



# Housing and Planning Act 2016

## 2016 CHAPTER 22

### PART 6 **E+W**

#### PLANNING IN ENGLAND

##### *Neighbourhood planning*

#### **139 Designation of neighbourhood areas **E+W****

In section 61G of the Town and Country Planning Act 1990 (meaning of “neighbourhood area”), after subsection (11) insert—

“(12) Regulations under subsection (11) may provide that where an application under this section—

- (a) meets prescribed criteria, or
- (b) has not been determined within a prescribed period,

the local planning authority must, except in prescribed cases or circumstances, exercise their powers under this section to designate the specified area as a neighbourhood area.

(13) The reference in subsection (12) to the designation of an area as a neighbourhood area includes the modification under subsection (6) of a designation already made.”

#### **140 Timetable in relation to neighbourhood development orders and plans **E+W****

(1) In Schedule 4B to the Town and Country Planning Act 1990 (process for making of neighbourhood development orders), after paragraph 13 insert—

“13A Regulations may make provision—

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- (a) requiring any prescribed action falling to be taken by the local planning authority under paragraph 12 or 13 to be taken by a prescribed date;
  - (b) imposing time limits for the submission of representations invited under paragraph 13(1).”
- (2) In section 61E of that Act (neighbourhood development orders), in subsection (4)(b), after “as soon as reasonably practicable after the referendum is held” insert “ and, in any event, by such date as may be prescribed ”.
- (3) In section 38A of the Planning and Compulsory Purchase Act 2004 (meaning of “neighbourhood development plan”), in subsection (4)(b), after “as soon as reasonably practicable after the referendum is held” insert “ and, in any event, by such date as may be prescribed ”.

#### 141 **Making neighbourhood development orders and plans: intervention powers** E

+W

- (1) In Schedule 4B to the Town and Country Planning Act 1990, before paragraph 14 insert—

##### “Intervention powers of Secretary of State

13B (1) This paragraph applies where the qualifying body requests the Secretary of State to intervene under this paragraph and—

- (a) the local planning authority have failed, by the applicable date prescribed under paragraph 13A, to take a decision as to whether a referendum is (or referendums are) to be held on the making of a neighbourhood development order,
  - (b) a recommendation made under paragraph 10(2) is not followed by the authority, or
  - (c) the authority make any modification under paragraph 12(5) that is not—
    - (i) a modification recommended under paragraph 10(2)(b),
    - (ii) a modification that the authority consider needs to be made to secure that the draft order does not breach, and is otherwise compatible with, EU obligations,
    - (iii) a modification that the authority consider needs to be made to secure that the draft order is compatible with the Convention rights, or
    - (iv) a modification for the purpose of correcting an error.
- (2) The Secretary of State may exercise functions of the local planning authority under paragraph 12(2) and (3) and—
- (a) if satisfied that paragraph (a) or (b) of paragraph 12(4) applies, may direct the authority to make arrangements for a referendum (or referendums) to be held on the making of a neighbourhood development order;
  - (b) if not so satisfied, may direct the authority to refuse the proposal.
- (3) The Secretary of State may direct the authority to take the actions referred to in paragraph 12(8) and (9).

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- (4) If by reason (wholly or partly) of new evidence or a new fact, or a different view taken by the Secretary of State as to a particular fact, the Secretary of State proposes to direct the local planning authority to act in a way that is not in accordance with what was recommended by the examiner—
- (a) the Secretary of State may require the authority to notify prescribed persons of the proposed direction (and the reason for it) and invite representations;
  - (b) the Secretary of State may also require them to refer the issue to independent examination.
- (5) The order on which a referendum is (or referendums are) to be held by virtue of sub-paragraph (2)(a) is the draft order subject to such modification (if any) as the Secretary of State or the local planning authority consider appropriate.
- (6) The only modifications the local planning authority may make under sub-paragraph (5) are—
- (a) modifications that the authority consider need to be made to secure that the draft order does not breach, and is otherwise compatible with, EU obligations,
  - (b) modifications that the authority consider need to be made to secure that the draft order is compatible with the Convention rights, and
  - (c) modifications for the purpose of correcting errors.
- 13C Regulations may make provision supplementing that made by paragraph 13B; and the regulations may in particular—
- (a) prescribe the form and content of a request by the qualifying body under paragraph 13B(1) and the date by which it must be made;
  - (b) confer power on the Secretary of State to direct a local planning authority to refrain from taking any action specified in the direction that they would otherwise be required or entitled to take under paragraph 12 or 13;
  - (c) make provision under which decisions falling to be made by the Secretary of State under paragraph 13B may be made instead by a person appointed by the Secretary of State for the purpose (an “inspector”);
  - (d) prescribe matters that the Secretary of State or an inspector must take into account in making a decision;
  - (e) require a local planning authority to provide prescribed information to the Secretary of State or to an inspector;
  - (f) make provision about examinations carried out by virtue of paragraph 13B(4)(b) (including any provision of a kind mentioned in paragraph 11(2));
  - (g) make provision (in addition to that made by paragraph 13B(4)(b)) for the holding of an examination, and for the payment by a local planning authority of remuneration and expenses of the examiner;
  - (h) provide for the Secretary of State, or a local planning authority on the direction of the Secretary of State, to notify to prescribed persons and to publish—

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- (i) prescribed decisions made by the Secretary of State under paragraph 13B,
  - (ii) the reasons for making those decisions, and
  - (iii) other prescribed matters relating to those decisions.”
- (2) In paragraph 14 of that Schedule (referendum), in sub-paragraph (1), after “as a result of paragraph 12(4)” insert “ or a direction under paragraph 13B(2)(a) ”.
- (3) In section 61N of that Act (legal challenges in relation to neighbourhood development orders), in subsection (2), before “only if” insert “ or paragraph 13B of that Schedule (intervention powers of Secretary of State) ”.

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**Commencement Information**

**I1** S. 141 in force at 1.10.2016 by S.I. 2016/733, reg. 4(1)(b)

**142 Local planning authority to notify neighbourhood forum of applications** **E+W**

In Schedule 1 to the Town and Country Planning Act 1990 (local planning authorities: distribution of functions), after paragraph 8 insert—

- “8A (1) A local planning authority who have the function of determining applications for planning permission or permission in principle shall, if requested to do so by a neighbourhood forum for an area which (or any part of which) is situated in the authority's area, notify the neighbourhood forum of—
- (a) any relevant planning application; and
  - (b) any alteration to that application accepted by the authority.
- (2) In this paragraph—
- “neighbourhood forum” means an organisation or body designated as such under section 61F;
- “relevant planning application” means an application which—
- (a) relates to land in the area for which the neighbourhood forum is designated; and
  - (b) is an application for—
    - (i) planning permission or permission in principle; or
    - (ii) approval of a matter reserved under an outline planning permission within the meaning of section 92.
- (3) Sub-paragraphs (3) to (6) of paragraph 8 have effect for the purposes of this paragraph, any reference to a parish council being read as a reference to a neighbourhood forum.”

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**Commencement Information**

**I2** S. 142 in force at 1.10.2016 by S.I. 2016/733, reg. 4(1)(b)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 95(1)(ia) inserted by [2023 c. 36 Sch. 1 para. 2](#)
- s. 100(7)(aa) inserted by [2023 c. 36 Sch. 1 para. 3](#)
- s. 172(1)(a) words renumbered as s. 172(1)(a) by [2017 c. 20 s. 26\(8\)\(a\)\(i\)](#)
- s. 172(1)(b) inserted by [2017 c. 20 s. 26\(8\)\(a\)\(ii\)](#)