EXPLANATORY MEMORANDUM TO

THE GROWTH AND INFRASTRUCTURE (LOCAL DEVELOPMENT ORDERS) (CONSEQUENTIAL PROVISIONS) (ENGLAND) ORDER 2013

2013 No. 2879

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 Section 5 of the Growth and Infrastructure Act 2013 removes certain intervention powers the Secretary of State has in relation to local development orders, which are a mechanism for local planning authorities to grant a general planning permission. In connection with the commencement of section 5, this instrument makes consequential amendments to procedural requirements for local development orders, and it also makes transitional and saving provisions.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 5 of the Growth and Infrastructure Act 2013 amends section 61B and Schedule 4A of the Town and Country Planning Act 1990 to remove the Secretary of State's powers to intervene in local developments orders prior to adoption. The Secretary of State will no longer be able to direct that a local development order be submitted for his approval, and will no longer be able to approve, reject or modify the order prior to adoption.

4.2 The Town and Country Planning (Development Management Procedure) (England) Order 2010 and the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 set out various procedural steps relating to these powers. This instrument revokes those procedural provisions, but provides that they will continue to apply in respect of draft local development orders where the consultation process on the draft order has begun before the commencement date of section 5. This accords with transitional and saving provisions made in the section 5 commencement order.

5. Territorial Extent and Application

5.1 This instrument applies in England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 We are simplifying the process that local planning authorities must follow to put in place a local development order. By removing the Secretary of State's pre-adoption powers, local planning authorities will be able to bring forward a local development order in the knowledge that there will be no test applied centrally before an order can be adopted. The Department considers this change will help speed up delivery of development, which will be a benefit to local growth.

- ***Consolidation***

7.2 The Department has no current plans to consolidate the Town and Country Planning (Development Management Procedure) (England) Order 2010 or the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

8. Consultation outcome

8.1 The underlying policy was debated during the passage of the Growth and Infrastructure Act 2013. The policy was initially proposed as an amendment to the Growth and Infrastructure Bill during a House of Lords debate on 27 February 2013 (Hansard link available at http://tinyurl.com/Lords-amendment). The Secretary of State supported this amendment during a House of Commons debate on the 16 April 2013 (Hansard link available at http://tinyurl.com/Commons-dabate).

9. Guidance

9.1 The Department's guidance in relation to local development orders will be amended to reflect this legislative change.

10. Impact

10.1 Any impact on business, charities or voluntary bodies stems from the change to administrative procedures. By making it easier for local planning authorities to adopt local development orders, the Department considers it will encourage more local take up of these powers. This in turn will simplify local development management controls which will be a benefit for business, charity or voluntary sector.

10.2 The underlying policy relieves the public sector of two burdens in relation to local development orders. Local planning authorities will no longer

have to submit draft local development orders to the Secretary of State prior to adoption. They will also not have to report on the extent to which local development orders are achieving their purpose. The impact of this instrument will be to make it clear to local planning authorities which procedural rules no longer apply and from what cut-off date.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not directly apply to small business; however, local development orders are generally deregulatory in effect.

12. Monitoring & review

12.1 This instrument implements policy set out in primary legislation. The impact of the underlying policy on numbers of local development orders will be monitored by the Department. We will keep the impact of this policy under review. Any change to the policy arising from the review would require primary legislation, which might then result in a further consequential provisions order.

13. Contact

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