wales only.

5.6 This instrument amends primary legislation to reflect the introduction of the new routes to planning permission for Crown Development and Urgent Crown Development, and that the existing route for urgent Crown development in section 293A of the TCPA no longer applies to England. This instrument also amends The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 to reflect the fact that fees will no longer be payable in England in relation to applications under section 293A of the TCPA, and to specify where fees are payable in respect of applications made to the Secretary of State under the new routes.

What was the previous policy, how is this different?

5.7 The LURA laid out the legislative framework for the new Crown Development and Urgent Crown Development routes for planning permission. The LURA also made some consequential amendments to primary legislation to reflect these new routes. However, further consequential amendments are needed to reflect the introduction of these new routes. This instrument then is necessary to make these amendments and

ensure that the statute book reflects the planning system once the new routes are in force.

6. Legislative and Legal Context

How has the law changed?

Planning permission for Crown development

6.1 This instrument is part of a series of statutory instruments to be made to implement the new Crown Development and Urgent Crown Development routes for planning permission introduced by section 109 of the LURA.

6.2 Part 2 of this instrument make amendments to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012. Regulation 12 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 currently makes provision for the fee payable in respect of an application under section 293A of the TCPA. Part 2 of the instrument substitutes for section 293A references to the new Crown Development and Urgent Crown Development provisions, thereby setting the fee for applications under these provisions as the same as would have applied had the applications being submitted to the local planning authority. Part 2 of this instrument also amends regulation 12 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 to provide that where an application for planning permission under the Crown Development route is re-directed to the local planning authority under section 293D (7) of the TCPA, the application fee becomes payable to that local planning authority.

6.3 Part 3 of this instrument makes amendments to primary legislation which are consequential on the introduction by the LURA of the new Crown Development and Urgent Crown Development routes for planning permission. There are currently many references to planning permission generally, and planning permission under section 293A of the TCPA specifically, in legislation. The introduction of the new Crown Development and Urgent Crown Development routes for planning permission and their replacement, in England, of the existing urgent Crown development provisions in section 293A of the TCPA give rise to the need to make several consequential amendments to update these references.

6.4 Further statutory instruments will be made following the making of this instrument, including statutory instruments to:

(a) bring section 109 of and Schedule 10 to the LURA into force for additional purposes (they have currently only been brought into force in so far as they confer a power to make regulations or to make a development order),

(b) set out the procedure to be followed in connection with applications made under the Crown Development and Urgent Crown Development routes,

(c) set out the rules for inquiries and hearings carried out before determining a application made under the Crown Development route,

(d) make further consequential amendments to secondary legislation to reflect the introduction of the Crown Development and Urgent Crown Development routes, and

(e) amend Community Infrastructure Levy Regulations 2010 to ensure that a planning permission granted pursuant to an application made under section

s293D of the TCPA (Crown Development) is a planning permission for the purposes of the 2010 Regulations.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 There has not been a public consultation on this instrument because the changes it makes are consequential and/or minor and technical in nature.

7.2 However, the Ministry of Housing, Communities and Local Government has engaged with the Welsh Government about the changes being made as a consequence of the LURA. This instrument incorporates their feedback.

8. Applicable Guidance

8.1 Existing Planning Practice Guidance[1] will be updated to coincide with the coming into force of the statutory instruments setting out the procedure to be followed in connection with applications made under the Crown Development and Urgent Crown Development routes.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, voluntary sectors. The reforms will provide benefits to the public sector and public bodies, as set out in paragraph 9.4. An impact assessment was prepared for the LURA and copies of that assessment may be found at https://publications.parliament.uk/pa/bills/cbill/58-03/0169/LevellingUpandRegenerationBillImpactAssessment.pdf and can be inspected at the Planning Directorate, the Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the changes made by this instrument are consequential and/or minor and technical in nature.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no significant negative impact on the public sector, although the reforms (as a package) will bring benefits to the public sector and public bodies as the Crown Development route will enable faster planning decisions on Government public service development, which could provide cost savings for capital programmes. The scale of the impacts would be dependent on the extent to which this route is used and the scale of the programmes.

[1] https://www.gov.uk/guidance/crown-development

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause. This is because there is no expected significant impact on business (greater than +/-£10 million net annualised).

10.2 The Ministry of Housing, Communities, and Local Government will monitor the overall effect of the implementation of the Crown Development and Urgent Crown Development routes for planning permission.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None

12. European Convention on Human Rights

12.1 Matthew Pennycook, Minister of State at the Ministry of Housing, Communities, and Local Government has made the following statement regarding Human Rights:

"In my view the provisions of The Town and Country Planning (Fees and Consequential Amendments) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").