EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (CROWN DEVELOPMENT APPLICATIONS) (HEARINGS AND INQUIRIES) RULES 2025

2025 No. 410

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 Alex Davies-Jones, Parliamentary Under-Secretary of State at the Ministry of Justice 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 sets out the rules which are to be followed where hearing or inquiry is held before determination of a Crown Development application for planning permission or a connected listed building application made in accordance with sections 293D and 293E of the Town and Country Planning Act 1990 ("TCPA"), introduced through the Levelling-up and Regeneration Act 2023 ("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.

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?

5.1 In recent years, Government departments have faced challenges securing planning permission for their own development 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.

5.2 The LURA made provision to address these challenges. Section 109 of the LURA inserts new sections 293D to 293J into the TCPA to provide a route for such applications where development is considered to be of national importance ('Crown Development').

5.3 The new route allows 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. In practice, applications will be submitted to, and processed by the Planning Inspectorate (PINS) who act on behalf of the Secretary of State. There is provision for the application to be determined by way of written representations, a hearing or an inquiry. Where an inquiry is held, existing provision in the TCPA allows sensitive information to be considered as closed evidence which will not be considered in public[1]. PINS will determine applications for planning permission, however the Secretary of State reserves the right to recover the application and determine it.

5.4 The new route was inserted alongside an updated route for securing planning permission for development which is considered of national importance, and needed as a matter of urgency ('Urgent Crown Development') in sections 293B to 293C of the TCPA. These 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.

What was the previous policy, how is this different?

5.5 The LURA laid out the legislative framework for the new Crown Development and Urgent Crown Development routes for planning permission. In order to implement these routes it is necessary to set out, through secondary legislation, procedures for dealing with applications for planning permission and, in the case of Crown Development, connected listed building consent, this Statutory Instrument covers the procedure used where hearings and inquiries are used to determine applications for planning permission under the Crown Development route.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument is part of a package 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 provides rules to govern the process for hearings. The approach to hearings is modelled on the process which is currently used for applications submitted to the Secretary of State under section 62A of the TCPA, when local planning authorities are designated for poor performance, as set out in The Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013. A hearing is held by a planning inspector.

6.3 It requires the hearing to be held before the end of the period of 5 weeks beginning with the end of the last representation period, as defined in the Town and Country

[1] Information is "sensitive" if the Secretary of State directs that (a)it relates to matters of national security or measures taken or to be taken to ensure the security of any premises or property, and (b)its public disclosure would be contrary to the national interest.

Planning (Crown Development Applications) (Procedure and Written Representations) Order 2025, unless the Secretary of State considered this impracticable. This part also requires the Secretary of State to publish a statement setting out the issues to be considered at the hearing prior to the hearing. Provision is also made as to how the hearing will be conducted, setting out a list of persons who are entitled to appear, the procedure to be followed at the hearing, and site inspections. Provision is also made for the procedure after the hearing and the making of a decision.

6.4 Part 3 provides rules to govern an inquiry, which are modelled on the approach taken where inquiries are used to determine appeals and called-in decisions under Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 and Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (known collectively as the 'Inquiry Rules'). Although there are some differences which reflect that a Crown Development application is a direct application to the Secretary of State, as opposed to being an application which had previously been refused or otherwise dealt with by the local planning authority. As with a hearing, an inquiry is held by a planning inspector.

6.5 A notable difference in the approach to that taken in an inquiry procedure under the Inquiry Rules is that there is no requirement for parties to submit statements of case as part of the inquiry. Although the applicant, relevant local planning authority and any statutory party have the ability to do so if they wish.

6.6 Like the Inquiry Rules, these rules require a notice of the inquiry to be sent to the applicant, the relevant local planning authority, and any statutory party (defined in rule 2) as soon as practicable following the determination of procedure. Where parties do submit a statement of case these must be sent to the inspector within 5 weeks of the notice for the inquiry. The inspector may also request statements of case when other persons request to appear the inquiry, where these have been requested the statement of case must be sent to the inspector within 4 weeks of the request. Where statements of case have been submitted, provision is made in this statutory instrument to ensure that these are these are shared between all relevant parties prior to the inquiry.

6.7 The Rules require that within 12 weeks of the notice that an inquiry will be held the inspector may send to the applicant, the relevant local planning authority, and any statutory party a statement of the matters they wish to be informed about for the purposes of determining the application. A pre-inquiry meeting will be held where the inquiry is expected to last 8 days or more, unless the inspector considers it unnecessary. A pre-inquiry meeting may also be held for inquiries where the inspector considers it necessary. The inspector must prepare a timetable for the inquiry if it is likely to last for 8 days or more and may prepare one for shorter inquiries.

6.8 The inquiry must be held within 20 weeks of the day the notice that an inquiry is to be held was sent to the applicant, relevant local planning authority, and statutory parties, unless the Secretary of State considers it impracticable, or the earliest date after this which the Secretary of State deems to be practicable. The Secretary of State will give 4 weeks written notice of the date, time and place for holding of the inquiry to every person entitled to appear. Proofs of evidence must be sent to the inspector, and other parties, (the applicant, the relevant local planning authority, and any statutory party) 4 weeks before the inquiry is held.

6.9 Provisions are made for the process followed in the inquiry, including those who are entitled to appear, the procedures for giving evidence and cross-examination of witnesses at the inquiry, and site inspections. The procedure followed at the inquiry is

determined by the inspector, but at the start of the inquiry the inspector must identify what are, in their opinion, the main issues to be considered and any matters they require further explanation from those persons entitled, or permitted, to appear.

6.10 Where the Secretary of State directs that information relating to the application is sensitive information in accordance with section 293H(7) of the TCPA[2], provisions in the Town and Country Planning (Crown Development Applications) (Procedure and Written Representations) Order 2025 ensure that where provisions in that Order would otherwise result in the public disclosure of that information, they will not apply.

6.11 Section 321 of the TCPA, which applies to all planning inquiries including an inquiry held to determine a Crown development application, provides that the Secretary of State may direct that part of an inquiry is held in a closed session where particular evidence relates to national security and its public disclosure would be contrary to the national interest (a' security direction'). This will be relevant where the Secretary of State has made a direction under section 2833H(7) that certain specified information is sensitive information within the meaning of that section. Section 321 makes provision for the Attorney General to appoint persons, ("appointed representatives") to represent the interests of any person who will be prevented from hearing or inspecting specified evidence at a local inquiry if such a security direction is given. In these circumstances the Planning (National Security Directions and Appointed Representatives) (England) Rules 2006 will apply, which make provision as to the procedure to be followed by the Secretary of State (to limit the disclosure of sensitive information), when considering whether to give a security direction, including provisions on publicity, written representations, hearings and notification of their decision.

6.12 Further provision is made within Part 3 of these rules where the Secretary of State has made a security direction in accordance with section 321 TCPA, to ensure that that closed evidence is not publicly disclosed as part of the Inquiry. This includes only allowing for open evidence to be published or referred to within reports, and for closed evidence to be inspected only by those with the relevant security clearance, such as appointed representatives.

6.13 In addition to this instrument, there are further statutory instruments to implement the Crown Development and Urgent Crown Development routes introduced in the LURA:

(a) The Town and Country Planning (Consequential and Miscellaneous Amendments) Regulations 2025, which makes further consequential amendments to secondary legislation to reflect the introduction of the Crown Development and Urgent Crown Development routes;

(b) The Town and Country Planning (Crown Development Applications) (Procedure and Written Representations) Order 2025, which sets out the procedure to be followed where a Crown development application for planning permission, approval of reserved matters, or a connected listed building application is made in accordance with sections 293D and 293E of the TCPA;

(c) The Town and Country Planning (Crown Development) (Urgent Applications) (Procedure) (England) Order 2025, which sets out the procedure to be followed where a Urgent Crown development application for planning permission is made in accordance with sections 293B of the TCPA;

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(d) The Levelling-up and Regeneration Act 2023 (Commencement No. 7) Regulations 2025, commence the Crown Development and Urgent Crown Development provisions in the LURA, except in so far as these provisions relate to an application for permission in principle or an application for hazardous substances consent under the Planning (Hazardous Substances) Act 1990;

(e) The Environment Act 2021 (Commencement No. 10) Regulations 2025, commence section 98, and paragraphs 1 and 2 of Schedule 14 of the Environment Act 2021 in so far as they relate to Crown Development and Urgent Crown Development; and

(f) The Community Infrastructure Levy (Amendment etc.) (England) Regulations 2025, amend the 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?

6.14 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 of the technical nature of the statutory instrument.

8. Applicable Guidance

8.1 Existing Planning Practice Guidance[3] 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. The Planning Inspectorate will also publish guidance on the procedure used for Hearings and Inquiries.

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 (as a package) 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 they are not affected by these rules.

9.3 The legislation does not impact small or micro businesses.

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

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.

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

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").