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## SCHEDULES

### SCHEDULE 1

Section 1.

#### LOCAL PLANNING AUTHORITIES: DISTRIBUTION OF FUNCTIONS

##### *Preliminary*

- 1 (1) In this Schedule “county matter” means in relation to any application, order or notice—
- (a) the winning and working of minerals in, on or under land (whether by surface or underground working) or the erection of any building, plant or machinery—
    - (i) which it is proposed to use in connection with the winning and working of minerals or with their treatment or disposal in or on land adjoining the site of the working; or
    - (ii) which a person engaged in mining operations proposes to use in connection with the grading, washing, grinding or crushing of minerals;
  - (b) the use of land, or the erection of any building, plant or machinery on land, for the carrying out of any process for the preparation or adaptation for sale of any mineral or the manufacture of any article from a mineral where—
    - (i) the land forms part of or adjoins a site used or proposed to be used for the winning and working of minerals; or
    - (ii) the mineral is, or is proposed to be, brought to the land from a site used, or proposed to be used, for the winning and working of minerals by means of a pipeline, conveyor belt, aerial ropeway, or similar plant or machinery, or by private road, private waterway or private railway;
  - (c) the carrying out of searches and tests of mineral deposits or the erection of any building, plant or machinery which it is proposed to use in connection with them;
  - (d) the [<sup>F1</sup>depositing] of mineral waste;
  - (e) the use of land for any purpose required in connection with the transport by rail or water of aggregates (that is to say, any of the following, namely—
    - (i) sand and gravel;
    - (ii) crushed rock;
    - (iii) artificial materials of appearance similar to sand, gravel or crushed rock and manufactured or otherwise derived from iron or steel slags, pulverised fuel ash, clay or mineral waste),or the erection of any building, plant or machinery which it is proposed to use in connection with them;
  - (f) the erection of any building, plant or machinery which it is proposed to use for the coating of roadstone or the production of concrete or of concrete products or artificial aggregates, where the building, plant or machinery is to

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be erected in or on land which forms part of or adjoins a site used or proposed to be used—

- (i) for the winning and working of minerals; or
- (ii) for any of the purposes mentioned in paragraph (e) above;
- (g) the erection of any building, plant or machinery which it is proposed to use for the manufacture of cement;
- (h) the carrying out of operations in, on, over or under land, or a use of land, where the land is or forms part of a site used or formerly used for the winning and working of minerals and where the operations or use would conflict with or prejudice compliance with a restoration condition or an aftercare condition;
- (i) the carrying out of operations in, on, over or under land, or any use of land, which is situated partly in and partly outside a National Park;
- (j) the carrying out of any operation which is, as respects the area in question, a prescribed operation or an operation of a prescribed class or any use which is, as respects that area, a prescribed use or use of a prescribed class.

F2(2) .....

**Textual Amendments**

**F1** Words in Sch. 1 para. 1(1)(d) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 21, [Sch. 1 para. 13\(a\)](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#) (subject to art. 4)

**F2** Sch. 1 para. 1(2) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 21 , 84(6), [Sch. 1 para. 13\(b\)](#), [Sch. 19 Pt.I](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#) (subject to art. 4)

*Development plans*

2 The functions of a local planning authority under sections 30 to 33 and 50(1) to (5) shall be exercisable by the county planning authority and references in those sections to a local planning authority shall be construed accordingly.

*Planning and special control*

- 3 (1) The functions of a local planning authority of determining—
- (a) applications for planning permission;
  - (b) applications for determining under section 64 whether an application for such permission is required;
  - (c) applications for an established use certificate under section 192;
- shall, subject to sub-paragraph (2), be exercised by the district planning authority.
- (2) The functions of a local planning authority of determining any such application as is mentioned in sub-paragraph (1) which appears to the district planning authority to relate to a county matter shall be exercised by the county planning authority.
- (3) Every application mentioned in sub-paragraph (1) shall be made to the district planning authority.

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- (4) The district planning authority shall send to the county planning authority, as soon as possible and in any case not later than seven days after they have received it, a copy of any application for planning permission which appears to them to relate to a county matter.
    - (5) Subject to sub-paragraph (6), the district planning authority shall send to the local highway authority, as soon as may be after they have received it, a copy of any application for planning permission which does not appear to them to relate to a county matter.
    - (6) If the local highway authority specify any case or class of case in which a copy of such an application as is mentioned in sub-paragraph (5) need not be sent to them, the duty imposed on the district planning authority by that sub-paragraph shall not extend to any application to which the direction relates.
    - (7) The previous provisions of this paragraph shall not apply to applications relating to land in a National Park, but paragraph 4 shall apply to such applications instead.
  - 4 (1) Each of the following applications, namely—
    - (a) applications for planning permission;
    - (c) applications for an established use certificate under section 192; and
    - (d) applications for consent to the display of advertisements under section 220, shall, if relating to land in a National Park, be made to the district planning authority who shall, unless it falls to be determined by them, send it on to the county planning authority and, in the case of an application for planning permission, shall send a copy to the local highway authority, except where the local highway authority are a local planning authority and except in any case or class of case with respect to which the local highway authority otherwise direct.
  - (2) Where any such application relating to land in a National Park or an application so relating for approval of a matter reserved under an outline planning permission within the meaning of section 92 falls to be determined by a county planning authority, that authority shall before determining it consult with the district planning authority for the area in which the land to which the application relates is situated.
- 5 (1) The Secretary of State may include in a development order such provisions as he thinks fit enabling a local highway authority to impose restrictions on the grant by the local planning authority of planning permission for the following descriptions of development relating to land in the area of the local highway authority—
  - (a) the formation, laying out or alteration of any means of access to a road classified under section 12(3) of the <sup>M1</sup>Highways Act 1980 or section 27 of the <sup>M2</sup>Local Government Act 1966 or to a proposed road the route of which has been adopted by resolution of the local highway authority and notified as such to the local planning authority;
  - (b) any other operations or use of land which appear to the local highway authority to be likely to result in a material increase in the volume of traffic entering or leaving such a classified or proposed road, to prejudice the improvement or construction of such a road or to result in a material change in the character of traffic entering, leaving or using such a road.
- (2) The reference to a local planning authority in sub-paragraph (1) shall not be construed as including a reference to an urban development corporation who are the local

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planning authority by virtue of an order under section 149 of the Local Government, <sup>M3</sup>Planning and Land Act 1980, and no provision of a development order which is included in it by virtue of that paragraph is to be construed as applying to such a corporation.

- (3) The Secretary of State may include in a development order provision enabling a local highway authority to impose restrictions on the grant by an urban development corporation who are the local planning authority of planning permission for such descriptions of development as may be specified in the order.

#### Marginal Citations

- M1** 1980 c. 66.  
**M2** 1966 c. 42.  
**M3** 1980 c. 65.

- 6 (1) A development order may also include provision requiring a county planning authority who are determining any application mentioned in paragraph 3 and relating to a county matter, or an application for approval of a matter reserved under an outline planning permission within the meaning of section 92 and so relating, to give the district planning authority for the area in which the land to which the application relates is situated an opportunity to make recommendations to the county planning authority as to the manner in which the application is determined, and to take into account any such recommendations.
- (2) It may also include provision requiring a county or district planning authority who have received any application so mentioned or any application for such approval (including any such application relating to land in a National Park) to notify the district or, as the case may be, county planning authority of the terms of their decision, or, where the application is referred to the Secretary of State, the date when it was so referred and, when notified to them, the terms of his decision.
- 7 (1) It shall be the duty of a local planning authority in a non-metropolitan county when exercising their functions under sections 70 and 71 to seek the achievement of the general objectives of the structure plan for the time being in force in their area.
- (2) Subject to sub-paragraph (4), the district planning authority shall consult the county planning authority for their area before determining any application to which this sub-paragraph applies.
- (3) Sub-paragraph (2) applies to any application for planning permission for the carrying out—
- (a) of any development of land which would materially conflict with or prejudice the implementation—
    - (i) of any policy or general proposal contained in a structure plan which has been approved by the Secretary of State;
    - (ii) of any policy or general proposal contained in proposals for the alteration or repeal and replacement of a structure plan which have been submitted to the Secretary of State for approval;

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- (iii) of any proposal for the alteration or repeal and replacement of a structure plan so as to include in the plan any matter to which the county planning authority have given publicity under section 33;
  - (iv) of a fundamental provision of a development plan to which paragraph 2 of Part III of Schedule 2 applies, so far as the development plan is in force in the district planning authority's area;
  - (v) of any proposal contained in a local plan which has been prepared by the county planning authority (whether or not the plan has been adopted by the authority or approved by the Secretary of State);
  - (vi) of any proposal to include in a local plan which the county planning authority are preparing any matter to which they have given publicity under section 39 or 40;
  - (vii) of any proposal to include in alterations which the county planning authority are proposing for a local plan any matter to which they have given publicity under section 39 or 40;
- (b) of any development of land which would, by reason of its scale or nature or the location of the land, be of major importance for the implementation of a structure plan;
  - (c) of any development of land in an area which the county planning authority have notified to the district planning authority, in writing, as an area in which development is likely to affect or be affected by the winning and working of minerals, other than coal;
  - (d) of any development of land which the county planning authority have notified the district planning authority, in writing, that they themselves propose to develop;
  - (e) of any development of land which would prejudice the carrying out of development proposed by the county planning authority and notified to the district planning authority under paragraph (d);
  - (f) of any development of land in England in respect of which the county planning authority have notified the district planning authority, in writing, that it is proposed that it shall be used for waste disposal;
  - (g) of any development of land which would prejudice a proposed use of land for waste disposal notified to the district planning authority under paragraph (f).
- (4) The district planning authority may determine any application to which sub-paragraph (2) applies without the consultation required by that sub-paragraph if the county planning authority have given them directions authorising them to do so.
  - (5) A direction under sub-paragraph (4) may relate to a class of applications or to a particular application.
  - (6) Subject to sub-paragraph (7), where the district planning authority are required to consult the county planning authority before determining an application for planning permission—
    - (a) they shall give the county planning authority notice that they propose to consider the application and send them a copy of it; and
    - (b) they shall not determine it until the expiration of such period from the date of the notice as a development order may provide.
  - (7) A district planning authority may determine an application for planning permission before the expiration of such a period as is mentioned in sub-paragraph (6)(b)—

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- (a) if they have received representations concerning the application from the county planning authority before the expiration of that period; or
  - (b) if the county planning authority have notified them that they do not wish to make representations.
- (8) Where a district planning authority are required to consult the county planning authority before determining an application for planning permission, they shall in determining it take into account any representations relating to it which they have received from the county planning authority before the expiration of the period mentioned in sub-paragraph (6)(b).
- 8 (1) Where a district planning authority or, in a metropolitan county, a local planning authority have been notified in writing by the council of a parish or community wholly or partly situated in the area of that authority that the council wish to be informed—
- (a) of every application for planning permission relating to land in the parish or community,
  - (b) of every application so relating for approval of a matter reserved under an outline planning permission within the meaning of section 92, or
  - (c) of any description of such applications,
- if the authority receive any such application or, as the case may be, an application of any such description they shall inform the council in writing of the application, indicating the nature of the development to which the application relates and identifying the land to which it relates.
- (2) The provisions which may be contained in a development order shall include provision requiring—
- (a) a local planning authority, who are determining any application of which the council of a parish or community are entitled to be informed, to give that council an opportunity to make representations to the local planning authority as to the manner in which the application should be determined and to take into account any such representations;
  - (b) the district planning authority or, in a metropolitan county, a local planning authority to notify that council of the terms of their or, in a non-metropolitan county, the county planning authority's decision on any such application or, where the application is referred to the Secretary of State, the date when it was so referred and, when notified to them, the terms of his decision.
- 9 (1) The functions of local planning authorities under the provisions of this Act relating to simplified planning zone schemes shall be exercised in non-metropolitan counties by the district planning authorities.
- (2) Where a district planning authority in a non-metropolitan county are proceeding in accordance with paragraph 5 of Schedule 7, before they prepare the proposed scheme or alterations they shall consult the county council as planning authority and as to the effect of their proposals on existing or future highways; and when they have prepared the proposed scheme or alterations they shall send the county council a copy.
- (3) Where a district planning authority in a non-metropolitan county are proceeding in accordance with paragraph 6 of Schedule 7, they shall send a copy of the proposed alterations to the county council.

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- 10 Elsewhere than in a National Park, the functions of a local planning authority under section 94 shall be exercisable by the district planning authority, except that where the relevant planning permission was granted by the county planning authority, those functions, so far as relating to that permission, shall be exercisable by the county planning authority and also by the district planning authority after consulting the county planning authority.
- 11 (1) The functions of a local planning authority of—
- (a) making orders under section 97 revoking or modifying planning permission, or under section 102 requiring discontinuance of use, imposing conditions on continuance of use or requiring the alteration or removal of buildings or works, or
  - (b) issuing enforcement notices under section 172 or serving stop notices under section 183,
- shall, subject to sub-paragraphs (2) to (4), be exercisable by the district planning authority.
- (2) In a case where it appears to the district planning authority of a district in a non-metropolitan county that the functions mentioned in sub-paragraph (1) relate to county matters, they shall not exercise those functions without first consulting the county planning authority.
- (3) Subject to sub-paragraph (4), in a non-metropolitan county those functions shall also be exercisable by a county planning authority in a case where it appears to that authority that they relate to a matter which should properly be considered a county matter.
- (4) In relation to a matter which is a county matter by virtue of any of the provisions of paragraph 1(1)(a) to (h) the functions of a local planning authority specified in sub-paragraph (1)(b) shall only be exercisable by the county planning authority in their capacity as mineral planning authority.
- 12 In sections 178(1), 181(4)(b) and 190(2) to (5) any reference to the local planning authority shall be construed as a reference to the authority who issued the notice or made the order in question or, in the case of an notice issued or an order made by the Secretary of State, the authority named in the notice or order.

VALID FROM 02/01/1992

[<sup>F3</sup>12A The functions of a local planning authority under section 187B are exercisable by any body having the function of taking enforcement action in respect of the breach in question]

#### Textual Amendments

**F3** Sch. 1 para. 12A inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, Sch. 7 para. 53(7) (with s. 84(5)); S.I. 1991/2905, art. 3, Sch.1 (subject to art. 5)

- 13 (1) A county planning authority may only make a tree preservation order—
- (a) if they make it in pursuance of section 197(b);

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- (b) if it relates to land which does not lie wholly within the area of a single district planning authority;
  - (c) if it relates to land in which the county planning authority hold an interest; or
  - (d) if it relates to land in a National Park.
- (2) Where a local planning authority have made a tree preservation order under section 198 or the Secretary of State has made such an order by virtue of section 202, the powers of varying or revoking the order and the powers of dispensing with section 206 or serving, or appearing on an appeal relating to, a notice under section 207 shall be exercisable only by the authority who made the order or, in the case of an order made by the Secretary of State, the authority named in the order.
- 14 The functions of local planning authorities under sections 69, 211, 214, 220, 221, 224 and 225, and in non-metropolitan counties the functions under section 215, are exercisable by district planning authorities.
- 15 (1) The copy of the notice required to be served by paragraph 4(5) of Schedule 8 on a local planning authority shall, in the case of a proposal that a government department should give a direction under section 90(1) or that development should be carried out by or on behalf of a government department, be served on the local planning authority who, in the opinion of the Secretary of State, would have been responsible for dealing with an application for planning permission for the development in question if such an application had fallen to be made.
- (2) References in paragraphs 3(2) and 5(1) of that Schedule to the local planning authority shall be construed as references to the local planning authority on whom that copy is required to be served.

#### *Compensation*

- 16 (1) Claims for payment of compensation under section 107 (including that section as applied by section 108) and sections <sup>F4</sup> . . . 115(1) to (4), 186 and 223 shall, subject to sub-paragraph (3), be made to and paid by the local planning authority who took the action by virtue of which the claim arose or, where that action was taken by the Secretary of State, the local planning authority from whom the appeal was made to him or who referred the matter to him or, in the case of an order made or notice served by him by virtue of section 100, 104 or 185, the appropriate authority, and references in those sections to a local planning authority shall be construed accordingly.
- (2) In this paragraph “appropriate authority” means—
- (a) in the case of a claim for compensation under section 107 or 108, the local planning authority who granted, or are to be treated for the purposes of section 107 as having granted, the planning permission the revocation or modification of which gave rise to the claim;
  - (b) in the case of a claim for compensation under section 115(1) to (4) or 186, the local planning authority named in the relevant order or stop notice of the Secretary of State;
  - (c) in the case of a claim for compensation under section 223, the district planning authority.
- (3) The Secretary of State may after consultation with all the authorities concerned direct that where a local planning authority is liable to pay compensation under any of the provisions mentioned in sub-paragraph (1) in any particular case or class of case they



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shall be entitled to be reimbursed the whole of the compensation or such proportion of it as he may direct from one or more authorities specified in the direction.

- (4) The local planning authority by whom compensation is to be paid and to whom claims for compensation are to be made under section 144(2) shall be the district planning authority.

#### Textual Amendments

- F4** Word in Sch. 1 para. 16(1) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 39, Sch. 19 Pt. II (with s. 84(5)); S.I. 1991/2067, art. 3 (subject to art. 4)

- 17 Claims for payment of compensation under a tree preservation order by virtue of section 203, and claims for payment of compensation under section 204 by virtue of directions given in pursuance of such an order, shall be made to and paid by the local planning authority who made the order or, in the case of an order made by the Secretary of State, the authority named in the order; and the reference in section 204(2) to the authority exercising functions under the tree preservation order shall have effect subject to the provisions of this paragraph.
- 18 The local planning authority by whom compensation is to be paid under section 279(1)(a) to statutory undertakers shall be the authority who referred the application for planning permission to the Secretary of State and the appropriate Minister, or from whose decision the appeal was made to them or who served the enforcement notice appealed against, as the case may be.

#### *The Crown*

- 19 (1) Elsewhere than in a metropolitan county or a National Park the functions conferred by section 302 and Schedule 15 on the authority responsible for enforcing planning control shall, subject to sub-paragraph (3)—
- (a) in the case of works on or a use of land which in the opinion of the district planning authority relates to a county matter, be exercised by the county planning authority;
- (b) in any other case be exercised by the district planning authority.
- (2) As respects an area in a National Park outside a metropolitan county those functions shall be exercised by the county planning authority.
- (3) Every application made under subsection (3) of that section to an authority responsible for enforcing planning control shall be made to the district planning authority who, in the case of an application falling to be determined by the county planning authority, shall send it on to the latter.
- (4) A county planning authority determining any such application shall give the district planning authority for the area in which the land to which the application relates is situated an opportunity to make recommendations to the county planning authority as to the manner in which the application should be determined and shall take any such recommendations into account.
- (5) A county or district planning authority who have dealt with any such application shall notify the district or, as the case may be, the county planning authority of the

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terms of their determination or, in a case where the application has been referred to the Secretary of State, the date when it was so referred.

### *Miscellaneous*

- 20 (1) The local planning authority whom the Secretary of State is required to consult under section 100(3), 104(3) or 202(1) or serve with a notice of his proposals under section 100(4) or 104(4) shall be the county planning authority or the district planning authority, as he thinks appropriate, and references in sections 100(2), (3) and (4) and 104(2), (3) and (4) and 202 to the local planning authority shall be construed accordingly.
- (2) In sections 96, 182 and 185 any reference to the local planning authority shall be construed as a reference to the county planning authority or the district planning authority, as the Secretary of State thinks appropriate.
- [<sup>F5</sup>(3) In relation to land in the area of a joint planning board, a person entering into a planning obligation under section 106 or 299A may identify the council of the county in which the land is situated as the authority by whom the obligation is enforceable.]
- (4) In paragraph 16 of Schedule 13 the reference to the local planning authority shall be construed—
- (a) in relation to land in a National Park outside a metropolitan county, as a reference to the county planning authority; and
  - (b) in relation to land elsewhere, as a reference to the district planning authority.

#### **Textual Amendments**

**F5** Sch. 1 para. 20(3) substituted (25.10.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 53\(9\)](#)(with s. 84(5)); S.I. 1991/2272, [art.3](#)

- 21 (1) Subject to sub-paragraph (2), the provisions of this Schedule do not apply in Greater London.
- (2) Paragraph 5(3) of this Schedule applies in Greater London and paragraph 2(3) of Part I and of Part II of Schedule 2 shall apply as respects the temporary application of paragraph 7(1) of this Schedule in the metropolitan counties and in Greater London respectively.

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