



Planning Act 2008

2008 CHAPTER 29

PART 6 **E+W+S**

DECIDING APPLICATIONS FOR ORDERS GRANTING DEVELOPMENT CONSENT

CHAPTER 1 **E+W+S**

HANDLING OF APPLICATION BY COMMISSION

55 Acceptance of applications **E+W+S**

- (1) The following provisions of this section apply where the [^{F1}Secretary of State] receives an application that purports to be an application for an order granting development consent.
- (2) The [^{F1}Secretary of State] must, by the end of the period of 28 days beginning with the day after the day on which [^{F2}the Secretary of State] receives the application, decide whether or not to accept the application.
- (3) The [^{F1}Secretary of State] may accept the application only if the [^{F1}Secretary of State] concludes—
 - (a) that it is an application for an order granting development consent,
 - ^{F3}(b)
 - (c) that development consent is required for any of the development to which the application relates,
 - ^{F4}(d)
 - (e) that the applicant has, in relation to a proposed application that has become the application, complied with Chapter 2 of Part 5 (pre-application procedure)^{F5}, and
 - (f) that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory.]

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- (4) The [^{F1}Secretary of State], when deciding whether [^{F6}the Secretary of State] may reach the conclusion in subsection (3)(e), must have regard to—
- (a) the consultation report received under section 37(3)(c),
 - (b) any adequacy of consultation representation received by [^{F6}the Secretary of State] from a local authority consultee, and
 - (c) the extent to which the applicant has had regard to any guidance issued under section 50.
- (5) In subsection (4)—
- “local authority consultee” means—
- (a) a local authority consulted under [^{F7}section 42(1)(b)] about a proposed application that has become the application, or
 - (b) the Greater London Authority if consulted under [^{F8}section 42(1)(c)] about that proposed application;
- “adequacy of consultation representation” means a representation about whether the applicant complied, in relation to that proposed application, with the applicant's duties under sections 42, 47 and 48.
- [^{F9}(5A) The Secretary of State, when deciding whether the Secretary of State may reach the conclusion in subsection (3)(f), must have regard to the extent to which—
- (a) the application complies with the requirements in section 37(3) (form and contents of application) and any standards set under section 37(5), and
 - (b) any applicable guidance given under section 37(4) has been followed in relation to the application.]
- (6) If the [^{F1}Secretary of State] accepts the application, [^{F10}the Secretary of State] must notify the applicant of the acceptance.
- (7) If the [^{F1}Secretary of State] is of the view that [^{F11}the application cannot be accepted, the Secretary of State] must—
- (a) notify that view to the applicant, and
 - (b) notify the applicant of [^{F12}the Secretary of State's] reasons for that view.
- (8) If in response the applicant modifies (or further modifies) the application, subsections (2) to (7) then apply in relation to the application as modified.

Textual Amendments

- F1** Words in s. 55 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 13\(2\)](#); S.I. 2012/628, art. 7(a)
- F2** Words in s. 55(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 13\(3\)](#); S.I. 2012/628, art. 7(a)
- F3** S. 55(3)(b) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\), ss. 137\(2\), 240\(2\), Sch. 25 Pt. 21](#) (with s. 144); S.I. 2012/628, art. 7
- F4** S. 55(3)(d) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\), ss. 137\(2\), 240\(2\), Sch. 25 Pt. 21](#) (with s. 144); S.I. 2012/628, art. 7
- F5** S. 55(3)(f) and preceding word inserted (1.4.2012) by [Localism Act 2011 \(c. 20\), ss. 137\(3\), 240\(2\)](#) (with s. 144); S.I. 2012/628, art. 7(a)
- F6** Words in s. 55(4) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 13\(3\)](#); S.I. 2012/628, art. 7(a)
- F7** Words in s. 55(5) substituted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 23\(4\)\(a\), 324\(3\)](#); S.I. 2010/298, art. 2, Sch. para. 6

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- F8** Words in s. 55(5) substituted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 23\(4\)\(b\)](#), [324\(3\)](#); [S.I. 2010/298](#), [art. 2](#), [Sch. para. 6](#)
- F9** S. 55(5A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 137\(4\)](#), [240\(2\)](#) (with s. 144); [S.I. 2012/628](#), [art. 7\(a\)](#)
- F10** Words in s. 55(6) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [s. 240\(2\)](#), [Sch. 13 para. 13\(3\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)
- F11** Words in s. 55(7) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [s. 240\(2\)](#), [Sch. 13 para. 13\(4\)\(a\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)
- F12** Words in s. 55(7)(b) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [s. 240\(2\)](#), [Sch. 13 para. 13\(4\)\(b\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

Commencement Information

- II** S. 55 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

56 Notifying persons of accepted application **E+W+S**

(1) Subsections (2), (6) and (7) apply where the [^{F13}Secretary of State] accepts an application for an order granting development consent.

(2) The applicant must give notice of the application to—

- (a) such persons as may be prescribed,
- [^{F14}(aa) the Marine Management Organisation, in any case where the development for which the application seeks development consent would involve the carrying on of any activity in one or more of the areas specified in subsection (2A),]
- [^{F15}(b) each local authority that is within section 56A,]
- (c) the Greater London Authority if the land to which the application relates, or any part of it, is in Greater London, and
- (d) each person who is within one or more of the categories set out in section 57.

[^{F16}(2A) The areas are—

- (a) waters in or adjacent to England up to the seaward limits of the territorial sea;
- (b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;
- (c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;
- (d) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.]

(3) Notice under subsection (2) must be in such form and contain such matter, and be given in such manner, as may be prescribed.

(4) The applicant must, when giving notice to a person under subsection (2), notify the person of the deadline for receipt by the [^{F13}Secretary of State] of representations giving notice of the person's interest in, or objection to, the application.

(5) A deadline notified under subsection (4) must not be earlier than the end of the period of 28 days that begins with the day after the day on which the person receives the notice.

(6) The applicant must make available, to each person to whom notice is given under subsection (2), a copy of—

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- (a) the application, and
 - (b) the documents and information that were required by section 37(3)(d) to accompany the application.
- (7) The applicant must publicise the application in the prescribed manner.
- (8) Regulations made for the purposes of subsection (7) must, in particular, make provision for publicity under subsection (7) to include a deadline for receipt by the ^[F13]Secretary of State] of representations giving notice of persons' interests in, or objections to, the application.
- (9) A deadline specified in accordance with subsection (8) does not apply to a person to whom notice is given under subsection (2).

Textual Amendments

- F13** Words in s. 56 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 14](#); S.I. 2012/628, art. 7(a)
- F14** S. 56(2)(aa) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 23\(5\)\(a\), 324\(3\); S.I. 2010/298, art. 2, Sch. para. 6](#)
- F15** S. 56(2)(b) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), ss. 138\(2\), 240\(2\) \(with s. 144\); S.I. 2012/628, art. 7\(a\)](#)
- F16** S. 56(2A) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 23\(5\)\(b\), 324\(3\); S.I. 2010/298, art. 2, Sch. para. 6](#)

Commencement Information

- I2** S. 56 partly in force; s. 56 in force for certain purposes at Royal Assent see s. 241
- I3** S. 56 in force at 1.10.2009 by [S.I. 2009/2260, art. 2\(c\)](#)

^[F17]56A Local authorities for the purposes of sections 56(2)(b) and 60(2)(a) E+W+S

- (1) A local authority is within this section if the land is in the authority's area.
- (2) A local authority (“A”) is within this section if—
 - (a) the land is in the area of another local authority (“B”),
 - (b) B is a unitary council or a lower-tier district council, and
 - (c) any part of the boundary of A's area is also a part of the boundary of B's area.
- (3) If the land is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this section if—
 - (a) D is not a lower-tier district council, and
 - (b) any part of the boundary of D's area is also part of the boundary of C's area.
- (4) In this section—
 - “the land” means the land to which the application concerned relates or any part of that land;
 - “local authority” has the meaning given in section 102(8);
 - “lower-tier district council” means a district council in England for an area for which there is a county council;
 - “unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

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“upper-tier county council” means a county council in England for each part of whose area there is a district council.]

Textual Amendments

F17 S. 56A inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(3), 240(2)** (with [s. 144](#)); [S.I. 2012/628](#), [art. 7\(a\)](#)

57 Categories for purposes of section 56(2)(d) **E+W+S**

- (1) A person is within Category 1 if the applicant, after making diligent inquiry, knows that the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.
- (2) A person is within Category 2 if the applicant, after making diligent inquiry, knows that the person—
 - (a) is interested in the land, or
 - (b) has power—
 - (i) to sell and convey the land, or
 - (ii) to release the land.
- (3) An expression, other than “the land”, that appears in subsection (2) of this section and also in section 5(1) of the Compulsory Purchase Act 1965 (c. 56) has in subsection (2) the meaning that it has in section 5(1) of that Act.
- (4) A person is within Category 3 if the applicant thinks that, if the order sought by the application were to be made and fully implemented, the person would or might be entitled—
 - (a) as a result of the implementing of the order,
 - (b) as a result of the order having been implemented, or
 - (c) as a result of use of the land once the order has been implemented,to make a relevant claim.

This is subject to subsection (5).
- (5) A person is within Category 3 only if the person is known to the applicant after making diligent inquiry.
- (6) In subsection (4) “relevant claim” means—
 - (a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);
 - (b) a claim under Part 1 of the Land Compensation Act 1973 (c. 26) (compensation for depreciation of land value by physical factors caused by use of public works)^{F18};
 - (c) a claim under section 152(3).]
- (7) In this section “the land” means the land to which the application relates or any part of that land.

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Textual Amendments

F18 S. 57(6)(c) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 135(9)**, 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)

Commencement Information

I4 S. 57 in force at 1.10.2009 by [S.I. 2009/2260](#), **art. 2(c)**

58 Certifying compliance with section 56 **E+W+S**

- (1) Subsection (2) applies where—
 - (a) the [^{F19}Secretary of State] has accepted an application for an order granting development consent, and
 - (b) the applicant has complied with section 56 in relation to the application.
- (2) The applicant must, in such form and manner as may be prescribed, certify to the [^{F20}Secretary of State] that the applicant has complied with section 56 in relation to the application.
- (3) A person commits an offence if the person issues a certificate which—
 - (a) purports to be a certificate under subsection (2), and
 - (b) contains a statement which the person knows to be false or misleading in a material particular.
- (4) A person commits an offence if the person recklessly issues a certificate which—
 - (a) purports to be a certificate under subsection (2), and
 - (b) contains a statement which is false or misleading in a material particular.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) A magistrates' court may try an information relating to an offence under this section whenever laid.
- (7) Section 127 of the Magistrates' Courts Act 1980 (c. 43) has effect subject to subsection (6) of this section.

Textual Amendments

F19 Words in s. 58(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 15**; [S.I. 2012/628](#), art. 7(a)

F20 Words in s. 58(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 15**; [S.I. 2012/628](#), art. 7(a)

Commencement Information

I5 S. 58 in force at 1.10.2009 by [S.I. 2009/2260](#), **art. 2(c)**

59 Notice of persons interested in land to which compulsory acquisition request relates **E+W+S**

- (1) This section applies where—

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- (a) the [F21Secretary of State] has accepted an application for an order granting development consent, and
 - (b) the application includes a request for an order granting development consent to authorise compulsory acquisition of land or of an interest in or right over land (a “compulsory acquisition request”).
- (2) The applicant must give to the [F22Secretary of State] a notice specifying the names, and such other information as may be prescribed, of each affected person.
 - (3) Notice under subsection (2) must be given in such form and manner as may be prescribed.
 - (4) A person is an “affected person” for the purposes of this section if the applicant, after making diligent inquiry, knows that the person is interested in the land to which the compulsory acquisition request relates or any part of that land.

Textual Amendments

F21 Words in s. 59(1) substituted (1.4.2012) by *Localism Act 2011 (c. 20)*, s. 240(2), **Sch. 13 para. 16**; S.I. 2012/628, art. 7(a)

F22 Words in s. 59(2) substituted (1.4.2012) by *Localism Act 2011 (c. 20)*, s. 240(2), **Sch. 13 para. 16**; S.I. 2012/628, art. 7(a)

Commencement Information

I6 S. 59 partly in force; s. 59 in force for certain purposes at Royal Assent see s. 241

I7 S. 59 in force at 1.10.2009 by *S.I. 2009/2260*, **art. 2(c)**

60 Local impact reports **E+W+S**

- (1) Subsection (2) applies where the [F23Secretary of State] —
 - (a) has accepted an application for an order granting development consent, and
 - (b) has received—
 - (i) a certificate under section 58(2) in relation to the application, and
 - (ii) where section 59 applies, a notice under that section in relation to the application.
- (2) The [F23Secretary of State] must give notice in writing to each of the following, inviting them to submit a local impact report [F24to the Secretary of State] —
 - [F25(a) each local authority that is within section 56A, and]
 - (b) the Greater London Authority if the land to which the application relates, or any part of it, is in Greater London.
- (3) A “local impact report” is a report in writing giving details of the likely impact of the proposed development on the authority's area (or any part of that area).
- (4) “The proposed development” is the development for which the application seeks development consent.
- (5) A notice under subsection (2) must specify the deadline for receipt by the [F23Secretary of State] of the local impact report.

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Textual Amendments

- F23** Words in s. 60 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 17(2)**; S.I. 2012/628, art. 7(a)
- F24** Words in s. 60(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 17(3)**; S.I. 2012/628, art. 7(a)
- F25** S. 60(2)(a) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(4)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

Commencement Information

- I8** S. 60 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

61 Initial choice of Panel or single ^{F26}appointed person] **E+W+S**

^{F27}(1) Subsection (2) applies where the Secretary of State has accepted an application for an order granting development consent.]

^{F28}(2) The Secretary of State must decide whether the application—

- (a) is to be handled by a Panel under Chapter 2, or
- (b) is to be handled by a single appointed person under Chapter 3.

(3) The Secretary of State must publish the criteria that are to be applied in making decisions under subsection (2).]

Textual Amendments

- F26** Words in s. 61 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 18(4)**; S.I. 2012/628, art. 7(a)
- F27** S. 61(1) substituted (12.4.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 26**, 57(5)(a); S.I. 2015/758, reg. 2 (with art. 4(2))
- F28** S. 61(2)(3) substituted for s. 61(2)-(5) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 18(3)**; S.I. 2012/628, art. 7(a)

Commencement Information

- I9** S. 61 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

62 Switching from single ^{F29}appointed person] to Panel **E+W+S**

(1) Subsection (2) applies where an application for an order granting development consent is being handled by a single ^{F30}appointed person] under Chapter 3.

^{F31}(2) The Secretary of State may decide that the application should instead be handled by a Panel under Chapter 2.

(3) The Secretary of State must publish the criteria that are to be applied in making decisions under subsection (2).]

Textual Amendments

- F29** Words in s. 62 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 19(2)**; S.I. 2012/628, art. 7(a)

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F30 Words in s. 62(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 19\(2\); S.I. 2012/628, art. 7\(a\)](#)

F31 S. 62(2)(3) substituted for s. 62(2)-(5) (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 19\(1\)\(3\); S.I. 2012/628, art. 7\(a\)](#)

Commencement Information

I10 S. 62 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with [art. 6](#))

^{F32}63 Delegation of functions by person appointed to chair Commission **E+W+S**

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Textual Amendments

F32 S. 63 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 20, Sch. 25 Pt. 20; S.I. 2012/628, art. 7](#)

CHAPTER 2 **E+W+S**

THE PANEL PROCEDURE

Panels

64 Panel for each application to be handled under this Chapter **E+W+S**

- (1) This Chapter applies where—
 - (a) the [^{F33}Secretary of State] accepts an application for an order granting development consent, and
 - (b) under section 61(2) or 62(2), it is decided that the application is to be handled by a Panel under this Chapter.
- (2) There is to be a Panel (referred to in this Chapter as “the Panel”) to handle the application.

Textual Amendments

F33 Words in s. 64(1)(a) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 21; S.I. 2012/628, art. 7\(a\)](#)

Commencement Information

I11 S. 64 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with [art. 6](#))

65 Appointment of members, and lead member, of Panel **E+W+S**

- [^{F34}(1) The Secretary of State must appoint—
 - (a) [^{F35}two,] three, four or five persons to be members of the Panel, and
 - (b) one of those persons to chair the Panel.]

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(2) In this Chapter “the lead member” means the person who for the time being is appointed to chair the Panel.

^{F36}(3)

^{F36}(4)

^{F36}(5)

Textual Amendments

- F34** S. 65(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 22\(2\)](#); S.I. 2012/628, art. 7(a)
- F35** Word in s. 65(1)(a) inserted (5.4.2017) by [Infrastructure Act 2015 \(c. 7\)](#), [ss. 27\(1\)](#), 57(5)(a); S.I. 2017/315, reg. 2
- F36** S. 65(3)-(5) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 22\(3\)](#), [Sch. 25 Pt. 20](#); S.I. 2012/628, art. 7

Commencement Information

- I12** S. 65 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with art. 6)

66 Ceasing to be member, or lead member, of Panel E+W+S

^{F37}(1)

- (2) The person appointed to be the lead member ceases to hold that office if the person ceases to be a member of the Panel.
- (3) A person may resign from membership of the Panel by giving notice in writing to the [^{F38}Secretary of State].
- (4) The lead member may resign that office, without also resigning from membership of the Panel, by giving notice in writing to the [^{F39}Secretary of State].
- (5) The [^{F40}Secretary of State]—
- (a) may remove a person (“the Panel member”) from membership of the Panel if the [^{F41}Secretary of State] is satisfied that the Panel member is unable, unwilling or unfit to perform the duties of Panel membership;
 - (b) may remove the lead member from that office, without also removing the lead member from membership of the Panel, if the [^{F42}Secretary of State] is satisfied that the lead member is unable, unwilling or unfit to perform the duties of the office.

Textual Amendments

- F37** S. 66(1) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 23\(2\)](#), [Sch. 25 Pt. 20](#); S.I. 2012/628, art. 7
- F38** Words in s. 66(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 23\(3\)](#); S.I. 2012/628, art. 7(a)
- F39** Words in s. 66(4) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 23\(3\)](#); S.I. 2012/628, art. 7(a)
- F40** Words in s. 66(5) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 23\(4\)](#) (a); S.I. 2012/628, art. 7(a)

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

- F41** Words in s. 66(5)(a) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 23(4)(b)**; S.I. 2012/628, art. 7(a)
- F42** Words in s. 66(5)(b) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 23(4)(b)**; S.I. 2012/628, art. 7(a)

Commencement Information

- I13** S. 66 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

F43 67 Panel member continuing though ceasing to be Commissioner **E+W+S**

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Textual Amendments

- F43** S. 67 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 24**, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

68 Additional appointments to Panel **E+W+S**

(1) Subsections (2) and (3) apply at any time after the initial members of the Panel have been appointed under section 65(1)(a).

[^{F44}(2) The Secretary of State may appoint a person to be a member of the Panel, but this power may not be exercised so as to cause the Panel to have more than five members.]

(3) If at any time the Panel has only ^{F45}... a single member, it is the duty of the [^{F46}Secretary of State] to ensure that the power under subsection (2) is exercised so as to secure that the Panel again has at least [^{F47}two] members.

(4) A person appointed under subsection (2) becomes a member of the Panel in addition to any person who is otherwise a member of the Panel.

^{F48}(5)

Textual Amendments

- F44** S. 68(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 25(2)**; S.I. 2012/628, art. 7(a)
- F45** Words in s. 68(3) omitted (5.4.2017) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), **ss. 27(2)(a)**, 57(5)(a); S.I. 2017/315, reg. 2
- F46** Words in s. 68(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 25(3)**; S.I. 2012/628, art. 7(a)
- F47** Word in s. 68(3) substituted (5.4.2017) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 27(2)(b)**, 57(5)(a); S.I. 2017/315, reg. 2
- F48** S. 68(5) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 25(4)**, **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

- I14** S. 68 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

69 Replacement of lead member of Panel **E+W+S**

- (1) Subsection (2) applies where a person ceases to hold the office of lead member.
- (2) The [^{F49}Secretary of State] must appoint a member of the Panel to chair the Panel.
- (3) A person may be appointed under subsection (2) even though that person was not a member of the Panel when the vacancy arose.

^{F50}(4)

Textual Amendments

F49 Words in s. 69(2) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 26(2); S.I. 2012/628, art. 7(a)

F50 S. 69(4) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 26(3), Sch. 25 Pt. 20; S.I. 2012/628, art. 7

Commencement Information

I15 S. 69 in force at 1.3.2010 by S.I. 2010/101, art. 3(d) (with art. 6)

^{F51}70 Membership of Panel where application relates to land in Wales **E+W+S**

.....

Textual Amendments

F51 S. 70 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 27, Sch. 25 Pt. 20; S.I. 2012/628, art. 7

71 Supplementary provision where Panel replaces single [^{F52}appointed person] **E+W+S**

- (1) Subsections (2) and (3) apply where this Chapter applies as the result of a decision under section 62(2).
- (2) [^{F53}An appointed person] —
 - (a) may be appointed under section 65(1)(a) or 68(2) as a member of the Panel, and
 - (b) if a member of the Panel, may be appointed under section 65(1)(b) or 69(2) to chair the Panel.
- (3) The Panel may, so far as it thinks appropriate, decide to treat things done by or in relation to [^{F54}an appointed person] in proceedings under Chapter 3 on the application as done by or in relation to the Panel.
- (4) Where the Panel makes a decision under subsection (3), the lead member is under a duty to ensure that the membership of the Panel has the necessary knowledge of the proceedings under Chapter 3 on the application.

[^{F55}(5) In this section “appointed person” means a person appointed to handle the application under Chapter 3.]

Status: Point in time view as at 31/01/2024.

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Textual Amendments

- F52** Words in s. 71 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 28(5)**; [S.I. 2012/628](#), art. 7(a)
- F53** Words in s. 71(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 28(2)**; [S.I. 2012/628](#), art. 7(a)
- F54** Words in s. 71(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 28(3)**; [S.I. 2012/628](#), art. 7(a)
- F55** S. 71(5) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 28(4)**; [S.I. 2012/628](#), art. 7(a)

Commencement Information

- I16** S. 71 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

72 Panel ceasing to have any members **E+W+S**

- (1) If the Panel ceases to have any members, a new Panel must be constituted under section 65(1).
- (2) At times after the new Panel has been constituted (but subject to the further application of this subsection in the event that the new Panel ceases to have any members), references in this Chapter to the Panel are to be read as references to the new Panel.
- (3) The new Panel may, so far as it thinks appropriate, decide to treat things—
 - (a) done by or in relation to a previous Panel appointed to handle the application, or
 - (b) treated under section 71(3) as done by or in relation to a previous Panel appointed to handle the application,as done by or in relation to the new Panel.
- (4) Where the Panel makes a decision under subsection (3), the lead member is under a duty to ensure that the membership of the Panel has the necessary knowledge of the proceedings on the application up until the reconstitution of the Panel.
- (5) The power under section 68(2) is not exercisable at times when the Panel has no members.

Commencement Information

- I17** S. 72 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

73 Consequences of changes in Panel **E+W+S**

- (1) The Panel's continuing identity is to be taken not to be affected by—
 - (a) any change in the membership of the Panel;
 - (b) the Panel's coming to have only ^{F56}... a single member;
 - (c) any change in the lead member;
 - (d) a vacancy in that office.

Status: Point in time view as at 31/01/2024.

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- (2) When there is a change in the membership of the Panel, the lead member is under a duty to ensure that the membership of the Panel after the change has the necessary knowledge of the proceedings on the application up until the change.
- (3) Subsection (2) does not apply where the change occurs as a result of the Panel being reconstituted as required by section 72(1).

Textual Amendments

F56 Words in s. 73(1)(b) omitted (5.4.2017) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), [ss. 27\(3\)](#), [57\(5\)\(a\)](#); [S.I. 2017/315](#), reg. 2

Commencement Information

I18 S. 73 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

Panel's role in relation to application

74 Panel to decide, or make recommendation in respect of, application **E+W+S**

^{F57}(1)

- (2) [^{F58}The Panel] has the functions of—
 - (a) examining the application, and
 - (b) making a report to the Secretary of State on the application setting out—
 - (i) the Panel's findings and conclusions in respect of the application, and
 - (ii) the Panel's recommendation as to the decision to be made on the application.

- (3) The Panel's functions under this section are to be carried out in accordance with Chapter 4.

^{F59}(4)

Textual Amendments

F57 S. 74(1) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 29\(2\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7

F58 Words in s. 74(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 29\(3\)](#); [S.I. 2012/628](#), art. 7(a)

F59 S. 74(4) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 29\(4\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7

Commencement Information

I19 S. 74 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

75 Decision-making by the Panel **E+W+S**

[^{F60}(A1) If the members of a Panel with two members disagree as to a proposed decision by the Panel, the view of the lead member is to prevail.]

Status: Point in time view as at 31/01/2024.

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- (1) The making of a decision by [^{F61}a Panel with three or more members] requires the agreement of a majority of its members.
- (2) The lead member has a second (or casting) vote in the event that the number of members of the Panel agreeing to a proposed decision is the same as the number of members not so agreeing.

Textual Amendments

- F60** S. 75(A1) inserted (5.4.2017) by [Infrastructure Act 2015 \(c. 7\)](#), [ss. 27\(4\)\(a\)](#), [57\(5\)\(a\)](#); S.I. 2017/315, [reg. 2](#)
- F61** Words in [s. 75\(1\)](#) substituted (5.4.2017) by [Infrastructure Act 2015 \(c. 7\)](#), [ss. 27\(4\)\(b\)](#), [57\(5\)\(a\)](#); S.I. 2017/315, [reg. 2](#)

Commencement Information

- I20** S. 75 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

76 Allocation within Panel of Panel's functions **E+W+S**

- (1) This section applies in relation to the Panel's examination of the application.
- (2) The Panel, as an alternative to itself undertaking a part of the examination, may allocate the undertaking of that part to any one or more of the members of the Panel.
- (3) Where there is an allocation under subsection (2)—
 - (a) anything that under Chapter 4 is required or authorised to be done by or to the Panel in connection with the allocated part of the examination may be done by or to the member or members concerned (or by or to the Panel), and
 - (b) findings and conclusions of the member or members concerned in respect of the matters allocated are to be taken to be the Panel's.
- (4) Subsection (3)(b) has effect subject to any decision of the Panel, made on the occasion of making the allocation or earlier, as to the status of any such findings or conclusions.
- (5) Where there is an allocation under subsection (2) to two or more of the members of the Panel, the making of a decision by the members concerned requires the agreement of all of them.

Commencement Information

- I21** S. 76 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

77 Exercise of Panel's powers for examining application **E+W+S**

- (1) In this section “procedural power” means any power conferred on the Panel for the purposes of its examination of the application.
- (2) A procedural power, as well as being exercisable by the Panel itself, is also (subject to subsection (3)) exercisable by any one or more of the members of the Panel.
- (3) The Panel may decide to restrict or prohibit the exercise of a procedural power otherwise than by the Panel itself.

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

- (4) Subsection (2)—
- (a) applies whether or not there is an allocation under section 76(2), and
 - (b) where there is such an allocation, is in addition to section 76(3)(a).
- (5) Subsection (3) does not authorise curtailment of a power conferred by section 76(3)(a).

Commencement Information

I22 S. 77 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

CHAPTER 3 E+W+S

THE ^[F62]SINGLE-APPOINTED-PERSON] PROCEDURE

Textual Amendments

F62 Words in Pt. 6 Ch. 3 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 30\(6\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

The single ^[F63]appointed person]

Textual Amendments

F63 Words in s. 78 cross-heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 30\(5\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

78 **Single ^[F64]appointed person] to handle application** E+W+S

- (1) This Chapter applies where—
- (a) the ^[F65]Secretary of State] accepts an application for an order granting development consent, and
 - (b) under section 61(2), it is decided that the application is to be handled by a single ^[F66]appointed person] under this Chapter.
- (2) In this Chapter “the single ^[F67]appointed person]” means the person who is appointed to handle the application under this Chapter.

Textual Amendments

F64 Words in s. 78 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 30\(5\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

F65 Words in s. 78(1)(a) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 30\(2\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

F66 Words in s. 78(1)(b) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 30\(3\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

F67 Words in s. 78(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 30\(4\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

Status: Point in time view as at 31/01/2024.

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Commencement Information

I23 S. 78 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

[^{F68}79 Appointment of single appointed person [E+W+S](#)

The Secretary of State must appoint a person to handle the application.]

Textual Amendments

F68 S. 79 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 31](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

80 Ceasing to be the single [^{F69}appointed person] [E+W+S](#)

^{F70}(1)

(2) A person may resign from being the single [^{F71}appointed person] by giving notice in writing to the [^{F72}Secretary of State].

(3) The [^{F73}Secretary of State] may remove a person (“the appointee”) from being the single [^{F74}appointed person][^{F75}if the Secretary of State] is satisfied that the appointee is unable, unwilling or unfit to perform the duties of the single [^{F74}appointed person].

Textual Amendments

F69 Words in s. 80 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 32\(5\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

F70 S. 80(1) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 32\(2\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), [art. 7](#)

F71 Words in s. 80(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 32\(3\)\(a\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

F72 Words in s. 80(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 32\(3\)\(b\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

F73 Words in s. 80(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 32\(4\)\(a\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

F74 Words in s. 80(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 32\(4\)\(b\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

F75 Words in s. 80(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 32\(4\)\(c\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

Commencement Information

I24 S. 80 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

[^{F76}81 Single Commissioner continuing though ceasing to be Commissioner [E+W+S](#)

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Status: Point in time view as at 31/01/2024.

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Textual Amendments

F76 S. 81 repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 33](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7

82 Appointment of replacement single ^{F77}appointed person] **E+W+S**

- (1) Where a person ceases to be the single ^{F77}appointed person], a new appointment of a person to handle the application must be made under section 79.
- (2) Where that happens, the new single ^{F77}appointed person] may, so far as may be appropriate, decide to treat things done by or in relation to any previous single ^{F77}appointed person] as done by or in relation to the new single ^{F77}appointed person].
- (3) Where the single ^{F77}appointed person] makes a decision under subsection (2), the single ^{F77}appointed person] is under a duty to acquire the necessary knowledge of the previous proceedings on the application.

Textual Amendments

F77 Words in s. 82 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 34](#); [S.I. 2012/628](#), art. 7(a)

Commencement Information

I25 S. 82 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

Single ^{F78}appointed person]'s role in relation to application

Textual Amendments

F78 Words in s. 83 cross-heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 35\(2\)](#); [S.I. 2012/628](#), art. 7(a)

83 Single ^{F79}appointed person] to examine and report on application **E+W+S**

- (1) The single ^{F80}appointed person] has the functions of—
 - (a) examining the application, and
 - (b) making a report ^{F81}to the Secretary of State] on the application setting out—
 - (i) the single ^{F80}appointed person]'s findings and conclusions in respect of the application, and
 - (ii) the single ^{F80}appointed person]'s recommendation as to the decision to be made on the application.

^{F82}(2)

- (3) The single ^{F83}appointed person]'s functions under subsection (1) are to be carried out in accordance with Chapter 4.

^{F84}(4)

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

Textual Amendments

- F79** Words in s. 83 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 35\(2\)](#); [S.I. 2012/628](#), art. 7(a)
- F80** Words in s. 83(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 35\(2\)](#); [S.I. 2012/628](#), art. 7(a)
- F81** Words in s. 83(1)(b) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 35\(3\)](#); [S.I. 2012/628](#), art. 7(a)
- F82** S. 83(2) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 35\(4\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7
- F83** Words in s. 83(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 35\(2\)](#); [S.I. 2012/628](#), art. 7(a)
- F84** S. 83(4) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 35\(5\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7

Commencement Information

- I26** S. 83 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

^{F85}**84 Report from single Commissioner to be referred to Council** **E+W+S**

Textual Amendments

- F85** Ss. 84, 85 and cross-heading repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 36](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7

^{F85}**85 Decisions made by the Council on the application** **E+W+S**

- (1) This section applies to decisions made by the Council in deciding the application.
- (2) At least five members of the Council must participate in making a decision.
- (3) The making of a decision requires the agreement of a majority of the members of the Council who are participating in making it.
- (4) The person chairing the Council has a second (or casting) vote in the event that the number of members of the Council agreeing to a proposed decision is the same as the number of members not so agreeing.

Textual Amendments

- F85** Ss. 84, 85 and cross-heading repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 36](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7

Status: Point in time view as at 31/01/2024.

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CHAPTER 4 **E+W+S**

EXAMINATION OF APPLICATIONS UNDER CHAPTER 2 OR 3

86 **Chapter applies to examination by Panel or single [^{F86}appointed person] **E+W+S****

- (1) This Chapter applies—
 - (a) in relation to the examination of an application by a Panel under Chapter 2, and
 - (b) in relation to the examination of an application by a single [^{F87}appointed person] under Chapter 3.
- (2) In this Chapter as it applies in relation to the examination of an application by a Panel under Chapter 2, “the Examining authority” means the Panel.
- (3) In this Chapter as it applies in relation to the examination of an application by a single [^{F87}appointed person] under Chapter 3, “the Examining authority” means the single [^{F87}appointed person].

Textual Amendments

F86 Words in s. 86 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 37; S.I. 2012/628, art. 7\(a\)](#)

F87 Words in s. 86 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 37; S.I. 2012/628, art. 7\(a\)](#)

Commencement Information

I27 S. 86 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with art. 6)

87 **Examining authority to control examination of application **E+W+S****

- (1) It is for the Examining authority to decide how to examine the application.
- (2) The Examining authority, in making any decision about how the application is to be examined, must—
 - (a) comply with—
 - (i) the following provisions of this Chapter, and
 - (ii) any rules made under section 97, and
 - ^{F88}(b)
- (3) The Examining authority may in examining the application disregard representations if the Examining authority considers that the representations—
 - (a) are vexatious or frivolous,
 - (b) relate to the merits of policy set out in a national policy statement, or
 - (c) relate to compensation for compulsory acquisition of land or of an interest in or right over land.

Textual Amendments

F88 S. 87(2)(b) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 38, Sch. 25 Pt. 20; S.I. 2012/628, art. 7](#)

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

Commencement Information

I28 S. 87 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

88 Initial assessment of issues, and preliminary meeting **E+W+S**

- (1) The Examining authority must make such an initial assessment of the principal issues arising on the application as the Examining authority thinks appropriate.
 - (2) After making that assessment, the Examining authority must hold a meeting.
 - (3) The Examining authority must invite to the meeting—
 - (a) the applicant, ^{F89}...
 - (b) each other interested party,
 - ^{F90}(c) each statutory party, and
 - (d) each local authority that is within section 88A,]whether or not the Examining authority is required by rules under section 97, or chooses, also to invite other persons.
- ^{F91}(3A) In subsection (3)(c) “statutory party” means a person specified in, or of a description specified in, regulations made by the Secretary of State.]
- (4) The purposes of the meeting are—
 - (a) to enable invitees present at the meeting to make representations to the Examining authority about how the application should be examined,
 - (b) to discuss any other matter that the Examining authority wishes to discuss, and
 - (c) any other purpose that may be specified in rules under section 97.
 - (5) Subsections (2) to (4) do not prevent the Examining authority holding other meetings.
 - (6) Rules under section 97—
 - (a) may (in particular) make provision supplementing subsections (1) to (4), and
 - (b) must make provision as to when the assessment under subsection (1) is to be made and as to when the meeting required by subsection (2) is to be held.

Textual Amendments

- F89** Word in s. 88(3)(a) repealed (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss. [138\(5\)\(a\)](#), [240\(2\)](#), [Sch. 25 Pt. 21](#) (with [s. 144](#)); [S.I. 2012/57](#), [art. 2\(c\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)
- F90** S. 88(3)(c)(d) inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss. [138\(5\)\(b\)](#), [240\(2\)](#) (with [s. 144](#)); [S.I. 2012/57](#), [art. 2\(c\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)
- F91** S. 88(3A) inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss. [138\(5\)\(c\)](#), [240\(2\)](#) (with [s. 144](#)); [S.I. 2012/57](#), [art. 2\(c\)](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

Commencement Information

I29 S. 88 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

[^{F92}88A Local authorities for the purposes of section 88(3)(d) E+W+S

- (1) A local authority (“A”) is within this section if—
 - (a) the land is in the area of another local authority (“B”),
 - (b) B is a unitary council or a lower-tier district council, and
 - (c) any part of the boundary of A's area is also a part of the boundary of B's area.
- (2) If the land is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this section if—
 - (a) D is not a lower-tier district council, and
 - (b) any part of the boundary of D's area is also part of the boundary of C's area.
- (3) In this section—
 - “the land” means the land to which the application relates or any part of that land;
 - “local authority” has the meaning given in section 102(8);
 - “lower-tier district council” means a district council in England for an area for which there is a county council;
 - “unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;
 - “upper-tier county council” means a county council in England for each part of whose area there is a district council.]

Textual Amendments

F92 S. 88A inserted (1.4.2012) by *Localism Act 2011* (c. 20), ss. **138(6)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

89 Examining authority's decisions about how application is to be examined E+W+S

- (1) The Examining authority must in the light of the discussion at the meeting held under section 88(2) make such procedural decisions as the Examining authority thinks appropriate.
- (2) The decisions required by subsection (1) may be made at or after the meeting.
- [^{F93}(2A) Upon making the decisions required by subsection (1), the Examining authority must inform each person mentioned in section 88(3)(c) and (d)—
 - (a) of those decisions, and
 - (b) that the person may notify the Examining authority in writing that the person is to become an interested party.]
- (3) The Examining authority may make procedural decisions otherwise than as required by subsection (1), and may do so at any time before or after the meeting.
- (4) The Examining authority must inform each interested party of any procedural decision made by the Examining authority.
- (5) In this section “procedural decision” means a decision about how the application is to be examined.

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

Textual Amendments

F93 S. 89(2A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(7)**, 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)

Commencement Information

I30 S. 89 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

90 Written representations **E+W+S**

- (1) The Examining authority's examination of the application is to take the form of consideration of written representations about the application.
- (2) Subsection (1) has effect subject to—
 - (a) any requirement under section 91, 92 or 93 to cause a hearing to be held, and
 - (b) any decision by the Examining authority that any part of the examination is to take a form that is neither—
 - (i) consideration of written representations, nor
 - (ii) consideration of oral representations made at a hearing.
- (3) Rules under section 97 may (in particular) specify written representations about the application which are to be, or which may be or may not be, considered under subsection (1).

Commencement Information

I31 S. 90 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

91 Hearings about specific issues **E+W+S**

- (1) Subsections (2) and (3) apply where the Examining authority decides that it is necessary for the Examining authority's examination of the application to include the consideration of oral representations about a particular issue made at a hearing in order to ensure—
 - (a) adequate examination of the issue, or
 - (b) that an interested party has a fair chance to put the party's case.
- (2) The Examining authority must cause a hearing to be held for the purpose of receiving oral representations about the issue.
- (3) At the hearing, each interested party is entitled (subject to the Examining authority's powers of control over the conduct of the hearing) to make oral representations about the issue.
- (4) Where the Examining authority is a Panel acting under Chapter 2, any two or more hearings under subsection (2) may be held concurrently.

Commencement Information

I32 S. 91 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

92 Compulsory acquisition hearings **E+W+S**

- (1) This section applies where the application includes a request for an order granting development consent to authorise compulsory acquisition of land or of an interest in or right over land (a “compulsory acquisition request”).
- (2) The Examining authority must fix, and cause each affected person to be informed of, the deadline by which an affected person must notify the [^{F94}Secretary of State] that the person wishes a compulsory acquisition hearing to be held.
- (3) If the [^{F94}Secretary of State] receives notification from at least one affected person before the deadline, the Examining authority must cause a compulsory acquisition hearing to be held.
- (4) At a compulsory acquisition hearing, the following are entitled (subject to the Examining authority's powers of control over the conduct of the hearing) to make oral representations about the compulsory acquisition request—
 - (a) the applicant;
 - (b) each affected person.
- (5) A person is an “affected person” for the purposes of this section if the person's name has been given to the [^{F94}Secretary of State] in a notice under section 59.

Textual Amendments

F94 Words in s. 92 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 39](#); [S.I. 2012/628](#), art. 7(a)

Commencement Information

I33 S. 92 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with art. 6)

93 Open-floor hearings **E+W+S**

- (1) The Examining authority must fix, and cause the interested parties to be informed of, the deadline by which an interested party must notify the [^{F95}Secretary of State] of the party's wish to be heard at an open-floor hearing.
- (2) If the [^{F95}Secretary of State] receives notification from at least one interested party before the deadline, the Examining authority must cause an open-floor hearing to be held.
- (3) At an open-floor hearing, each interested party is entitled (subject to the Examining authority's powers of control over the conduct of the hearing) to make oral representations about the application.

Textual Amendments

F95 Words in s. 93 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 40](#); [S.I. 2012/628](#), art. 7(a)

Commencement Information

I34 S. 93 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with art. 6)

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

94 Hearings: general provisions **E+W+S**

- (1) The following provisions of this section apply—
 - (a) to a hearing under section 91(2),
 - (b) to a compulsory acquisition hearing (see section 92), and
 - (c) to an open-floor hearing (see section 93).
- (2) The hearing—
 - (a) must be in public, and
 - (b) must be presided over by one or more of the members of the Panel or (as the case may be) the single [^{F96}appointed person].
- (3) It is for the Examining authority to decide how the hearing is to be conducted.
- (4) In particular, it is for the Examining authority to decide—
 - (a) whether a person making oral representations at the hearing may be questioned at the hearing by another person and, if so, the matters to which the questioning may relate;
 - (b) the amount of time to be allowed at the hearing—
 - (i) for the making of a person's representations (including representations made in exercise of an entitlement under section 91(3), 92(4) or 93(3)), or
 - (ii) for any questioning by another person.
- (5) The Examining authority's powers under subsections (3) and (4) are subject to—
 - (a) subsection (2), and
 - (b) any rules made under section 97.
- (6) Although the Examining authority's powers under subsections (3) and (4) may be exercised for the purpose of controlling exercise of an entitlement under section 91(3), 92(4) or 93(3), those powers may not be exercised so as to deprive the person entitled of all benefit of the entitlement.
- (7) In making decisions under subsection (4)(a), the Examining authority must apply the principle that any oral questioning of a person making representations at a hearing (whether the applicant or any other person) should be undertaken by the Examining authority except where the Examining authority thinks that oral questioning by another person is necessary in order to ensure—
 - (a) adequate testing of any representations, or
 - (b) that a person has a fair chance to put the person's case.
- (8) The Examining authority may refuse to allow representations to be made at the hearing (including representations made in exercise of an entitlement under section 91(3), 92(4) or 93(3)) if the Examining authority considers that the representations—
 - (a) are irrelevant, vexatious or frivolous,
 - (b) relate to the merits of policy set out in a national policy statement,
 - (c) repeat other representations already made (in any form and by any person), or
 - (d) relate to compensation for compulsory acquisition of land or of an interest in or right over land.

Status: Point in time view as at 31/01/2024.

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Textual Amendments

F96 Words in s. 94(2)(b) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 41](#); [S.I. 2012/628, art. 7\(a\)](#)

Commencement Information

I35 S. 94 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with [art. 6](#))

95 Hearings: disruption, supervision and costs E+W+S

- (1) Where an interested party or any other person behaves in a disruptive manner at a hearing, the Examining authority may decide to do any one or more of the following—
- (a) exclude the person from all, or part, of the remainder of the hearing;
 - (b) allow the person to continue to attend the hearing only if the person complies with conditions specified by the Examining authority;
 - (c) exclude the person from other hearings;
 - (d) direct that the person is allowed to attend other hearings only if the person complies with conditions specified by the Examining authority.

- (2) In this section “hearing” means—
- (a) a preliminary meeting under section 88,
 - (b) a hearing under section 91(2),
 - (c) a compulsory acquisition hearing (see section 92),
 - (d) an open-floor hearing (see section 93),
 - (e) any other meeting or hearing that the Examining authority causes to be held for the purposes of the Examining authority's examination of the application, or
 - (f) a site visit.

^{F97}(3)

- (4) Subsection (5) of section 250 of the Local Government Act 1972 (c. 70) (provisions about costs applying where Minister causes a local inquiry to be held) applies in relation to the Examining authority's examination of the application as it applies in relation to an inquiry under that section, but with references to the Minister causing the inquiry to be held being read as references to the Examining authority.

This is subject to subsection (5) of this section.

- (5) Subsections (6) to (8) of section 210 of the Local Government (Scotland) Act 1973 (c. 65) (provisions about expenses applying where Minister causes a local inquiry to be held) apply in relation to the Examining authority's examination of the application in so far as relating to a hearing held in Scotland as they apply in relation to an inquiry under that section, but with references to the Minister causing the inquiry to be held being read as references to the Examining authority.

Textual Amendments

F97 [S. 95\(3\)](#) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\), art. 1\(2\), Sch. para. 40\(a\)](#)

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

Commencement Information

I36 S. 95 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

[^{F98}95A Hearings: defence and national security **E+W+S**

- (1) Subsection (2) applies if the Secretary of State is satisfied that if all or part of the Examining Authority's examination of the application takes the form of a meeting or hearing—
 - (a) the making of particular oral representations at such a meeting or hearing would be likely to result in the disclosure of information as to defence or national security, and
 - (b) the public disclosure of that information would be contrary to the national interest.
- (2) The Secretary of State may direct that representations of a description specified in the direction may be made only to persons of a description so specified (instead of being made in public).
- (3) If the Secretary of State gives a direction under subsection (2), the Attorney General or (where the representations are to be made in Scotland) the Advocate General for Scotland may appoint a person (an “appointed representative”) to represent the interests of an interested party who (by virtue of the direction) is prevented from being present when the representations are made.
- (4) Rules under section 97 may (in particular) make provision as to the functions of an appointed representative.
- (5) The Secretary of State may direct a person (a “responsible person”) to pay the fees and expenses of an appointed representative if the Secretary of State thinks that the responsible person is interested in a meeting or hearing in relation to any representations that are the subject of a direction under subsection (2).
- (6) Subsections (7) and (8) apply if the Secretary of State gives a direction under subsection (5).
- (7) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the Secretary of State.
- (8) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person, or determined by the Secretary of State, to be certified.
- (9) An amount so certified is recoverable from the responsible person as a civil debt.
- (10) In this section “representations” includes evidence.]

Textual Amendments

F98 S. 95A inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 42](#); [S.I. 2012/57](#), art. 2(a); [S.I. 2012/628](#), art. 7(a)

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

96 Representations not made orally may be made in writing **E+W+S**

- (1) Subsection (2) applies where—
- (a) a person asks the Examining authority to be allowed to make oral representations about the application at a hearing,
 - (b) the person does not (for whatever reason) make the representations orally at a hearing,
 - (c) written representations from the person are received by the [^{F99}Secretary of State] before the Examining authority completes the Examining authority's examination of the application, and
 - (d) the written representations state that they are ones that the person asked to be allowed to, but did not, make orally at a hearing.
- (2) The Examining authority must consider the written representations as part of the Examining authority's examination of the application, subject to section 87(3).

Textual Amendments

F99 Words in s. 96(1)(c) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 43; S.I. 2012/628, art. 7\(a\)](#)

Commencement Information

I37 S. 96 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with [art. 6](#))

97 Procedure rules **E+W+S**

- (1) The Lord Chancellor or (if subsection (2) applies) the Secretary of State^{F100}... may make rules regulating the procedure to be followed in connection with the Examining authority's examination of the application.
- (2) This subsection applies if the development to which the application relates (or part of the development) is the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line—
- (a) one end of which is in England or Wales, and
 - (b) the other end of which is in Scotland.
- (3) Rules under subsection (1) may make provision for or in connection with authorising the Examining authority, alone or with others, to enter onto land, including land owned or occupied otherwise than by the applicant, for the purpose of inspecting the land as part of the Examining authority's examination of the application.
- (4) Rules under subsection (1) may regulate procedure in connection with matters preparatory to the Examining authority's examination of the application, and in connection with matters subsequent to the examination, as well as in connection with the conduct of the examination.
- (5) Power under this section to make rules includes power to make different provision for different purposes.
- (6) Power under this section to make rules is exercisable by statutory instrument.
- (7) A statutory instrument containing rules under this section is subject to annulment pursuant to a resolution of either House of Parliament.

Status: Point in time view as at 31/01/2024.

Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

Textual Amendments

F100 Words in s. 97(1) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\)](#), art. 1(2), [Sch. para. 40\(b\)](#)

Commencement Information

I38 S. 97 in force at 1.3.2010 in so far as not already in force by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

98 Timetable for examining, and reporting on, application **E+W+S**

- (1) The Examining authority is under a duty to complete the Examining authority's examination of the application by the end of the period of 6 months beginning with the day after the start day.
 - (2) The start day is the day on which the meeting required by section 88 is held or, if that meeting is held on two or more days, the later or latest of those days.
 - (3) ^{F101}The Examining authority is under a duty to make its report under section 74(2)(b) or 83(1)(b)] by the end of the period of 3 months ^{F102}beginning with—
 - (a) the deadline for completion of its examination of the application, or
 - (b) (if earlier) the end of the day on which it completes the examination.]
 - (4) The ^{F103}Secretary of State] may set a date for a deadline under this section that is later than the date for the time being set.
- ^{F104}(4A) The Secretary of State may set a date for a deadline under subsection (1) that is earlier than the date for the time being set.]
- (5) The power under subsection (4) may be exercised—
 - (a) more than once in relation to the same deadline;
 - (b) after the date for the time being set for the deadline.
 - ^{F105}(6) Subsections (7) and (8) apply where the power under subsection (4) ^{F106}or (4A)] is exercised.
 - (7) The Secretary of State must—
 - (a) notify each interested party of the new deadline, and
 - (b) publicise the new deadline in such manner as the Secretary of State thinks appropriate.
 - (8) The Secretary of State exercising the power must make a statement, to the House of Parliament of which that Secretary of State is a member, announcing the new deadline.
 - (9) A statement under subsection (8) may be written or oral.]

Textual Amendments

F101 Words in s. 98(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 44\(2\)](#); [S.I. 2012/628](#), art. 7(a)

F102 Words in s. 98(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 139\(2\)](#), 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)

F103 Words in s. 98(4) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 44\(3\)](#); [S.I. 2012/628](#), art. 7(a)

Status: Point in time view as at 31/01/2024.

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- F104** S. 98(4A) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 127(2), 255(3)(a)** (with s. 247)
- F105** S. 98(6)-(9) substituted for s. 98(6) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 44(4)**; S.I. 2012/628, art. 7(a)
- F106** Words in s. 98(6) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 127(3), 255(3)(a)** (with s. 247)

Commencement Information

- I39** S. 98 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

99 Completion of Examining authority's examination of application **E+W+S**

When the Examining authority has completed its examination of the application, it must inform each of the interested parties of that fact.

Commencement Information

- I40** S. 99 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

100 Assessors **E+W+S**

- (1) The [^{F107}Secretary of State] may, at the request of the Examining authority, appoint a person to act as an assessor to assist the Examining authority in the Examining authority's examination of the application.
- (2) A person may be appointed as an assessor only if it appears to the [^{F108}Secretary of State] that the person has expertise that makes the person a suitable person to provide assistance to the Examining authority.

Textual Amendments

- F107** Words in s. 100(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 45(2)**; S.I. 2012/628, art. 7(a)
- F108** Words in s. 100(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 45(3)**; S.I. 2012/628, art. 7(a)

Commencement Information

- I41** S. 100 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

101 Legal advice and assistance **E+W+S**

- (1) The [^{F109}Secretary of State] may, at the request of the Examining authority, appoint a barrister, solicitor or advocate to provide legal advice and assistance to the Examining authority in connection with its examination of the application.
- (2) The assistance that may be given by a person appointed under subsection (1) includes carrying out on behalf of the Examining authority any oral questioning of a person making representations at a hearing.

Status: Point in time view as at 31/01/2024.

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Textual Amendments

F109 Words in s. 101(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 46;](#)
[S.I. 2012/628, art. 7\(a\)](#)

Commencement Information

I42 S. 101 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with [art. 6](#))

102 Interpretation of Chapter 4: “interested party” and other expressions E+W+S

- (1) For the purposes of this Chapter, a person is an “interested party” if—
- (a) the person is the applicant,
 - [^{F110}(aa) the person has been notified of the acceptance of the application in accordance with section 56(2)(d),
 - (ab) the Examining authority has under section 102A decided that it considers that the person is within one or more of the categories set out in section 102B,]
 - [^{F111}(ba) the person is the Marine Management Organisation and the development for which the application seeks development consent would involve the carrying on of any activity in one or more of the areas specified in subsection (1A),]
 - [^{F112}(c) the person is a local authority in whose area the land is located,
 - (ca) the person—
 - (i) is mentioned in section 88(3)(c) or (d), and
 - (ii) has notified the Examining authority as mentioned in section 89(2A)(b),]
 - (d) the person is the Greater London Authority and the land is in Greater London, or
 - (e) the person has made a relevant representation.

[^{F113}(1ZA) But a person ceases to be an “interested party” for the purposes of this Chapter upon notifying the Examining authority in writing that the person no longer wishes to be an interested party.]

[^{F114}(1A) The areas are—

- (a) waters in or adjacent to England up to the seaward limits of the territorial sea;
- (b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;
- (c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;
- (d) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.]

(2) In this Chapter “representation” includes evidence, and references to the making of a representation include the giving of evidence.

[^{F115}(3)]

(4) A representation is a relevant representation for the purposes of subsection (1) to the extent that—

- (a) it is a representation about the application,

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- (b) it is made to the [^{F116}Secretary of State] in the prescribed form and manner,
- (c) it is received by the [^{F116}Secretary of State] no later than the deadline that applies under section 56 to the person making it,
- (d) it contains material of a prescribed description, and
- (e) it does not contain—
 - (i) material about compensation for compulsory acquisition of land or of an interest in or right over land,
 - (ii) material about the merits of policy set out in a national policy statement, or
 - (iii) material that is vexatious or frivolous.

^{F117}(5)

^{F117}(6)

^{F117}(7)

- (8) In [^{F118}subsection (1)(c)] “local authority” means—
 - (a) a county council, or district council, in England;
 - (b) a London borough council;
 - (c) the Common Council of the City of London;
 - (d) the Council of the Isles of Scilly;
 - (e) a county council, or county borough council, in Wales;
 - (f) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
 - (g) a National Park authority;
 - (h) the Broads Authority.
- (9) In this section “the land” means the land to which the application relates or any part of that land.

Textual Amendments

- F110** S. 102(1)(aa)(ab) substituted for s. 102(1)(b) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(a), 240(2)** (with s. 144); [S.I. 2012/628](#), art. 7(a)
- F111** S. 102(1)(ba) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 23(6)(a), 324(3)**; [S.I. 2010/298](#), art. 2, Sch. para. 6
- F112** S. 102(1)(c)(ca) substituted for s. 102(1)(c) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(b), 240(2)** (with s. 144); [S.I. 2012/628](#), art. 7(a)
- F113** S. 102(1ZA) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(c), 240(2)** (with s. 144); [S.I. 2012/628](#), art. 7(a)
- F114** S. 102(1A) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 23(6)(b), 324(3)**; [S.I. 2010/298](#), art. 2, Sch. para. 6
- F115** S. 102(3) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(d), 240(2), Sch. 25 Pt. 21** (with s. 144); [S.I. 2012/628](#), art. 7
- F116** Words in s. 102(4) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 47**; [S.I. 2012/628](#), art. 7(a)
- F117** S. 102(5)-(7) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(e), 240(2), Sch. 25 Pt. 21** (with s. 144); [S.I. 2012/628](#), art. 7
- F118** Words in s. 102(8) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(f), 240(2)** (with s. 144); [S.I. 2012/628](#), art. 7(a)

Status: Point in time view as at 31/01/2024.

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Commencement Information

I43 S. 102 in force for certain purposes at Royal Assent see s. 241

I44 S. 102 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

[^{F119}102A] Persons in certain categories may ask to become interested parties etc **E+W+S**

- (1) Subsection (2) applies if—
- (a) a person makes a request to the Examining authority to become an interested party,
 - (b) the request states that the person claims to be within one or more of the categories set out in section 102B,
 - (c) the person has not been notified of the acceptance of the application in accordance with section 56(2)(d), and
 - (d) the applicant has issued a certificate under section 58 in relation to the application.
- (2) The Examining authority must decide whether it considers that the person is within one or more of the categories set out in section 102B.
- (3) If the Examining authority decides that it considers that the person is within one or more of the categories set out in section 102B, the Examining authority must notify the person, and the applicant, that the person has become an interested party under section 102(1)(ab).
- (4) If the Examining authority thinks that a person might successfully make a request mentioned in subsection (1)(a), the Examining authority may inform the person about becoming an interested party under section 102(1)(ab).

But the Examining authority is under no obligation to make enquiries in order to discover persons who might make such a request.

Textual Amendments

F119 Ss. 102A, 102B inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 138\(9\), 240\(2\)](#) (with [s. 144](#)); [S.I. 2012/628](#), [art. 7\(a\)](#)

102B Categories for the purposes of section 102A **E+W+S**

- (1) A person is within Category 1 if the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.
- (2) A person is within Category 2 if the person—
- (a) is interested in the land, or
 - (b) has power—
 - (i) to sell and convey the land, or
 - (ii) to release the land.
- (3) An expression, other than “the land”, that appears in subsection (2) of this section and also in section 5(1) of the Compulsory Purchase Act 1965 has in subsection (2) the meaning that it has in section 5(1) of that Act.

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- (4) A person is within Category 3 if, should the order sought by the application be made and fully implemented, the person would or might be entitled—
- (a) as a result of the implementing of the order,
 - (b) as a result of the order having been implemented, or
 - (c) as a result of use of the land once the order has been implemented, to make a relevant claim.
- (5) In subsection (4) “relevant claim” means—
- (a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);
 - (b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);
 - (c) a claim under section 152(3).
- (6) In this section “the land” means the land to which the application relates or any part of that land.]

Textual Amendments

F119 Ss. 102A, 102B inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(9)**, 240(2) (with s. 144); S.I. 2012/628, art. 7(a)

CHAPTER 5 E+W+S

DECISIONS ON APPLICATIONS

103 [^{F120}Secretary of State is to decide applications] E+W+S

- (1) The Secretary of State has the function of deciding an application for an order granting development consent ^{F121}...

^{F122}(2)

Textual Amendments

F120 S. 103 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 48(4)**; S.I. 2012/628, art. 7(a)

F121 Words in s. 103(1) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 13 para. 48(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

F122 S. 103(2) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 13 para. 48(3), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

I45 S. 103 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

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Changes to legislation: Planning Act 2008, Part 6 is up to date with all changes known to be in force on or before 19 August 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)

104 [F123 Decisions in cases where national policy statement has effect] **E+W+S**

- (1) This section applies in relation to an application for an order granting development consent if [F124 a national policy statement has effect in relation to development of the description to which the application relates].
- (2) In deciding the application the [F125 Secretary of State] must have regard to—
 - (a) any national policy statement which has effect in relation to development of the description to which the application relates (a “relevant national policy statement”),
 - [F126(aa) the appropriate marine policy documents (if any), determined in accordance with section 59 of the Marine and Coastal Access Act 2009;]
 - (b) any local impact report (within the meaning given by section 60(3)) submitted to the [F127 Secretary of State] before the deadline specified in a notice under section 60(2),
 - (c) any matters prescribed in relation to development of the description to which the application relates, and
 - (d) any other matters which the [F125 Secretary of State] thinks are both important and relevant to [F128 the Secretary of State's] decision.
- (3) The [F129 Secretary of State] must decide the application in accordance with any relevant national policy statement, except to the extent that one or more of subsections (4) to (8) applies.
- (4) This subsection applies if the [F130 Secretary of State] is satisfied that deciding the application in accordance with any relevant national policy statement would lead to the United Kingdom being in breach of any of its international obligations.
- (5) This subsection applies if the [F131 Secretary of State is] satisfied that deciding the application in accordance with any relevant national policy statement would lead to the [F132 Secretary of State being in breach of any duty imposed on the Secretary of State] by or under any enactment.
- (6) This subsection applies if the [F133 Secretary of State] is satisfied that deciding the application in accordance with any relevant national policy statement would be unlawful by virtue of any enactment.
- (7) This subsection applies if the [F134 Secretary of State] is satisfied that the adverse impact of the proposed development would outweigh its benefits.
- (8) This subsection applies if the [F135 Secretary of State] is satisfied that any condition prescribed for deciding an application otherwise than in accordance with a national policy statement is met.
- (9) For the avoidance of doubt, the fact that any relevant national policy statement identifies a location as suitable (or potentially suitable) for a particular description of development does not prevent one or more of subsections (4) to (8) from applying.

Textual Amendments

F123 S. 104 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(7\)](#);
[S.I. 2012/628, art. 7\(a\)](#)

F124 Words in s. 104(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(2\)](#);
[S.I. 2012/628, art. 7\(a\)](#)

Status: Point in time view as at 31/01/2024.

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- F125** Words in s. 104(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(3\)\(a\)](#); S.I. 2012/628, art. 7(a)
- F126** S. 104(2)(aa) inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 58\(5\), 324\(2\)\(a\)](#)
- F127** Words in s. 104(2)(b) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(3\)\(b\)](#); S.I. 2012/628, art. 7(a)
- F128** Words in s. 104(2)(d) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(3\)\(c\)](#); S.I. 2012/628, art. 7(a)
- F129** Words in s. 104(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(4\)](#); S.I. 2012/628, art. 7(a)
- F130** Words in s. 104(4) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(4\)](#); S.I. 2012/628, art. 7(a)
- F131** Words in s. 104(5) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(5\)\(a\)](#); S.I. 2012/628, art. 7(a)
- F132** Words in s. 104(5) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(5\)\(b\)](#); S.I. 2012/628, art. 7(a)
- F133** Words in s. 104(6) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(6\)](#); S.I. 2012/628, art. 7(a)
- F134** Words in s. 104(7) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(6\)](#); S.I. 2012/628, art. 7(a)
- F135** Words in s. 104(8) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(6\)](#); S.I. 2012/628, art. 7(a)

Commencement Information

- I46** S. 104 partly in force; s. 104 in force for certain purposes at Royal Assent see s. 241
- I47** S. 104 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with art. 6)

105 ^{F136}Decisions in cases where no national policy statement has effect] **E+W+S**

- (1) This section applies in relation to an application for an order granting development consent [^{F137}if section 104 does not apply in relation to the application].
- (2) In deciding the application the Secretary of State must have regard to—
- (a) any local impact report (within the meaning given by section 60(3)) submitted to the [^{F138}Secretary of State] before the deadline specified in a notice under section 60(2),
 - (b) any matters prescribed in relation to development of the description to which the application relates, and
 - (c) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.

Textual Amendments

- F136** S. 105 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 50\(4\)](#); S.I. 2012/628, art. 7(a)
- F137** Words in s. 105(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 50\(2\)](#); S.I. 2012/628, art. 7(a)
- F138** Words in s. 105(2)(a) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 50\(3\)](#); S.I. 2012/628, art. 7(a)

Commencement Information

- I48** S. 105 partly in force; s. 105 in force for certain purposes at Royal Assent see s. 241

Status: Point in time view as at 31/01/2024.

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149 S. 105 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

106 Matters that may be disregarded when deciding application E+W+S

- (1) In deciding an application for an order granting development consent, the [^{F139}Secretary of State] may disregard representations if the [^{F139}Secretary of State] considers that the representations—
 - (a) are vexatious or frivolous,
 - (b) relate to the merits of policy set out in a national policy statement, or
 - (c) relate to compensation for compulsory acquisition of land or of an interest in or right over land.
- (2) In this section “representation” includes evidence.

Textual Amendments

F139 Words in [s. 106\(1\)](#) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [s. 240\(2\)](#), [Sch. 13 para. 51](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

Commencement Information

I50 S. 106 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

107 Timetable for decisions E+W+S

- (1) The [^{F140}Secretary of State] is under a duty to decide an application for an order granting development consent by the end of the period of 3 months beginning [^{F141}with —
 - (a) the [^{F142}deadline under section 98(3)] [^{F143}, or
 - (b) (if earlier) the end of the day on which the Secretary of State receives a report on the application under section 74(2)(b) or 83(1)(b).]
- ^{F144}(2)
- (3) The [^{F145}Secretary of State] may set a date for the deadline under subsection (1) that is later than the date for the time being set.
- ^{F146}(4)
- (5) The power under subsection (3) may be exercised—
 - (a) more than once in relation to the same deadline;
 - (b) after the date for the time being set for the deadline.
- ^{F147}(6) Subsection (7) applies where the power under subsection (3) is exercised.
- (7) The Secretary of State exercising the power must make a statement, to the House of Parliament of which that Secretary of State is a member, announcing the new deadline.
- (8) A statement under subsection (7) must be published in such form and manner as the Secretary of State considers appropriate.
- (8A) A statement under subsection (7) may be written or oral.]

Status: Point in time view as at 31/01/2024.

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Textual Amendments

- F140** Words in s. 107(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 52(2)(a)**; [S.I. 2012/628](#), art. 7(a)
- F141** Words in s. 107(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 139(3)(a)**, 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)
- F142** Words in s. 107(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 52(2)(b)**; [S.I. 2012/628](#), art. 7(a)
- F143** S. 107(1)(b) and preceding word inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 139(3)(b)**, 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)
- F144** S. 107(2) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 13 para. 52(3), **Sch. 25 Pt. 20**; [S.I. 2012/628](#), art. 7
- F145** Words in s. 107(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 52(4)**; [S.I. 2012/628](#), art. 7(a)
- F146** S. 107(4) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 13 para. 52(5), **Sch. 25 Pt. 20**; [S.I. 2012/628](#), art. 7
- F147** S. 107(6)-(8A) substituted for s. 107(6)-(9) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 52(6)**; [S.I. 2012/628](#), art. 7(a)

Commencement Information

- I51** S. 107 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

CHAPTER 6 E+W+S

SUSPENSION OF DECISION-MAKING PROCESS

108 Suspension during review of national policy statement E+W+S

- (1) This section applies where—
- (a) an application is made for an order granting development consent for development of a description in relation to which a national policy statement has effect, and
 - (b) the Secretary of State thinks that, as a result of a change in circumstances since the national policy statement was first published or (if later) the statement or any part of it was last reviewed, all or part of the statement should be reviewed before the application is decided.
- (2) The Secretary of State may direct that, until the review has been completed and the Secretary of State has complied with section 6(5) in relation to the review, ^[F148]examination of the application by a Panel under Chapter 2, or a single appointed person under Chapter 3, is suspended (if not already completed).]

Textual Amendments

- F148** Words in s. 108(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 13 para. 53**; [S.I. 2012/628](#), art. 7(a)

Commencement Information

- I52** S. 108 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

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^{F149} CHAPTER 7 **E+W+S**

INTERVENTION BY SECRETARY OF STATE

Textual Amendments

F149 Pt. 6 Ch. 7 repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 54, Sch. 25 Pt. 20; S.I. 2012/628, art. 7

109 Intervention: significant change in circumstances **E+W+S**

.....

110 Intervention: defence and national security **E+W+S**

.....

111 Intervention: other circumstances **E+W+S**

.....

112 Power of Secretary of State to intervene **E+W+S**

.....

113 Effect of intervention **E+W+S**

.....

CHAPTER 8 **E+W+S**

GRANT OR REFUSAL

114 Grant or refusal of development consent **E+W+S**

- (1) When [^{F150}the Secretary of State] has decided an application for an order granting development consent, the [^{F151}Secretary of State] must either—
 - (a) make an order granting development consent, or
 - (b) refuse development consent.
- (2) The Secretary of State may by regulations make provision regulating the procedure to be followed if the [^{F152}Secretary of State] proposes to make an order granting development consent on terms which are materially different from those proposed in the application.

Textual Amendments

F150 Words in s. 114(1) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 55(2) (a); S.I. 2012/628, art. 7(a)

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F151 Words in s. 114(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 55\(2\)\(b\)](#); [S.I. 2012/628, art. 7\(a\)](#)

F152 Words in s. 114(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 55\(3\)](#); [S.I. 2012/628, art. 7\(a\)](#)

Commencement Information

I53 S. 114 partly in force; s. 114 in force for certain purposes at Royal Assent see s. 241

I54 S. 114 in force at 1.3.2010 in so far as not already in force by [S.I. 2010/101, art. 3\(d\)](#) (with [art. 6](#))

115 Development for which development consent may be granted E+W+S

- (1) Development consent may be granted for development which is—
 - (a) development for which development consent is required, or
 - (b) associated development^[F153], or
 - (c) related housing development.]
- (2) “Associated development” means development which—
 - (a) is associated with the development within subsection (1)(a) (or any part of it),
 - (b) ^[F154]does not consist of or include] the construction or extension of one or more dwellings, and
 , or
 - (c) is within subsection (3) ^[F155], (4) or (4A)].
- (3) Development is within this subsection if it is to be carried out wholly in one or more of the following areas—
 - (a) England;
 - (b) waters adjacent to England up to the seaward limits of the territorial sea;
 - (c) in the case of development in the field of energy, a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.
- (4) Development is within this subsection if—
 - (a) it is to be carried out wholly in Wales,
 - (b) it is the carrying out or construction of surface works, boreholes or pipes, and
 - (c) the development within subsection (1)(a) with which it is associated is development within section 17(3).
- ^[F156](4A) Development is within this subsection if the development within subsection (1)(a) with which it is associated is—
 - (a) the construction or extension of a generating station that is or (when constructed or extended) is expected to be within section 15(3A) or (3B), or
 - (b) the installation of an electric line that is or (when installed) is expected to be within section 14(1)(b).]
- ^[F157](4B) “Related housing development” means development which—
 - (a) consists of or includes the construction or extension of one or more dwellings,
 - (b) is on the same site as, or is next to or close to, any part of the development within subsection (1)(a), or is otherwise associated with that development (or any part of it),
 - (c) is to be carried out wholly in England, and

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(d) meets the condition in subsection (4C).

(4C) Development meets the condition in this subsection if the development within subsection (1)(a) to which it is related is to be carried out in one or more of the following areas—

- (a) England;
- (b) waters adjacent to England up to the seaward limits of the territorial sea.]

(5) To the extent that development consent is granted for associated development [^{F158}or related housing development], section 33 applies to the development as it applies to development for which development consent is required.

^{F159}(6)

[^{F160}(7) The Secretary of State, in deciding an application for an order granting development consent for development that includes related housing development, must take into account any matters set out in guidance published by the Secretary of State.]

Textual Amendments

- F153** S. 115(1)(c) and word inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 160(2)**, 216(3); [S.I. 2017/281](#), [reg. 4\(i\)](#) (with [reg. 7](#))
- F154** Words in s. 115(2)(b) substituted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 160(3)**, 216(3); [S.I. 2017/281](#), [reg. 4\(i\)](#) (with [reg. 7](#))
- F155** Words in s. 115(2)(c) substituted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 43(2)**, 71(2)(e) (with [Sch. 7 paras. 1, 6](#))
- F156** S. 115(4A) inserted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 43(3)**, 71(2)(e) (with [Sch. 7 paras. 1, 6](#))
- F157** S. 115(4B)(4C) inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 160(4)**, 216(3); [S.I. 2017/281](#), [reg. 4\(i\)](#) (with [reg. 7](#))
- F158** Words in s. 115(5) inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 160(5)**, 216(3); [S.I. 2017/281](#), [reg. 4\(i\)](#) (with [reg. 7](#))
- F159** S. 115(6) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 56](#), **Sch. 25 Pt. 20**; [S.I. 2012/628](#), [art. 7](#)
- F160** S. 115(7) inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 160(6)**, 216(3); [S.I. 2017/281](#), [reg. 4\(i\)](#) (with [reg. 7](#))

Commencement Information

- I55** S. 115 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with [art. 6](#))

116 Reasons for decision to grant or refuse development consent **E+W+S**

(1) The [^{F161}Secretary of State] must prepare a statement of [^{F162}the Secretary of State's] reasons for deciding to—

- (a) make an order granting development consent, or
- (b) refuse development consent.

(2) The [^{F163}Secretary of State] must provide a copy of the statement to each person who is an interested party in relation to the application for the purposes of Chapter 4 (see section 102).

(3) The [^{F164}Secretary of State] must publish the statement in such manner as [^{F165}the Secretary of State] thinks appropriate.

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F166(4)

Textual Amendments

- F161** Words in s. 116(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 57\(2\)\(a\)](#); [S.I. 2012/628](#), art. 7(a)
- F162** Words in s. 116(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 57\(2\)\(b\)](#); [S.I. 2012/628](#), art. 7(a)
- F163** Words in s. 116(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 57\(3\)](#); [S.I. 2012/628](#), art. 7(a)
- F164** Words in s. 116(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 57\(4\)\(a\)](#); [S.I. 2012/628](#), art. 7(a)
- F165** Words in s. 116(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 57\(4\)\(b\)](#); [S.I. 2012/628](#), art. 7(a)
- F166** [S. 116\(4\)](#) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 57\(5\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7

Commencement Information

- I56** [S. 116](#) in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

117 Orders granting development consent: formalities E+W+S

(1) This section applies in relation to an order granting development consent.

F167(2)

(3) Except in a case within subsection (4), the [^{F168}Secretary of State] must publish the order in such manner as [^{F169}the Secretary of State] thinks appropriate.

[^{F170}(4) If the order includes provision—

- (a) made under section 120(3) for or relating to any of the matters listed in paragraphs 32A and 32B of Schedule 5, or
- (b) made in the exercise of any of the powers conferred by section 120(5)(a) or (b),

the order must be contained in a statutory instrument.]

F171(5)

(6) As soon as practicable after the instrument [^{F172}containing the order is made, the Secretary of State] must deposit in the office of the Clerk of the Parliaments a copy of—

- (a) the instrument,
- (b) the latest version of any plan supplied by the applicant in connection with the application for the order contained in the instrument, and
- (c) the statement of reasons prepared under section 116(1).

F173(7)

Textual Amendments

- F167** [S. 117\(2\)](#) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 58\(2\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7

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- F168** Words in s. 117(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 58(3)(a)**; S.I. 2012/628, art. 7(a)
- F169** Words in s. 117(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 58(3)(b)**; S.I. 2012/628, art. 7(a)
- F170** S. 117(4) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 58(4)**; S.I. 2012/628, art. 7(a)
- F171** S. 117(5) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 58(2), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7
- F172** Words in s. 117(6) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 58(5)**; S.I. 2012/628, art. 7(a)
- F173** S. 117(7) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 58(6), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7

Commencement Information

- I57** S. 117 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

CHAPTER 9 **E+W**

LEGAL CHALLENGES

118 **Legal challenges relating to applications for orders granting development consent** **E+W**

- (1) A court may entertain proceedings for questioning an order granting development consent only if—
- the proceedings are brought by a claim for judicial review, and
 - the claim form is filed [^{F174}before the end of] the period of 6 weeks beginning with [^{F175}the day after] —
 - the day on which the order is published, or
 - if later, the day on which the statement of reasons for making the order is published.
- (2) A court may entertain proceedings for questioning a refusal of development consent only if—
- the proceedings are brought by a claim for judicial review, and
 - the claim form is filed [^{F176}before the end of] the period of 6 weeks beginning with [^{F177}the day after] the day on which the statement of reasons for the refusal is published.
- (3) A court may entertain proceedings for questioning a decision of the [^{F178}Secretary of State] under section 55 not to accept an application for an order granting development consent only if—
- the proceedings are brought by a claim for judicial review, and
 - the claim form is filed [^{F179}before the end of] the period of 6 weeks beginning with [^{F180}the day after] the day on which the [^{F178}Secretary of State] notifies the applicant as required by subsection (7) of that section.
- (4) A court may entertain proceedings for questioning a decision under paragraph 1 of Schedule 4 in relation to an error or omission in a decision document only if—
- the proceedings are brought by a claim for judicial review, and

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- (b) the claim form is filed [^{F181}before the end of] the period of 6 weeks beginning with the day [^{F182}after the day] on which a correction notice in respect of the error or omission is issued under paragraph 2 of that Schedule or, if the correction is required to be made by order contained in a statutory instrument, the day [^{F182}after the day] on which the order is published.
- (5) A court may entertain proceedings for questioning a decision under paragraph 2(1) of Schedule 6 to make a change to an order granting development consent only if—
- (a) the proceedings are brought by a claim for judicial review, and
- (b) the claim form is filed [^{F183}before the end of] the period of 6 weeks beginning with the day [^{F184}after the day] on which notice of the change is given under paragraph 2(12)(b) of that Schedule or, if the change to the order is required to be made by order contained in a statutory instrument, the day [^{F184}after the day] on which the order making the change is published.
- (6) A court may entertain proceedings for questioning a decision under paragraph 3(1) of Schedule 6 to make a change to, or revoke, an order granting development consent only if—
- (a) the proceedings are brought by a claim for judicial review, and
- (b) the claim form is filed [^{F185}before the end of] the period of 6 weeks beginning with the day [^{F186}after the day] on which notice of the change or revocation is given under paragraph 4(6) of that Schedule or, if the change or revocation is required to be made by order contained in a statutory instrument, the day [^{F186}after the day] on which the order making the change or revocation is published.
- (7) A court may entertain proceedings for questioning anything else done, or omitted to be done, by the Secretary of State ^{F187}... in relation to an application for an order granting development consent only if—
- (a) the proceedings are brought by a claim for judicial review, and
- (b) the claim form is filed [^{F188}before the end of] the period of 6 weeks beginning with [^{F189}the day after] the relevant day.
- (8) “The relevant day”, in relation to an application for an order granting development consent, means the day on which—
- (a) the application is withdrawn,
- (b) the order granting development consent is published or (if later) the statement of reasons for making the order is published, or
- (c) the statement of reasons for the refusal of development consent is published.
- (9) Subsections (7) and (8) do not apply in relation to—
- (a) a failure to decide an application for an order granting development consent, or
- (b) anything which delays (or is likely to delay) the decision on such an application.

Textual Amendments

F174 Words in s. 118(1)(b) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 92\(4\)\(a\)\(i\), 95\(1\); S.I. 2015/778, art. 3, Sch. 1 para. 71](#)

F175 Words in s. 118(1)(b) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 92\(4\)\(a\)\(ii\), 95\(1\); S.I. 2015/778, art. 3, Sch. 1 para. 71](#)

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- F176** Words in s. 118(2)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(a)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F177** Words in s. 118(2)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(a)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F178** Words in s. 118(3) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 13 para. 59(2)**; S.I. 2012/628, art. 7(a)
- F179** Words in s. 118(3)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(a)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F180** Words in s. 118(3)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(a)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F181** Words in s. 118(4)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F182** Words in s. 118(4)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F183** Words in s. 118(5)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F184** Words in s. 118(5)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F185** Words in s. 118(6)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F186** Words in s. 118(6)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(b)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F187** Words in s. 118(7) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 59(3), **Sch. 25 Pt. 20**; S.I. 2012/628, art. 7
- F188** Words in s. 118(7)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(c)(i)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71
- F189** Words in s. 118(7)(b) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 92(4)(c)(ii)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 71

Commencement Information

- I58** S. 118 in force at 1.3.2010 by S.I. 2010/101, **art. 4(c)** (with art. 6)
- I59** S. 118 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

CHAPTER 10 **E+W+S**

CORRECTION OF ERRORS

119 **Correction of errors in development consent decisions** **E+W+S**

Schedule 4 (correction of errors in development consent decisions) has effect.

Commencement Information

- I60** S. 119 in force at 1.3.2010 by S.I. 2010/101, **art. 3(d)** (with art. 6)

Status:

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Changes to legislation:

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