

2012 No. 634

TOWN AND COUNTRY PLANNING, ENGLAND

The Land Compensation Development (England) Order 2012

Made - - - - *1st March 2012*

Laid before Parliament *6th March 2012*

Coming into force - - *6th April 2012*

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by section 20 of the Land Compensation Act 1961(a) and sections 59, 61(1) and 333(7) of the Town and Country Planning Act 1990(b), makes the following Order:

Citation and commencement

1. This Order may be cited as the Land Compensation Development (England) Order 2012 and shall come into force on 6th April 2012.

Interpretation

2.—(1) In this Order—

“1974 Order” means the Land Compensation Development Order 1974(c);

“county matter” means a matter within the meaning of paragraph 1 of Schedule 1 to the Town and Country Planning Act 1990(d); and

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(e) (general interpretation).

(2) Any reference in this Order to a numbered section is a reference to the section so numbered in the Land Compensation Act 1961(f).

(3) Paragraphs (4) to (7) apply where an electronic communication is used by a person to make an application for a certificate under section 17 to, or to request information under article 5 from, a local planning authority and in those paragraphs “the recipient” means that local planning authority.

(4) The application or request shall not be taken to have been made unless the document transmitted by electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and

(a) 1961 c.33; section 20 will be amended by the Localism Act 2011 (c.20), section 232(4) on a date to be appointed.
(b) 1990 c.8.
(c) S.I. 1974/539; amended by S.I. 1986/435.
(d) Paragraph 1 of Schedule 1 was amended by the Planning and Compensation Act 1991 (c. 34), sections 21 and 84, and Schedules 1 and 19.
(e) 2000 c. 7; amended by section 406 of, and paragraph 158 of Schedule 17 to, the Communications Act 2003 (c. 21).
(f) Sections 17 and 18 will be substituted by section 232(3) of the Localism Act 2011 (c. 20) on a date to be appointed.

(c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4), “legible in all respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(6) Where electronic communication is received by the recipient outside the recipient’s business hours, it shall be taken to have been received on the next working day; and for this purpose “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(7) A requirement in this Order that any document should be in writing is fulfilled where the document meets the criteria in paragraph (4), and “written” and cognate expressions are to be construed accordingly.

Application for and issue of certificates

3.—(1) An application to a local planning authority for a certificate under section 17 shall—

- (a) be in writing;
- (b) include a plan or map sufficient to identify the land to which the application relates; and
- (c) comply with the requirements of section 17(3)..

(2) The time within which a certificate is to be issued by a local planning authority shall, subject to the provisions of section 17(4), be two months from the receipt of such an application by them.

(3) If a local planning authority issue a certificate otherwise than for development described in the application made to them, or contrary to representations in writing made to them by a party directly concerned, they shall in that certificate include a statement in writing of their reasons for doing so and give particulars of the manner in which and the time within which an appeal may be made under section 18.

Notification

4.—(1) Where a certificate is—

- (a) issued by a county planning authority, they shall send a copy of that certificate to the district planning authority for the area in which the land is situated;
- (b) issued by a district planning authority and specifies development related to a county matter, they shall send a copy of that certificate to the county planning authority; and
- (c) issued by a London borough council or the Common Council of City of London and describes development which, were it the subject of an application for planning permission, would have to be notified to the Mayor of London under section 2A of the Town and Country Planning Act 1990^(a) and article 4 of the Town and Country Planning (Mayor of London) Order 2008^(b), they shall send a copy of that certificate to the Mayor.

Requests for information as to certificates, etc. and provision by local planning authority

5.—(1) Where a written request is made to a local planning authority by any person appearing to them to have an interest in the land which is the subject of a certificate under section 17 for—

- (a) the name and address of the applicant for the certificate and the date of the application, and
- (b) a copy of the certificate,

the local planning authority shall provide such person with such information and a copy of the certificate, if any, or shall pass the written request to the local planning authority whose function it is to issue the certificate

(a) Inserted by the Greater London Authority Act 2007 (c. 24), section 31(2).

(b) S.I. 2008/580; amended by S.I. 2011/550.

(2) Where a request is passed to an authority under paragraph (1), that authority shall comply with such request.

Electronic communications

6. Where an application for a certificate under section 17 or a request for information under article 5 is made electronically, the person making the application or the request (as the case may be) shall be taken to have agreed—

- (a) to the use of such communication by the local planning authority for the purposes of responding to that request, including issuing a certificate (if applicable);
- (b) that the address for these purposes is the address incorporated into, or logically associated with, that request; and
- (c) that deemed agreement under this paragraph shall subsist until the person making the application or request gives notice in writing—
 - (i) withdrawing any address notified to the local planning authority for that purpose; or
 - (ii) revoking the deemed agreement,

and such withdrawal or revocation shall be final and shall take effect on the date specified by the person in the notice, being not less than seven days after the date on which the notice is given.

Revocation, transitional and saving provisions

7.—(1) The 1974 Order is revoked so far as it applies to England provided that any application for, or any request for information as to, a certificate under section 17 which is outstanding at the coming into force of this Order shall have effect as if made and shall be dealt with under and in accordance with the provisions of this Order.

(2) Where, on the coming into force of this Order, an appeal has been made under section 18 and article 4 of the 1974 Order and the time for providing documents under article 4(3) of the 1974 Order has not yet expired the provisions of articles 4(3) and 4(4) of the 1974 Order shall continue in force in respect of that appeal.

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

Greg Clark
Minister of State

1st March 2012

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which applies in relation to England only, revokes and replaces the Land Compensation Development Order 1974.

Article 3 prescribes the procedure for applying for and issuing certificates under section 17 of the Land Compensation Act 1961.

Article 4 requires a county planning authority to send a copy of every certificate issued by them to the district planning authority in which part of the land is situated and requires a district planning authority to send a copy of every certificate it issues to the county planning authority if the certificate specifies development which is a county matter within the meaning of paragraph 1 of Schedule 1 to the Town and Country Planning Act 1990. A duty is also imposed on a London borough and the Common Council of the City of London to send to the Mayor of London a copy of every certificate they issue specifying development a planning application for which would be notified to the Mayor under the provisions of the Town and Country Planning (Mayor of London) Order 2008.

Article 5 prescribes the procedure for those with an interest in the relevant land to obtain information as to such certificates.

Article 6 provides for electronic communication in relation to applications for certificates and requests for information.

Article 7 revokes the Land Compensation Development Order 1974 in relation to England and provides that any outstanding application for a certificate or request for information about a certificate shall have effect as if made or dealt with under this Order.

Article 7 also contains a saving where an appeal has been made prior to the coming into force of the Order and the time limit for providing information contained in article 4(3) of the 1974 Order has not yet expired. In these cases articles 4(3) and (4) of the 1974 Order shall continue to apply.

An Impact Assessment has not been prepared in relation to this Order as any impact on the private or voluntary sectors is expected to be negligible.

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£4.00

E2825 03/2012 122825T 19585

ISBN 978-0-11-152113-7



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