

- (8) Regulations under subsection (1) may provide that an actual or apparent failure to comply with a relevant planning condition is not to be treated as occurring during the relief period, if the failure –
 - (a) occurs wholly during the period, and
 - (b) is not remedied by a specified time after the period.
- (9) Regulations under subsection (1) may make provision that, where anything relating to the taking of a relevant enforcement measure is to be or may be done by a time during the relief period, it is to be or may be instead done by a specified time after that period.
- (10) Regulations under subsection (1) may –
 - (a) apply in relation to all, or only specified, local planning authorities in England;
 - (b) apply in relation to all, or only specified, relevant planning conditions;
 - (c) apply in relation to all, or only specified, relevant enforcement measures;
 - (d) prevent the taking of relevant enforcement measures indefinitely or only for a specified period of time.
- (11) In this section, “specified” means specified or described in regulations under subsection (1).”

CHAPTER 6

OTHER PROVISION

122 Consultation before applying for planning permission

In section 122 of the Localism Act 2011 (consultation before applying for planning permission in England), omit subsections (3) and (4) (which provide for the expiry of sections 61W to 61Y of TCPA 1990).

123 Duty in relation to self-build and custom housebuilding

- (1) In section 2A of the Self-build and Custom Housebuilding Act 2015 (duty to grant planning permissions etc) –
 - (a) in subsection (2) –
 - (i) omit “suitable”;
 - (ii) for “in respect of enough serviced plots” substitute “for the carrying out of self-build and custom housebuilding on enough serviced plots”;
 - (iii) for “arising in” substitute “in respect of”;
 - (b) after subsection (5) insert –
 - “(5A) Regulations may make provision specifying descriptions of planning permissions or permissions in principle that are, or are not, to be treated as development permission for the

carrying out of self-build and custom housebuilding for the purposes of this section.”;

(c) in subsection (6), for paragraph (a) substitute—

“(a) the demand for self-build and custom housebuilding in an authority’s area in respect of a base period is the aggregate of—

(i) the demand for self-build and custom housebuilding arising in the authority’s area in the base period; and

(ii) any demand for self-build and custom housebuilding that arose in the authority’s area in an earlier base period and in relation to which—

(A) the time allowed for complying with the duty in subsection (2) expired during the base period in question, and

(B) the duty in subsection (2) has not been met;

(aa) the demand for self-build and custom housebuilding arising in an authority’s area in a base period is evidenced by the number of entries added during that period to the register under section 1 kept by the authority;”;

(d) omit subsection (6)(c);

(e) in subsection (9)(b), for “arising in” substitute “in respect of”.

(2) In section 4 of the Self-build and Custom Housebuilding Act 2015 (regulations), in subsection (2), before paragraph (za) insert—

“(zza) section 2A(5A),”.

124 Powers as to form and content of planning applications

(1) Before section 327A of TCPA 1990 insert—

“327ZA Planning applications in England: powers as to form and content

(1) Subsections (2) to (3) apply to a relevant power to make provision about—

(a) the form or manner in which a planning application is to be made, or

(b) the form or manner in which an associated document is to be provided.

(2) The power includes power to make provision requiring or allowing the application to be made, or the associated document to be provided—

or may be instead done by a specified time after that period. For example, this could include deadlines for local planning authorities to pursue enforcement where the statutory limit would otherwise expire during the relief period.

996 Subsection (10) allows for regulations made under subsection (1) to: (a) apply in relation to all or only specified local planning authorities in England; (b) apply in relation to all or only specified relevant planning conditions; (c) apply in relation to all or only specified relevant enforcement measures; or (d) prevent the taking of relevant enforcement measures indefinitely or only for a specified period of time.

997 Subsection (11) sets out for the purposes of this section that “specified” means specified or described in regulations under subsection (1).

Chapter 6: Other Provision

Section 122: Consultation before applying for planning permission

Background

998 This section amends section 122 of the Localism Act 2011 to make permanent the powers to make provision for pre-application consultation in sections 61W to 61Y of the TCPA. These expire seven years after coming into force unless extended by order. The provisions were extended by the Town and Country Planning (Pre-Application Consultation) Order 2020 (S.I. 2020/1051) until 15 December 2025. These powers have been used to require pre-application consultation on proposals for on-shore wind turbines.

Effect

999 This section will make permanent the powers to enable pre-application consultation, set out in sections 61W to 61Y of the TCPA. This will allow regulations to come forward requiring applicants (on certain applications) to consult with local communities, and specified persons prior to submitting a planning application. It may also require them to have regard to comments made as part of this pre-application consultation.

Section 123 Duty to grant sufficient planning permission for self-build and custom housebuilding

Background

1000 This section amends section 2A (duty to grant planning permission etc) and section 4 (regulations) of the Self-Build and Custom Housebuilding Act 2015 (‘the 2015 Act’). The 2015 Act places a statutory duty on relevant authorities to hold a register of people who want to acquire land to self or custom build in their area and to grant planning permission for enough plots of land to satisfy that demand. Further regulations, the Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 (‘the 2016 Regulations’), set out that authorities must meet this demand (i.e. grant sufficient planning permission) within 3 years.

1001 Section 2A of the 2015 Act states that a relevant authority ‘must give suitable development permission in respect of enough serviced plots of land to meet demand...’, and that a ‘development permission is “suitable” if it is permission in respect of development that could include self-build and custom housebuilding.’ This wording has created some ambiguity regarding what planning permission can be counted by a relevant authority towards meeting demand for plots (demand as defined in section 2A(6)(a) of the 2015 Act). This has led to planning permissions that are not necessarily for self and custom build housing being counted towards meeting local authority targets.

- 1002 Additionally, the 2016 Regulations set out that authorities have 3 years to grant sufficient permissions to meet demand on their register in any ‘base period’. The 2015 Act and 2016 Regulations were silent on what happened to any demand that was not met (i.e. sufficient planning permissions granted) within that period. This meant the obligation to meet this demand may not be discharged.
- 1003 This section makes the legal position clear and explicit regarding what planning permissions should be counted to satisfy the demand for self-build and custom housebuilding by a relevant authority. It gives the Secretary of State the power to define, in regulations, the types of development permission that may be counted, to ensure that only planning permissions that are specifically to be built out for self or custom build (for example via a planning condition or obligation) qualify towards meeting demand.
- 1004 This section also creates a requirement that any demand that has not been met by an authority within the 3-year compliance period will be rolled over and will remain an obligation for the authority to meet after the compliance period has elapsed.

Effect

- 1005 Subsections (1)(a)(i) and (ii) amend subsection (2) of section 2A of the 2015 Act to specify that only planning permission that is specifically for self-build and custom housebuilding will count towards meeting a relevant authority’s statutory duty. Subsection (1)(a)(iii) is a technical amendment consequential to subsection (1)(c).
- 1006 Subsection (1)(b) inserts new subsection 5A into the 2015 Act which introduces a new power to allow the Secretary of State to specify in Regulations types of development permissions that can be counted by a relevant authority to comply with its duty to meet demand as defined under section 2A(2) of the 2015 Act.
- 1007 Subsection (1)(c) substitutes an amended definition of “demand” into section 2A(6)(a) of the 2015 Act to add that any demand that has not been met by a relevant authority, within the compliance period, will be rolled over to be counted as demand in the next compliance period.
- 1008 Subsection (1)(d) removes section 2A(6)(c) of the 2015 Act which defines a ‘suitable’ development permission and is consequential to subsection (1)(a)(i) as ‘suitable’ is now omitted from the 2015 Act.
- 1009 Subsection (1)(e) is consequential to subsection (1)(c) to ensure that it achieves its intended effect and will apply to any regulations that may be made in future under section 2A(9)(b) of the 2015 Act.
- 1010 Subsection (2) inserts a new subsection (zza) to section 4 of the 2015 Act, and specifies that the negative resolution procedure applies to regulations made under new section 2A(5A).

Section 124: Powers as to form and content of planning applications

Background

- 1011 The TCPA contains powers as to the content and form of planning applications. This section inserts new section 327ZA to provide greater control over the form and manner of planning applications and their associated documents.
- 1012 The provision enables the Secretary of State to make provision to require or allow planning applications be made and associated documents be provided by electronic means (e.g. using an online form) or in accordance with particular technical standards in respect of those electronic means.
- 1013 This also includes a power to make provision requiring the application or associated document, be prepared or endorsed by a person with particular qualifications or experience. The power applies to

These Explanatory Notes relate to the Levelling-up and Regeneration Act 2023 which received Royal Assent on 26 October 2023 (c. 55).