



HOW

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KnowHOW

Essential reading for commercial property professionals who need to be in the know

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Revised General Development Procedure Order Issued By Government

Background

The Government has introduced the Town and Country Planning (Development Management Procedure) (England) Order 2010 (the DMPO), which came into force on the 1st October 2010. This replaces the former General Development Procedure Order 1995 (GDPO).

What Has Changed?

The format of the Order has been revised to make it more user-friendly and reflects the various stages of the planning application process in a more logical order. It consolidates a total of 16 amendments which were made to the original Order since its inception in 1995 thus making the legislation easier to reference.

The most significant change which applicants should be aware of is the amendment which will allow (in certain circumstances) applicants with a partially implemented outline permission to apply for a replacement planning permission with a new time limit within which to commence development. The Order sets out the circumstances in which this new provision will apply. It states that it will be relevant to outline planning permissions where development:

‘(i) has begun in accordance with the terms of, and any reserved matters approved under, an outline planning permission which is required or expressly permitted to be implemented in phases, and

(ii) was granted that outline planning permission on or before 1st October 2009 subject to a time limit imposed by or under section 91 or 92 of the 1990 Act which has not expired.’

The New Time Limit Extension Procedure

The revised Order allows an application to be made to extend the time limit on an outline planning permission which was granted on or before 1st October 2009 and which remains extant at the time of the application. Development must have commenced in part for this new procedure to apply.

The procedure has been introduced primarily in response to industry concerns that the original time limit extension arrangements did not apply in the case of outline planning permissions where one or more phases of development had commenced. The key test for the new procedure is therefore whether or not the development in question was ‘required or expressly permitted’ at the outline stage to be developed in phases. This would normally be defined by the use of appropriate phasing conditions and/or by reference in a planning decision notice to a development phasing plan.

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The procedure also applies to planning permissions where different timescales were identified for the submission of reserved matters for each phase of development. As for the existing time limit extension process, this is intended to be a short form procedure and therefore no Design and Access Statement will be required with the application. The Government has stated that further details will be contained in a revised version of the 2009 guidance “Greater Flexibility for Planning Permissions” although no timescales have been given for its publication.

Commentary

Whilst this announcement will be welcomed by the development industry it is remarkable (given the prevailing economic circumstances) that it has taken the Government some 12 months to respond to the criticisms of the original procedure made by HOW and others, namely that the life of a part implemented outline planning consent could not be extended. Where outline consents have lapsed applicants will be faced with submitting fresh applications and will incur additional time and expense, which this new procedure will now avoid.

Importantly the Coalition Government has now responded to these concerns and the opportunity is open to applicants to extend the life of part implemented outline consents, so long as the planning permission is still valid. This mechanism will be of critical importance in preserving valuable planning consents whilst the economy remains fragile and will help the development industry to maximise its contribution to the recovery process.

For further information in respect of the revised procedure and assistance in assessing whether it could help you please contact:



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