

## Ministerial Directions

5.164

In certain circumstances local planning authorities are required to notify the S.O.S. when planning applications of the types listed below are received.

### Major departures

5.1641

The Town & Country Planning (Development Plans and Consultation)(Departures) Directions 1999, made under Article 17 of the G.P.D.O. 1995, requires that local authorities notify the S.O.S. of applications which they do not intend to refuse, which are departures from development plans and which falls in one or more of the following sections:

- provides for more than 150 houses/flats or more than 5000 sq.m. of retail, leisure, office or mixed commercial floor space, or
- consists of development by a planning authority or development of that authorities land, or
- by reason of its scale or nature or location of the land, would significantly prejudice the implementation of the development plan's policies and proposals.

This notification involves sending the S.O.S. a copy of the application/notice/objections/officer report/material considerations/views made by other government departments or other authorities. The authority may not determine the application for a further 21 days, in which time the S.O.S. may call the application in for his own determination, or issue a holding direction.

There is however some debate as to whether the requirements of this Direction are mandatory or directory and whether a failure by an authority to comply with them would necessarily render their decision void. This debate arose from s.70 of the 1990 Act, which states that the provisions of a development plan constitute a material consideration in determining planning applications so far as they are material to that application, but an authority is free to depart from them.

### Shopping Directive

5.1642

The Town & Country Planning (Shopping Development)(England & Wales)(No.2) Direction 1993 (Circular No. 15/93) requires that local authorities consult the S.O.S. on applications which:

- have a shopping floorspace of more than 20,000 sq.m.; or
- have a shopping floorspace of between 2,500 sq.m. and 20,000 sq.m. and which will exceed 20,000 sq.m. when added to shopping floorspace of more than 2,500 sq.m., within a radius of 10 miles and which comprises of:-
  - a) a planning application not yet determined
  - b) a planning permission granted 5 years previously
  - c) a development substantially completed 5 years previously
 The authority may not determine the application for a further 21 days from the date which the consultation material (copy of application/representations made to authority/statement of issues/views made by other government departments or other authorities) was sent to the S.O.S.

### Greenfield Land Directive

5.1643

The Town & Country Planning (Residential Development on Greenfield Land)(England) Direction 2000 gives effect to paragraph 39 of PPG3 (2000). The S.O.S. should be notified of proposals, which, in themselves or as part of a wider but contiguous allocation for housing, relate to a site of 5 hectares or more of greenfield land, or comprise 150 dwellings or more on greenfield land regardless of the size of the site, and which the local planning authority resolve to approve, and which the local planning authority resolve to approve.

In addition to the 21 day ~~consultation period~~ and material mentioned above an authority must also provide a statement demonstrating that they have assessed the application in the light of the policies in PPG3. Access roads, gardens, car parking areas, open space/landscaping and children's play areas should all be taken into account in calculating the area of land occupied by houses. Major distributor roads, primary schools, open spaces serving a wider area and significant landscape buffers should not be taken into account.

## Non-statutory consultation

5.17

Circular 22/88 at Appendix C advises that in addition to statutory consultees (as ready detailed) local authorities may wish to consult the following bodies. NB. Its advice has become a little dated and note is made of superseding provisions where appropriate.

- a) Regional Council for Sport and Recreation where there would be loss of sports facilities (see PPG17).
- b) Water Authorities where there would be increased industrial discharge into river or estuary (see now Circular 20/89 para. 33 and the G.D.O. Article 18 statutory consultation requirement relating to the National Rivers Authority).
- c) Water or drainage boards where there would be an increased drainage problem in areas notified as having high water tables (see now Circular 30/92 para.13).
- d) Nature Conservancy Council where proposals have nature conservancy implication within agreed areas/criteria (see Circular 27/87 shortly to be superseded by a new PPG relating to Nature Conservation).
- e) M.A.F.F. where technical clarification is needed of land quality or agricultural occupancy conditions (see PPG 3 Annex A).
- f) Health and Safety Executives where developments are within specified distances off hazardous installations (see Circular 11/92 Annex b).
- g) Rights of way interests where developments affect rights of way (see Circular 2/93).

Appendix C to the Circular also advises consultation with Police Architectural Liaison Officers (see Circular 5/94).

Consultation with County Archaeological Officers is advised at para.23 of PPG1 6 where local authorities require guidance as to whether an application has archaeological implications.

## Local authority departments

5.171

It is normal for the planning departments of local authorities to consult extensively with other departments within the same authority where it appears that there is some common interest in a planning proposal. The most common internal consultees are; a) environmental health departments, over such matters as noise, food smells, and general health considerations; b) leisure/recreation departments, relating to open space and tree protection issues; and c) engineer's department where highways or drainage matters arise.

It is considered good local authority practice to undertake such consultations, even if there is no immediate requirement to do so, as likely future problems may be highlighted at an early stage and applicants kept fully informed.