STATUTORY INSTRUMENTS

2013 No. 2932

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2013

Made - - - -	*19th November 2013*
Laid before Parliament	*25th November 2013*
Coming into force - -	*17th December 2013*

The Secretary of State, in exercise of the powers conferred by sections 59, 61W, 62, and 76C of the Town and Country Planning Act 1990(**a**), makes the following Order:

Citation, commencement, expiry and application

1.—(1) This Order may be cited as the Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2013 and shall come into force on 17th December 2013.

(2) This Order ceases to have effect on the date on which the amendments made to the Town and Country Planning Act 1990 by section 122(1) and (2) of the Localism Act 2011(**b**) cease to have effect.

(3) This Order applies in relation to England only.

Amendment of the Town and Country Planning (Development Management Procedure) (England) Order 2010

2.—(1) The Town and Country Planning (Development Management Procedure) (England) Order 2010(**c**) is amended as follows.

(2) After Part 1 (preliminary) insert—

(**a**) 1990 c. 8. Section 61W and subsection (8) of section 62 were inserted by section 122 of the Localism Act 2011 (c. 20) ("the Localism Act"), section 62 was substituted by section 42(1) of the Planning and Compulsory Purchase Act 2004 (c. 5), and section 76C was inserted by section 1(2) of, and paragraphs 1 and 5 of Schedule 1 to, the Growth and Infrastructure Act 2013 (c. 27).

(**b**) 2011 c. 20. The amendments made by section 122(1) and (2) of the Localism Act cease to have effect at the end of seven years beginning with the date on which the inserted section 61W(1) of the Town and Country Planning Act 1990 comes fully into force.

(**c**) S.I. 2010/2184 ("the 2010 Order"). Article 29(3A) was inserted into the 2010 Order by S.I. 2013/1238. There are other amendments to the 2010 Order none of which are relevant to this Order.

"PART 1A

Pre-application consultation

Consultation before applying for planning permission

3A.—(1) Subject to paragraph (2), for the purposes of section 61W of the 1990 Act (requirement to carry out pre-application consultation) a person must carry out consultation on a proposed application for planning permission for any development involving an installation for the harnessing of wind power for energy production where—

(a) the development involves the installation of more than 2 turbines; or

(b) the hub height of any turbine exceeds 15 metres.

(2) Paragraph (1) does not apply to—

(a) applications made pursuant to section 73 of the 1990 Act (determination of applications to develop land without compliance with conditions previously attached); or

(b) applications of the description contained in article 18(1)(b) or (1)(c) (consultations before the grant of a replacement planning permission subject to a new time limit).

Particulars of pre-application consultation

3B. Where consultation is required in accordance with article 3A, an application for planning permission must be accompanied by particulars of—

(a) how the applicant complied with section 61W(1) of the 1990 Act;

(b) any responses to the consultation that were received by the applicant; and

(c) the account taken of those responses.".

(3) In article 10 (general provisions relating to applications), in paragraph (2) after sub-paragraph (c) insert—

"(cc) in a case where pre-application consultation is required in accordance with article 3A, the particulars in article 3B;".

(4) In article 29 (time periods for decision)—

(a) in paragraph (3) after sub-paragraph (c) insert—

"(cc) in a case where pre-application consultation is required in accordance with article 3A, the particulars specified in article 3B;"; and

(b) in paragraph (3A) after sub-paragraph (c) insert—

"(cc) in a case where pre-application consultation is required in accordance with article 3A, the particulars referred to in article 3B;".

Amendment of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013

3.—(1) The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013(**a**) is amended as follows.

(2) After Part 1 (preliminary) insert—

(**a**) S.I. 2013/2140.

"PART 1A

Pre-application consultation

Consultation before applying for planning permission

3A. For the purposes of section 61W of the 1990 Act (requirement to carry out pre-application consultation) a person must carry out consultation on a proposed relevant application for planning permission for any development involving an installation for the harnessing of wind power for energy production where—

(a) the development involves the installation of more than 2 turbines; or

(b) the hub height of any turbine exceeds 15 metres.

Particulars of pre application consultation

3B. Where consultation is required in accordance with article 3A, a relevant application for planning permission must be accompanied by particulars of—

(a) how the applicant complied with section 61W(1) of the 1990 Act;

(b) any responses to the consultation that were received by the applicant; and

(c) the account taken of those responses.".

(3) In article 8 (general provisions in relation to applications) in paragraph (1) after sub-paragraph (b) insert—

"(bb) in a case where pre-application consultation is required in accordance with article 3A, the particulars in article 3B;".

Signed by authority of the Secretary of State for Communities and Local Government

Kris Hopkins
Parliamentary Under Secretary of State
19th November 2013 Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to compulsory pre-application consultation under section 61W of the Town and Country Planning Act 1990 ("the 1990 Act"). The duty ("the pre-application consultation duty") introduced a requirement into the 1990 Act for applicants to consult members of the local community in certain cases prior to submitting an application for planning permission. Under section 61W the Secretary of State may specify the description of developments to which the duty to consult in section 61W applies. Under section 61W(3) the Secretary of State may also specify particular persons which additionally must be consulted. No such persons are specified in this Order.

The Town and Country Planning (Development Management Procedure) (England) Order 2010 (S.I. 2010/2184) ("the 2010 Order") provides for procedures connected with planning applications and other matters in England.

Article 2 of this Order inserts a new Part 1A into the 2010 Order relating to the pre-application consultation duty. A new article 3A of the 2010 Order states that this duty will apply to applications for planning permission in respect of any development involving an installation for the harnessing of wind power for energy production where the development involves the installation of more than 2 turbines or the hub height of any turbine exceeds 15 metres. The duty will not apply to applications for planning permission for development pursuant to section 73 of the 1990 Act to develop land without compliance with conditions previously attached or applications of the description in article 18(1)(b) or (1)(c) of the 2010 Order for a replacement planning permission subject to a new time limit. A new article 3B of the 2010 Order sets out

details of the particulars that must accompany an application for planning permission which is subject to the pre-application consultation duty. Consequential amendments to the 2010 Order are made.

The Town and Country Planning (Section 62A Applications Procedure and Consequential Amendments) Order 2013 (S.I. 2013/2140) ("the Section 62A Applications Order") provides for procedures connected with applications for planning permission made directly to the Secretary of State in accordance with section 62A of the 1990 Act.

Article 3 of this Order inserts a new Part 1A into the Section 62A Applications Order relating to the pre-application consultation duty. A new article 3A of the Section 62A Applications Order states that the duty will apply to relevant applications for planning permission for any development involving an installation for the harnessing of wind power for energy production where the development involves the installation of more than 2 turbines or the hub height of any turbine exceeds 15 metres. A new article 3B of the Section 62A Applications Order sets out the particulars that must accompany a relevant application for planning permission which is subject to the duty to carry out pre-application consultation. Consequential amendments are made to the Section 62A Applications Order.

The provisions of the 1990 Act requiring pre-application consultation cease to have effect 7 years from the date on which they come fully into force. Article 1(2) of the Order provides that the Order will cease to have effect on the same date.

An impact assessment is being prepared in relation to this Order. It will be placed in the library of each House of Parliament and on the website of the Department for Communities and Local Government.

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