

Status: Point in time view as at 15/11/2011.

Changes to legislation: Town and Country Planning Act 1990, Cross Heading: Consideration by authority of recommendations made by examiner etc is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 4B

PROCESS FOR MAKING OF NEIGHBOURHOOD DEVELOPMENT ORDERS

Textual Amendments

- F1** Sch. 4B inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss. 116(2), 240(5)(j), [Sch. 10](#); [S.I. 2012/57](#), art. 4(1)(h) (with arts. 6, 7, 9-11); [S.I. 2012/628](#), art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4); [S.I. 2012/2029](#), arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797](#), art. 4); [S.I. 2013/797](#), arts. 1(2), 2

Modifications etc. (not altering text)

- C1** Sch. 4B applied (with modifications) by 2004 c. 5, s. 38A(3) 38C(5) (as inserted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), [Sch. 9 para. 7](#); [S.I. 2012/628](#), art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4); [S.I. 2012/2029](#), arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797](#), art. 4); [S.I. 2013/797](#), arts. 1(2), 2)

Consideration by authority of recommendations made by examiner etc

- 12 (1) This paragraph applies if an examiner has made a report under paragraph 10.
- (2) The local planning authority must—
- consider each of the recommendations made by the report (and the reasons for them), and
 - decide what action to take in response to each recommendation.
- (3) The authority must also consider such other matters as may be prescribed.
- (4) If the authority are satisfied—
- that the draft order meets the basic conditions mentioned in paragraph 8(2), is compatible with the Convention rights and complies with the provision made by or under sections 61E(2), 61J and 61L, or
 - that the draft order would meet those conditions, be compatible with those rights and comply with that provision if modifications were made to the draft order (whether or not recommended by the examiner),
- a referendum in accordance with paragraph 14, and (if applicable) an additional referendum in accordance with paragraph 15, must be held on the making by the authority of a neighbourhood development order.
- (5) The order on which the referendum is (or referendums are) to be held is the draft order subject to such modifications (if any) as the authority consider appropriate.
- (6) The only modifications that the authority may make are—

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- (a) modifications that the authority consider need to be made to secure that the draft order meets the basic conditions mentioned in paragraph 8(2),
 - (b) modifications that the authority consider need to be made to secure that the draft order is compatible with the Convention rights,
 - (c) modifications that the authority consider need to be made to secure that the draft order complies with the provision made by or under sections 61E(2), 61J and 61L,
 - (d) modifications specifying a period under section 61L(2)(b) or (5), and
 - (e) modifications for the purpose of correcting errors.
- (7) The area in which the referendum is (or referendums are) to take place must, as a minimum, be the neighbourhood area to which the proposed order relates.
- (8) If the authority consider it appropriate to do so, they may extend the area in which the referendum is (or referendums are) to take place to include other areas (whether or not those areas fall wholly or partly outside the authority's area).
- (9) If the authority decide to extend the area in which the referendum is (or referendums are) to take place, they must publish a map of that area.
- (10) In any case where the authority are not satisfied as mentioned in sub-paragraph (4), they must refuse the proposal.
- (11) The authority must publish in such manner as may be prescribed—
- (a) the decisions they make under this paragraph,
 - (b) their reasons for making those decisions, and
 - (c) such other matters relating to those decisions as may be prescribed.
- (12) The authority must send a copy of the matters required to be published to—
- (a) the qualifying body, and
 - (b) such other persons as may be prescribed.
- 13 (1) If—
- (a) the local planning authority propose to make a decision which differs from that recommended by the examiner, and
 - (b) the reason for the difference is (wholly or partly) as a result of new evidence or a new fact or a different view taken by the authority as to a particular fact,
- the authority must notify prescribed persons of their proposed decision (and the reason for it) and invite representations.
- (2) If the authority consider it appropriate to do so, they may refer the issue to independent examination.
- (3) Regulations may make provision about examinations under this paragraph (and the regulations may include any provision of a kind mentioned in paragraph 11(2)).
- (4) This paragraph does not apply in relation to recommendations in relation to the area in which a referendum is to take place.]

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