



# Housing and Planning Act 2016

## 2016 CHAPTER 22

### PART 6

#### PLANNING IN ENGLAND

##### *Permission in principle and local registers of land*

#### **150 Permission in principle for development of land**

(1) After section 58 of the Town and Country Planning Act 1990 insert—

*“Permission in principle*

##### **58A Permission in principle: general**

- (1) Permission in principle may be granted for housing-led development of land in England as provided in section 59A.
- (2) Permission in principle may not be granted for development consisting of the winning and working of minerals.
- (3) For the effect of permission in principle, see section 70(2ZZA) to (2ZZC) (application for technical details consent must be determined in accordance with permission in principle, except after a prescribed period).
- (4) A reference to permission in principle in any provision of this Act in its application to land in Wales, or in its application to functions of the Welsh Ministers or other authorities in Wales, is to be ignored.”

(2) After section 59 of that Act insert—

##### **“59A Development orders: permission in principle**

- (1) A development order may either—

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- (a) itself grant permission in principle, in relation to land in England that is allocated for development in a qualifying document (whether or not in existence when the order is made) for development of a prescribed description; or
- (b) provide for the granting by a local planning authority in England, on application to the authority in accordance with the provisions of the order, of permission in principle for development of a prescribed description.

(2) In this section—

“prescribed” means prescribed in a development order;

“qualifying document” means a document, as it has effect from time to time, which—

- (a) falls within subsection (3),
- (b) indicates that the land in question is allocated for development for the purposes of this section, and
- (c) contains prescribed particulars in relation to the land allocated and the kind of development for which it is allocated.

(3) The following documents fall within this subsection—

- (a) a register maintained in pursuance of regulations under section 14A of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”);
- (b) a development plan document within the meaning of Part 2 of the 2004 Act (see section 37 of that Act);
- (c) a neighbourhood development plan within the meaning given by section 38A of the 2004 Act.

(4) Permission in principle granted by a development order takes effect—

- (a) when the qualifying document takes effect, if the land in question is allocated for development in the document at that time;
- (b) otherwise, when the qualifying document is revised so that the land in question is allocated for development.

But a development order may provide that, if the local planning authority so directs, permission in principle does not take effect until the date specified by the local planning authority in the direction.

(5) For the purposes of subsection (4)(a)—

- (a) a register maintained in pursuance of regulations under section 14A of the 2004 Act takes effect when it is first published;
- (b) a development plan document takes effect when it is adopted or approved under Part 2 of the 2004 Act;
- (c) a neighbourhood development plan takes effect when it is made by the local planning authority.

(6) Permission in principle granted by a development order is not brought to an end by the qualifying document ceasing to have effect or being revised.

(7) Permission in principle granted by a development order ceases to have effect on the expiration of—

- (a) five years beginning with the date on which it takes effect; or

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- (b) such other period (whether longer or shorter) beginning with that date as the local planning authority may direct.
  - (8) Permission in principle granted by a local planning authority ceases to have effect on the expiration of—
    - (a) three years beginning with the date on which it takes effect; or
    - (b) such other period (whether longer or shorter) beginning with that date as the local planning authority may direct.
  - (9) The Secretary of State may by regulations amend subsection (7)(a) or (8)(a) by substituting a shorter period for the period for the time being specified there.
  - (10) A development order—
    - (a) may make provision in relation to an application for planning permission for development of land in respect of which permission in principle has been granted;
    - (b) may require the local planning authority to prepare, maintain and publish a register containing prescribed information as to permissions in principle granted by a development order.
  - (11) In exercising a power of direction conferred by virtue of subsection (4), or conferred by subsection (7)(b) or (8)(b), a local planning authority must have regard to the provisions of the development plan and any other material considerations.
  - (12) In exercising any other function exercisable by virtue of this section, or in exercising any function in relation to an application for planning permission for development of land in respect of which permission in principle has been granted, a local planning authority must have regard to any guidance issued by the Secretary of State.
  - (13) In relation to an application for permission in principle which under any provision of this Part is made to, or determined by, the Secretary of State instead of the local planning authority, a reference in subsection (1) or (8) to a local planning authority has effect (as necessary) as a reference to the Secretary of State.”
- (3) In section 70 of that Act (determination of applications: general considerations)—
- (a) after subsection (1) insert—
    - “(1A) Where an application is made to a local planning authority for permission in principle—
      - (a) they may grant permission in principle; or
      - (b) they may refuse permission in principle.”;
  - (b) after subsection (2) insert—
    - “(2ZZA) The authority must determine an application for technical details consent in accordance with the relevant permission in principle.
    - This is subject to subsection (2ZZC).
    - (2ZZB) An application for technical details consent is an application for planning permission that—
      - (a) relates to land in respect of which permission in principle is in force,

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- (b) proposes development all of which falls within the terms of the permission in principle, and
- (c) particularises all matters necessary to enable planning permission to be granted without any reservations of the kind referred to in section 92.

(2ZZC) Subsection (2ZZA) does not apply where—

- (a) the permission in principle has been in force for longer than a prescribed period, and
- (b) there has been a material change of circumstances since the permission came into force.

“Prescribed” means prescribed for the purposes of this subsection in a development order.”

(4) In section 333 of that Act (regulations and orders), after subsection (3) insert—

“(3ZA) No regulations may be made under section 59A(9) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

(5) Schedule 12 (permission in principle for development of land: minor and consequential amendments) has effect.

#### Commencement Information

- I1** S. 150(1)-(3) in force at 12.7.2016, see s. 216(2)(c)
- I2** S. 150(4)(5) in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

## 151 Local planning authority to keep register of particular kinds of land

(1) In Part 2 of the Planning and Compulsory Purchase Act 2004 (local development), after section 14 insert—

*“Register*

### 14A Register of land

- (1) The Secretary of State may make regulations requiring a local planning authority in England to prepare, maintain and publish a register of land within (or partly within) the authority's area which—
  - (a) is of a prescribed description, or
  - (b) satisfies prescribed criteria.
- (2) The regulations may require the register to be kept in two or more parts.
 

A reference to the register in the following subsections includes a reference to a prescribed part of the register.
- (3) The regulations may make provision permitting the local planning authority to enter in the register land within (or partly within) the authority's area which—
  - (a) is of a prescribed description or satisfies prescribed criteria, and

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- (b) is not required by the regulations to be entered in the register.
- (4) The regulations may—
  - (a) require or authorise a local planning authority to carry out consultation and other procedures in relation to entries in the register;
  - (b) specify descriptions of land that are not to be entered in the register;
  - (c) confer a discretion on a local planning authority, in prescribed circumstances, not to enter in the register land of a prescribed description that the authority would otherwise be required to enter in it;
  - (d) require a local planning authority exercising the discretion referred to in paragraph (c) to explain why they have done so;
  - (e) specify information to be included in the register;
  - (f) make provision about revising the register.
- (5) The regulations may specify a description of land by reference to a description in national policies and advice.
- (6) The regulations may confer power on the Secretary of State to require a local planning authority—
  - (a) to prepare or publish the register, or to bring the register up to date, by a specified date;
  - (b) to provide the Secretary of State with specified information, in a specified form and by a specified date, in relation to the register.

In this subsection “specified” means specified by the Secretary of State.
- (7) In exercising their functions under the regulations, a local planning authority must have regard to—
  - (a) the development plan;
  - (b) national policies and advice;
  - (c) any guidance issued by the Secretary of State for the purposes of the regulations.
- (8) In this section “national policies and advice” means national policies and advice contained in guidance issued by the Secretary of State (as it has effect from time to time).”
- (2) In section 33 of that Act (power to direct that Part 2 of that Act does not apply to the area of an urban development corporation), for “that this Part does not apply” substitute “that the provisions of—
  - (a) this Part, or
  - (b) any particular regulations made under section 14A,do not apply”.

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