EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (CROWN DEVELOPMENT) (URGENT APPLICATIONS) (PROCEDURE) (ENGLAND) ORDER 2025

2025 No. 411

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 an application for planning permission, or an application for the approval of reserved matters, is made in accordance with sections 293B and 293C 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, 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. The LURA made provision to address these challenges. Section 109 of the LURA inserts new sections 293B to 293C into the TCPA to provide a new route to planning permission for Urgent Crown Development. This 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 where Crown development is considered nationally important and needed as a matter of urgency ('Urgent Crown Development'). This route applies to England only and replaces the existing urgent Crown development provisions in section 293A of the TCPA, which remain in place for Wales only.

5.4. The Urgent Crown Development route allows applications to be submitted directly to the Secretary of State for Housing, Communities and Local Government, and dealt with by them directly.

5.5. Sections 293D to 293J of the TCPA were also inserted through the LURA, and provide a route for applications for planning permission and approval of reserved matters where development is considered to be of national importance but is not considered to be urgent ('Crown Development').

What was the previous policy, how is this different?

5.6. 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, procedural regulations are required to implement these new routes. This instrument, then, is necessary to set out the procedure for applications for Urgent Crown Development.

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. This instrument provides for the procedure in connection with applications for planning permission and approval of reserved matters under section 293B of the TCPA. The provisions for Urgent Crown Development applications are designed to facilitate a timely planning decision, which means fewer regulatory requirements than a planning application which would be submitted under other application routes. This is because the proposed development would need to be made operational urgently.

6.3. Prior to submitting an application, the applicant is required to give notice to any person who is an owner of the land to which the application relates, or a tenant, and whose name and address is known to the applicant

6.4. The form and content requirements for Urgent Crown Development applications are set out in this instrument. These requirements include a requirement for a statement setting out why the applicant considers the application of national importance and needed as a matter of urgency. Decisions under the Urgent Crown Development route will be considered on planning merits, so applicants for planning permission are required to set out a statement setting out why they consider the application is acceptable in planning terms.

6.5. Where an application is submitted to the Secretary of State, section 293B(6) of the TCPA provides that the Secretary of State may only agree to determine the application if the Secretary of State considers that the development to which the application relates is of national importance and is needed as a matter of urgency. National importance and urgency will be considered on a case by case basis, using the Written Ministerial Statement of 13 February 2025[1]. Once the Secretary of State has decided to either agree or refuse to determine the application, the Secretary of State will notify the applicant and the local planning authority of this decision.

6.6. Provision is also made in this instrument relating to publicity and consultation. As soon as practicable after giving notice agreeing to determine the application, the Secretary of State is required to publicise the application including any plans, drawings, other information and documents required to accompany the application. The Secretary of State must also notify the relevant local planning register authority of the website where the application documents have been published, and the local planning register authority must place a copy of the application and the accompanying documents on the planning register.

6.7. The Secretary of State must consult the relevant local planning authority in relation to the application and, where their interests would be affected, certain prescribed bodies. The timescale for this consultation is not mandated in this instrument, as the nature of this consultation is likely to be expedited in nature due to the urgency to which decisions are needed. Where the Secretary of State sets a timeframe to which responses must be received, they must not determine the application until that period has expired, unless before the end of that period the Secretary of State has received a substantive response from each consultee.

6.8. Special provision is made for EIA development (as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017). This includes a mandatory 30 day consultation and publicity period which will include consulting with prescribed statutory consultees set out within the Table within Schedule 4 to the Town and Country Planning (Development Management Procedure) (England) Order 2015.

6.9. This instrument sets out the approach to sensitive information[2] whereby if the Secretary of State directs, in accordance with 293B(11) of the TCPA, that the information relating to, or contained within, a relevant Urgent Crown Development application is sensitive information then that information must not be disclosed to the public.

6.10. Once the application has been determined, the Secretary of State must as soon as practicable notify the applicant of the decision, including the reasons for reaching that

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

[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.

decision. Within 5 days of notifying the applicant, the notice, and any written representations received within a representation period must be published on a website and the relevant local planning register authority must be notified of where these documents have been published. As soon as practicable after receiving this notice the local planning register authority must publicise these documents on the planning register.

6.11. 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) (Procedure and Written Representations) Order 2025, which sets out the procedure to be followed where a Crown development application for planning permission 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 Applications) (Hearings and Inquiries) Rules 2025, which set 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 is determined;

(d) The Levelling-up and Regeneration Act 2023 (Commencement No. 7) Regulations 2025, which 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, which commence section 98 of, and paragraphs 1 and 2 of Schedule 14 to, 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, which 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?

6.12. 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 this statutory instrument 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 or voluntary sectors are foreseen. 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 businesses, charities, or voluntary bodies because they are not affected by this statutory instrument.

9.3. The legislation does not impact small or micro businesses.

9.4. There are no significant negative impacts on the public sector, although the reforms (as a package) will bring benefits to the public sector and public bodies as both Crown Development routes 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 businesses (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").