EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (CROWN DEVELOPMENT APPLICATIONS) (PROCEDURE AND WRITTEN REPRESENTATIONS) ORDER 2025

2025 No. 409

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 sets out the procedure to be followed where a Crown Development application for planning permission and approval of reserved matters, and where applicable, a connected listed building application is 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 in to 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. 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 applying for planning permission, and approval of reserved matters, for development which is considered to be 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. The LURA also made some consequential amendments to primary legislation to reflect these new routes. 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, which is covered by this Statutory Instrument.

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 of this instrument sets out the procedure relating to applications for planning permission and approval of reserved matters. This includes the requirements for the application and associated documents to be submitted as part of the application including: the requirement for the application to be made in writing to the Secretary of State on a form published by them, or a form substantially to the same effect; a plan which identifies the land to which the application relates; other plans, drawings, and information necessary to describe the development; and (where applicable) design and access and fire statements. These information requirements mirror those requirements for applications for applications for planning permission set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015 ("DMPO"), where applications are submitted to a local planning authority, and the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 ("Section 62A Order") where applications

are submitted to the Secretary of State where the local planning authority has been designated for poor performance under section 62A of the TCPA.

6.3 Notable differences to the approach to information requirements set out in DMPO and Section 62A Order include the requirement that the application needs to be accompanied by a statement setting out the reasons the appropriate authority considers that the development to which the application relates is of national importance. This is because section 293D(5) of the TCPA only permits the Secretary of State to determine the application where the development subject to the application is considered to be of national importance. The Written Ministerial Statement of 13 February 2025[1] sets out the government's approach to considering what development is of national importance.

6.4 When an application is submitted, PINS will assess whether the application is complete and all required information has been submitted and the requisite fee paid. The Secretary of State will also consider whether the proposed development is of national importance. If the application is deemed complete and the Secretary of State considers the proposal is of national importance, a notice will be sent to the applicant to notify them that the application has been accepted. Following this the relevant local planning authority (who would otherwise had dealt with the application) will be notified and provided with copies of the application documents.

6.5 The application is then subject to publicity and consultation, to which provision is also made in Part 2. The Secretary of State is required to publicise the application and make copies of the application available on a website. The Secretary of State must also formally consult the relevant planning authority and prescribed statutory consultees in relation to the application, and the latter must provide a substantive response before the end of the appliable representation period (which is 21 days from the time the application is sent to them). Where the last of the representation periods has ended, the Secretary of State must make copies of any representations submitted available on a website. This mirrors the approach taken in the Section 62A Order.

6.6 Part 3 of the instrument sets the requirements for connected applications for listed building consent, which must be submitted within 5 working days of the Secretary of State informing the applicant that the application is complete and the proposed development is of national importance. The provisions within this Part mirror the approach taken in the Section 62A Order to connected applications for listed building consent.

6.7 Following the close of the last representation period the Secretary of State must determine the procedure for the determination of the application, (either written representations, hearing or inquiry). Provision is made for this in Part 4 of the instrument. This part also provides for notice of the decision whether to grant planning permission, where a written representation procedure is used. This also includes the requirement to consider representations made and for the Secretary of State to provide notice of their decision and make copies of the decision notice and accompanying documents available on a website. The procedures to be followed where a hearing or inquiry are used to determine the application for planning permission, approval of reserved matters, or connected listed building consent are set out in The Town and Country Planning (Crown Development Applications) (Hearings and Inquiries) Rules 2025.

[1] Crown Development Written Ministerial Statement: https://questions-statements.parliament.uk/written-statements/detail/2025-02-13/hcws454

6.8 Part 5 of this instrument ensures that, 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 this instrument which would otherwise result in the public disclosure of that information, will not apply.

6.9 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 make 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) (Inquiries and Hearings) Rules 2025, sets the rules which are to be followed where a hearing or inquiry takes place before a Crown development application for planning permission or a connected listed building application are determined;

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

(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?

6.10 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.

[2] 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.

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.

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 regulations.

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.

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.

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

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").