



# Housing and Planning Act 2016

## 2016 CHAPTER 22

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

#### PLANNING IN ENGLAND

##### *Neighbourhood planning*

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

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

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

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

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

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

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

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

“13A Regulations may make provision—

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

VALID FROM 01/10/2016

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

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

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

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

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

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- (3) The Secretary of State may direct the authority to take the actions referred to in paragraph 12(8) and (9).
  - (4) If by reason (wholly or partly) of new evidence or a new fact, or a different view taken by the Secretary of State as to a particular fact, the Secretary of State proposes to direct the local planning authority to act in a way that is not in accordance with what was recommended by the examiner—
    - (a) the Secretary of State may require the authority to notify prescribed persons of the proposed direction (and the reason for it) and invite representations;
    - (b) the Secretary of State may also require them to refer the issue to independent examination.
  - (5) The order on which a referendum is (or referendums are) to be held by virtue of sub-paragraph (2)(a) is the draft order subject to such modification (if any) as the Secretary of State or the local planning authority consider appropriate.
  - (6) The only modifications the local planning authority may make under sub-paragraph (5) are—
    - (a) modifications that the authority consider need to be made to secure that the draft order does not breach, and is otherwise compatible with, EU obligations,
    - (b) modifications that the authority consider need to be made to secure that the draft order is compatible with the Convention rights, and
    - (c) modifications for the purpose of correcting errors.
- 13C Regulations may make provision supplementing that made by paragraph 13B; and the regulations may in particular—
- (a) prescribe the form and content of a request by the qualifying body under paragraph 13B(1) and the date by which it must be made;
  - (b) confer power on the Secretary of State to direct a local planning authority to refrain from taking any action specified in the direction that they would otherwise be required or entitled to take under paragraph 12 or 13;
  - (c) make provision under which decisions falling to be made by the Secretary of State under paragraph 13B may be made instead by a person appointed by the Secretary of State for the purpose (an “inspector”);
  - (d) prescribe matters that the Secretary of State or an inspector must take into account in making a decision;
  - (e) require a local planning authority to provide prescribed information to the Secretary of State or to an inspector;
  - (f) make provision about examinations carried out by virtue of paragraph 13B(4)(b) (including any provision of a kind mentioned in paragraph 11(2));
  - (g) make provision (in addition to that made by paragraph 13B(4)(b)) for the holding of an examination, and for the payment by

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	<p>a local planning authority of remuneration and expenses of the examiner;</p> <p>(h) provide for the Secretary of State, or a local planning authority on the direction of the Secretary of State, to notify to prescribed persons and to publish—</p> <p style="padding-left: 40px;">(i) prescribed decisions made by the Secretary of State under paragraph 13B,</p> <p style="padding-left: 40px;">(ii) the reasons for making those decisions, and</p> <p style="padding-left: 40px;">(iii) other prescribed matters relating to those decisions.”</p> <p>(2) In paragraph 14 of that Schedule (referendum), in sub-paragraph (1), after “as a result of paragraph 12(4)” insert “ or a direction under paragraph 13B(2)(a) ”.</p> <p>(3) In section 61N of that Act (legal challenges in relation to neighbourhood development orders), in subsection (2), before “only if” insert “ or paragraph 13B of that Schedule (intervention powers of Secretary of State) ”.</p>
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VALID FROM 01/10/2016

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

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

“8A (1) A local planning authority who have the function of determining applications for planning permission or permission in principle shall, if requested to do so by a neighbourhood forum for an area which (or any part of which) is situated in the authority's area, notify the neighbourhood forum of—

- (a) any relevant planning application; and
- (b) any alteration to that application accepted by the authority.

(2) In this paragraph—

“neighbourhood forum” means an organisation or body designated as such under section 61F;

“relevant planning application” means an application which—

- (a) relates to land in the area for which the neighbourhood forum is designated; and
- (b) is an application for—
- (i) planning permission or permission in principle; or
- (ii) approval of a matter reserved under an outline planning permission within the meaning of section 92.

(3) Sub-paragraphs (3) to (6) of paragraph 8 have effect for the purposes of this paragraph, any reference to a parish council being read as a reference to a neighbourhood forum.”

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## Local planning

PROSPECTIVE

### 143 Power to direct amendment of local development scheme **E+W**

- (1) In section 15 of the Planning and Compulsory Purchase Act 2004 (local development scheme), before subsection (4) insert—
  - “(3A) If a local planning authority have not prepared a local development scheme, the Secretary of State or the Mayor of London may—
    - (a) prepare a local development scheme for the authority, and
    - (b) direct the authority to bring that scheme into effect.”
- (2) In subsections (4) and (8AA) of that section, for “effective coverage” substitute “ full and effective coverage (both geographically and with regard to subject matter) ”.
- (3) In subsections (4A)(a), (5), (6), (6A) and (6B)(a) of that section, after “under subsection” insert “ (3A) or ”.

PROSPECTIVE

### 144 Power to give direction to examiner of development plan document **E+W**

In section 20 of the Planning and Compulsory Purchase Act 2004 (independent examination), after subsection (6) insert—

- “(6A) The Secretary of State may by notice to the person appointed to carry out the examination—
- (a) direct the person not to take any step, or any further step, in connection with the examination of the development plan document, or of a specified part of it, until a specified time or until the direction is withdrawn;
  - (b) require the person—
    - (i) to consider any specified matters;
    - (ii) to give an opportunity, or further opportunity, to specified persons to appear before and be heard by the person;
    - (iii) to take any specified procedural step in connection with the examination.

In this subsection “specified” means specified in the notice.”

### 145 Intervention by Secretary of State **E+W**

- (1) In section 21 of the Planning and Compulsory Purchase Act 2004 (intervention by Secretary of State), in subsection (3), after “if” insert “ or to the extent that ”.
- (2) In subsection (5) of that section—
  - (a) in paragraph (a), after “until the Secretary of State gives his decision” insert “ , or withdraws the direction ”;

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- (b) for paragraph (b) substitute—
  - “(b) if the direction is given, and not withdrawn, before the authority have submitted the document under section 20(1), the Secretary of State must hold an independent examination.”;
- (c) in paragraph (c), for “he” substitute “ , and is not withdrawn before those recommendations are made, the person ”;
- (d) for paragraph (d) substitute—
  - “(d) the document has no effect unless the document or (as the case may be) the relevant part of it has been approved by the Secretary of State, or the direction is withdrawn.”

(3) After that subsection insert—

“(5A) Subsections (4) to (7C) of section 20 apply to an examination held under subsection (5)(b), the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Secretary of State.

(5B) For the purposes of subsection (5)(d) the “relevant part” of a development plan document is the part that—

- (a) is covered by a direction under subsection (4) which refers to only part of the document, or
- (b) continues to be covered by a direction under subsection (4) following the partial withdrawal of the direction.”

(4) At the end of that section insert—

“(11) The local planning authority must reimburse the Secretary of State for any expenditure incurred by the Secretary of State under this section that is specified in a notice given to the authority by the Secretary of State.”

(5) After that section insert—

**“21A Temporary direction pending possible use of intervention powers**

- (1) If the Secretary of State is considering whether to give a direction to a local planning authority under section 21 in relation to a development plan document or other local development document, he may direct the authority not to take any step in connection with the adoption of the document—
  - (a) until the time (if any) specified in the direction, or
  - (b) until the direction is withdrawn.
- (2) A document to which a direction under this section relates has no effect while the direction is in force.
- (3) A direction given under this section in relation to a document ceases to have effect if a direction is given under section 21 in relation to that document.”

**Commencement Information**

**II** S. 145(5) in force at 26.5.2016 by S.I. 2016/609, reg. 2

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VALID FROM 01/10/2016

## 146 Secretary of State's default powers **E+W**

For section 27 of the Planning and Compulsory Purchase Act 2004 substitute—

### “27 Secretary of State's default powers

- (1) This section applies if the Secretary of State thinks that a local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document.
- (2) The Secretary of State may—
  - (a) prepare or revise (as the case may be) the document, or
  - (b) give directions to the authority in relation to the preparation or revision of the document.
- (3) The Secretary of State must either—
  - (a) hold an independent examination, or
  - (b) direct the authority to submit the document for independent examination.
- (4) The Secretary of State must either—
  - (a) publish the recommendations and reasons of the person appointed to hold the examination, or
  - (b) give directions to the authority in relation to publication of those recommendations and reasons.
- (5) The Secretary of State may—
  - (a) approve the document, or approve it subject to specified modifications, as a local development document,
  - (b) direct the authority to consider adopting the document by resolution of the authority as a local development document, or
  - (c) (except where it was prepared or revised by the Secretary of State under subsection (2)(a)) reject the document.
- (6) Subsections (4) to (7C) of section 20 apply (subject to subsection (7) below) to an examination held under subsection (3)(a), the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Secretary of State.
- (7) Subsections (5)(c), (7)(b)(ii) and (7B)(b) of section 20 do not apply to an independent examination held—
  - (a) under subsection (3)(a), or
  - (b) in response to a direction under subsection (3)(b),in respect of a document prepared or revised by the Secretary of State under subsection (2)(a).
- (8) The Secretary of State must give reasons for anything he does in pursuance of subsection (2) or (5).

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- (9) The authority must reimburse the Secretary of State for any expenditure he incurs in connection with anything—
- (a) which is done by him under subsection (2)(a), and
  - (b) which the authority failed or omitted to do as mentioned in subsection (1).”

VALID FROM 01/10/2016

**147 Default powers exercisable by Mayor of London or combined authority** E  
+W

- (1) After section 27 of the Planning and Compulsory Purchase Act 2004 insert—

**“27A Default powers exercisable by Mayor of London or combined authority**

Schedule A1 (default powers exercisable by Mayor of London or combined authority) has effect.”

- (2) Before Schedule 1 to that Act insert, as Schedule A1, the Schedule set out in Schedule 11 to this Act.
- (3) In section 17 of that Act (local development documents), at the end of subsection (8) insert—
- “(c) is approved by the Mayor of London under paragraph 2 of Schedule A1;
  - (d) is approved by a combined authority under paragraph 6 of that Schedule.”

VALID FROM 01/10/2016

**148 Costs of independent examinations held by Secretary of State** E+W

- (1) Section 303A of the Town and Country Planning Act 1990 (responsibility of local planning authorities for costs of holding certain inquiries etc) is amended as follows.
- (2) In subsection (1A), after “section 20” insert “ , 21(5)(b), 27(3)(a) ”.
- (3) For subsection (9A) substitute—

“(9A) A reference to a local planning authority causing a qualifying procedure to be carried out includes a reference to the case where under the Planning and Compulsory Purchase Act 2004—

- (a) the local planning authority are required to submit a document to the appropriate authority for independent examination, or
- (b) the Secretary of State holds an independent examination in relation to a document prepared by the local planning authority, or by the Secretary of State under section 27(2)(a) of that Act.”



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## *Planning in Greater London*

### **149 Planning powers of the Mayor of London** **E+W**

- (1) In section 2A of the Town and Country Planning Act 1990 (power of Mayor of London to decide applications of potential strategic importance), in subsection (6), for “areas, and” substitute “areas;
  - (aa) may prescribe matters by reference to the spatial development strategy, or a development plan document (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004), as it has effect from time to time;”.
- (2) In section 74 of that Act (directions etc as to method of dealing with applications), in subsection (1B)—
  - (a) in paragraph (a), for “London borough to refuse” substitute “London borough—
    - (i) to consult with the Mayor of London before granting or refusing an application for planning permission, or permission in principle, that is an application of a prescribed description, or
    - (ii) to refuse”;
  - (b) in paragraph (c), for “such a direction;” substitute “a direction given by virtue of paragraph (a)(ii). ”;
  - (c) omit the words after that paragraph.
- (3) After that subsection insert—

“(1BA) In subsection (1B) “prescribed” means—

  - (a) prescribed by a development order, or
  - (b) specified in directions made under a development order by the Secretary of State or the Mayor of London.

(1BB) Matters prescribed under subsection (1B) by a development order may be prescribed by reference to the spatial development strategy, or a development plan document (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004), as it has effect from time to time.”

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

### **150 Permission in principle for development of land** **E+W**

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

#### *“Permission in principle*

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

- (1) Permission in principle may be granted for housing-led development of land in England as provided in section 59A.
- (2) Permission in principle may not be granted for development consisting of the winning and working of minerals.

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- (3) For the effect of permission in principle, see section 70(2ZZA) to (2ZZC) (application for technical details consent must be determined in accordance with permission in principle, except after a prescribed period).
- (4) A reference to permission in principle in any provision of this Act in its application to land in Wales, or in its application to functions of the Welsh Ministers or other authorities in Wales, is to be ignored.”

(2) After section 59 of that Act insert—

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

- (1) A development order may either—
  - (a) itself grant permission in principle, in relation to land in England that is allocated for development in a qualifying document (whether or not in existence when the order is made) for development of a prescribed description; or
  - (b) provide for the granting by a local planning authority in England, on application to the authority in accordance with the provisions of the order, of permission in principle for development of a prescribed description.
- (2) In this section—
  - “prescribed” means prescribed in a development order;
  - “qualifying document” means a document, as it has effect from time to time, which—
    - (a) falls within subsection (3),
    - (b) indicates that the land in question is allocated for development for the purposes of this section, and
    - (c) contains prescribed particulars in relation to the land allocated and the kind of development for which it is allocated.
- (3) The following documents fall within this subsection—
  - (a) a register maintained in pursuance of regulations under section 14A of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”);
  - (b) a development plan document within the meaning of Part 2 of the 2004 Act (see section 37 of that Act);
  - (c) a neighbourhood development plan within the meaning given by section 38A of the 2004 Act.
- (4) Permission in principle granted by a development order takes effect—
  - (a) when the qualifying document takes effect, if the land in question is allocated for development in the document at that time;
  - (b) otherwise, when the qualifying document is revised so that the land in question is allocated for development.

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

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

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- (a) a register maintained in pursuance of regulations under section 14A of the 2004 Act takes effect when it is first published;
    - (b) a development plan document takes effect when it is adopted or approved under Part 2 of the 2004 Act;
    - (c) a neighbourhood development plan takes effect when it is made by the local planning authority.
  - (6) Permission in principle granted by a development order is not brought to an end by the qualifying document ceasing to have effect or being revised.
  - (7) Permission in principle granted by a development order ceases to have effect on the expiration of—
    - (a) five years beginning with the date on which it takes effect; or
    - (b) such other period (whether longer or shorter) beginning with that date as the local planning authority may direct.
  - (8) Permission in principle granted by a local planning authority ceases to have effect on the expiration of—
    - (a) three years beginning with the date on which it takes effect; or
    - (b) such other period (whether longer or shorter) beginning with that date as the local planning authority may direct.
  - (9) The Secretary of State may by regulations amend subsection (7)(a) or (8)(a) by substituting a shorter period for the period for the time being specified there.
  - (10) A development order—
    - (a) may make provision in relation to an application for planning permission for development of land in respect of which permission in principle has been granted;
    - (b) may require the local planning authority to prepare, maintain and publish a register containing prescribed information as to permissions in principle granted by a development order.
  - (11) In exercising a power of direction conferred by virtue of subsection (4), or conferred by subsection (7)(b) or (8)(b), a local planning authority must have regard to the provisions of the development plan and any other material considerations.
  - (12) In exercising any other function exercisable by virtue of this section, or in exercising any function in relation to an application for planning permission for development of land in respect of which permission in principle has been granted, a local planning authority must have regard to any guidance issued by the Secretary of State.
  - (13) In relation to an application for permission in principle which under any provision of this Part is made to, or determined by, the Secretary of State instead of the local planning authority, a reference in subsection (1) or (8) to a local planning authority has effect (as necessary) as a reference to the Secretary of State.”
- (3) In section 70 of that Act (determination of applications: general considerations)—
- (a) after subsection (1) insert—

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- “(1A) Where an application is made to a local planning authority for permission in principle—
- (a) they may grant permission in principle; or
  - (b) they may refuse permission in principle.”;
- (b) after subsection (2) insert—

“(2ZZA) The authority must determine an application for technical details consent in accordance with the relevant permission in principle.

This is subject to subsection (2ZZC).

(2ZZB) An application for technical details consent is an application for planning permission that—

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

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

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

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

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

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

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

#### Commencement Information

**I2** S. 150(1)-(3) in force at 12.7.2016, see s. 216(2)(c)

## 151 Local planning authority to keep register of particular kinds of land **E+W**

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

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## “Register

### 14A Register of land

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

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

In this subsection “specified” means specified by the Secretary of State.

- (7) In exercising their functions under the regulations, a local planning authority must have regard to—
  - (a) the development plan;
  - (b) national policies and advice;
  - (c) any guidance issued by the Secretary of State for the purposes of the regulations.

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- (8) In this section “national policies and advice” means national policies and advice contained in guidance issued by the Secretary of State (as it has effect from time to time).”
- (2) In section 33 of that Act (power to direct that Part 2 of that Act does not apply to the area of an urban development corporation), for “that this Part does not apply” substitute “that the provisions of—
- (a) this Part, or
  - (b) any particular regulations made under section 14A,
- do not apply”.

*Planning permission etc*

**152 Approval condition where development order grants permission for building** E  
+W

- (1) In section 60 of the Town and Country Planning Act 1990 (permission granted by development order), after subsection (1) insert—
- “(1A) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for building operations in England, the order may require the approval of the local planning authority, or the Secretary of State, to be obtained—
- (a) for those operations, or
  - (b) with respect to any matters that relate to those operations, or to the use of the land in question following those operations, and are specified in the order.”
- (2) In subsection (2) of that section, after “any buildings” insert “ in Wales ”.
- (3) In subsection (2B) of that section, for “subsection (1)” substitute “ subsections (1) and (1A) ”.
- (4) In section 70A of that Act (power to decline to determine subsequent application), in subsection (5)(b), for “section 60(2)” substitute “ section 60(1A), (2) ”.

**Commencement Information**

**I3** S. 152(1) in force at Royal Assent see s. 152(1)(d)

**153 Planning applications that may be made directly to Secretary of State** E+W

- (1) In section 62A of the Town and Country Planning Act 1990 (when application may be made directly to Secretary of State), in subsection (1), for paragraphs (a) and (b) substitute—
- “(a) the local planning authority concerned is designated by the Secretary of State for applications of a description specified in the designation; and
- (b) the application falls within that description.”
- (2) After that subsection insert—

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“(1A) Only prescribed descriptions of application may be specified in a designation under subsection (1).”

(3) For subsection (2) of that section substitute—

“(2) In this section “relevant application” means—

- (a) an application for planning permission, or permission in principle, for the development of land in England, or
- (b) an application for approval of a matter that, as defined by section 92, is a reserved matter in the case of an outline planning permission for the development of land in England,

but does not include an application of the kind described in section 73(1) or an application of a description excluded by regulations.”

(4) In subsection (3)(a)(i) of that section omit “, or for conservation area consent,”.

(5) In section 62B of that Act (designation for the purposes of section 62A), after subsection (1) insert—

“(1A) A document to which subsection (2) applies may set out different criteria for each description of application prescribed under section 62A(1A).”

PROSPECTIVE

## 154 **Planning freedoms: right for local areas to request alterations to planning system** **E+W**

(1) If the following conditions are met, the Secretary of State may by regulations make a planning freedoms scheme, having effect for a specified period, in relation to a specified planning area in England.

A “planning freedoms scheme” is a scheme that disapplies or modifies specified planning provisions in order to facilitate an increase in the amount of housing in the planning area concerned.

(2) The first condition is that the relevant planning authority or authorities have requested the Secretary of State to make a planning freedoms scheme for their area.

(3) The second condition is that the Secretary of State is satisfied—

- (a) that there is a need for a significant increase in the amount of housing in the planning area concerned,
- (b) that the planning freedoms scheme will contribute to such an increase, and
- (c) that adequate consultation has been carried out.

(4) The third condition is that—

- (a) the relevant planning authority or authorities have prepared a summary of the views expressed in the consultation referred to in subsection (3)(c), and
- (b) the Secretary of State has considered that summary.

(5) For the purposes of subsection (3)(c) consultation is “adequate” only if—

- (a) the relevant authority or authorities publish an explanation of what the proposed planning freedoms scheme is expected to involve, and

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- (b) persons in the planning area concerned, and other persons likely to be affected, have a reasonable opportunity to communicate their views about the proposed scheme.
- (6) The Secretary of State may decide to restrict the number of planning freedoms schemes in force at any one time (and accordingly is not required to make a scheme merely because the conditions in this section are met).
- (7) The Secretary of State may by regulations bring a planning freedoms scheme to an end, and must do so if the relevant planning authority or, as the case may be, any of the relevant planning authorities so request.
- (8) In this section—
  - “planning area” means the area of a local planning authority, or an area comprising two or more adjoining areas of local planning authorities;
  - “planning provision” means a provision to do with planning that is contained in or made under any Act;
  - “relevant planning authority” means the local planning authority for an area that is or forms part of a planning area;
  - “specified” means specified in regulations under subsection (1).

PROSPECTIVE

**155 Local planning authorities: information about financial benefits** E+W

After section 75 of the Town and Country Planning Act 1990 insert—

*“Information in planning reports for local planning authorities*

**75ZA Information about financial benefits**

- (1) A local planning authority in England must make arrangements to ensure that the required financial benefits information is included in each report which—
  - (a) is made by an officer or agent of the authority for the purposes of a non-delegated determination of an application for planning permission, and
  - (b) contains a recommendation as to how the authority should determine the application in accordance with section 70(2).
- (2) The required financial benefits information is—
  - (a) a list of any financial benefits (whether or not material to the application) which are local finance considerations or benefits of a prescribed description, and which appear to the person making the report to be likely to be obtained—
    - (i) by the authority, or
    - (ii) by a person of a prescribed description or (if regulations so provide) by any person,
 as a result of the proposed development (if it is carried out);



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- (b) in relation to each listed financial benefit, a statement of the opinion of the person making the report as to whether the benefit is material to the application;
- (c) any other prescribed information about a listed financial benefit.

(3) In this section—

“local finance consideration” has the same meaning as in section 70;

“non-delegated determination” means a determination that is not delegated to an officer of the authority in question;

“officer” includes employee.

(4) Regulations under this section may—

- (a) prescribe a description of financial benefits by reference to the amount or value of the benefit;
- (b) make different provision for different kinds of local planning authority or different kinds of development.”

VALID FROM 01/10/2016

## 156 Local planning authorities: information about neighbourhood development plans **E+W**

After section 75ZA of the Town and Country Planning Act 1990 (inserted by section 155 above) insert—

### “75ZB Information about neighbourhood development plans

(1) This section applies where—

- (a) a report of the kind mentioned in section 75ZA(1) recommends the grant of planning permission or permission in principle, and
- (b) the proposed development is in an area for which a neighbourhood development plan (made under section 38A of the Planning and Compulsory Purchase Act 2004) is in force.

(2) The report must—

- (a) set out how the plan was taken into account in making the recommendation, and
- (b) identify any points of conflict between the plan and the recommendation.”

## 157 Planning applications etc: setting of fees **E+W**

In section 303 of the Town and Country Planning Act 1990 (fees for planning applications etc), after subsection (8) insert—

“(8A) If a draft of regulations of the Secretary of State under this section would, apart from this subsection, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.”

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PROSPECTIVE

### *Planning obligations*

#### **158 Resolution of disputes about planning obligations** **E+W**

- (1) After section 106 of the Town and Country Planning Act 1990 (planning obligations) insert—

##### **“106ZA Resolution of disputes about planning obligations**

Schedule 9A (resolution of disputes about planning obligations) has effect.”

- (2) After Schedule 9 to that Act insert, as Schedule 9A, the Schedule set out in Schedule 13 to this Act.
- (3) In section 106 of that Act, in subsection (1), for “and sections 106A to 106C” substitute “, sections 106A to 106C and Schedule 9A ”.

#### **159 Planning obligations and affordable housing** **E+W**

- (1) After section 106ZA of the Town and Country Planning Act 1990 (inserted by section 158 above) insert—

##### **“106ZB Enforceability of planning obligations regarding affordable housing**

- (1) Regulations made by the Secretary of State may impose restrictions or conditions on the enforceability of planning obligations entered into with regard to the provision of—
- (a) affordable housing, or
  - (b) prescribed descriptions of affordable housing.
- (2) Regulations under this section—
- (a) may make consequential, supplementary, incidental, transitional or saving provision;
  - (b) may impose different restrictions or conditions (or none) depending on the size, scale or nature of the site or the proposed development to which any planning obligations would relate.

Paragraph (b) is without prejudice to the generality of section 333(2A).

- (3) This section does not apply in relation to a planning obligation if—
- (a) planning permission for the development was granted wholly or partly on the basis of a policy for the provision of housing on rural exception sites, or
  - (b) the obligation relates to development in a National Park or in an area designated under section 82 of the Countryside and Rights of Way Act 2000 as an area of outstanding natural beauty.

- (4) In this section “affordable housing” means new dwellings in England that—

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- (a) are to be made available for people whose needs are not adequately served by the commercial housing market, or
  - (b) are starter homes within the meaning of Chapter 1 of Part 1 of the Housing and Planning Act 2016 (see section 2 of that Act).
- (5) “New dwelling” here means a building or part of a building that—
- (a) has been constructed for use as a dwelling and has not previously been occupied, or
  - (b) has been adapted for use as a dwelling and has not been occupied since its adaptation.
- (6) The Secretary of State may by regulations amend this section so as to modify the definition of “affordable housing”.
- (2) In section 333 of that Act (regulations and orders), after subsection (3ZA) (inserted by section 150(4) above) insert—
- “(3ZB) No regulations may be made under section 106ZB unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

VALID FROM 06/04/2017

*Nationally significant infrastructure projects*

**160 Development consent for projects that involve housing** **E+W**

- (1) Section 115 of the Planning Act 2008 (development for which development consent may be granted) is amended as follows.
- (2) At the end of subsection (1) insert “, or
- (c) related housing development.”
- (3) In subsection (2)(b), for “is not” substitute “ does not consist of or include ”.
- (4) Before subsection (5) insert—
- “(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
  - (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.”

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(5) In subsection (5), after “associated development” insert “ or related housing development ”.

(6) At the end insert—

“(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.”

*Powers for piloting alternative provision of processing services*

**161 Processing of planning applications by alternative providers** **E+W**

(1) The Secretary of State may by regulations provide for temporary arrangements in particular areas in England to test the practicality and desirability of competition in the processing (but not determining) of applications to do with planning.

(2) The regulations may make provision—

- (a) for an application for planning permission that falls to be determined by a specified local planning authority in England to be processed, if the applicant so chooses, not by that authority but by a designated person;
- (b) for any connected application also to be processed by a designated person and not by that authority.

(3) The regulations must specify a period after which any such provision ceases to apply.

That period (whether as originally specified or as subsequently extended) must end no later than five years after the first regulations under this section come into force.

(4) The Secretary of State must—

- (a) review the operation and effectiveness of any arrangements made under the regulations;
- (b) no later than 12 months after the date when the arrangements (or the last of them) cease to have effect—
  - (i) lay a report before each House of Parliament, or
  - (ii) make a statement to the House of Parliament of which that Secretary of State is a member,
 setting out the results and conclusions of the review.

(5) The regulations may provide that—

- (a) they apply only to applications that relate to development of a specified description;
- (b) designations of persons by the Secretary of State (see subsection (13)) may be made so as to apply only in relation to applications that relate to development of a specified description.

(6) The regulations may—

- (a) apply or disapply, in relation to England, any enactment about planning;
- (b) modify the effect of any such enactment in relation to England.

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- (7) The regulations may not contain anything that allows or requires, or could allow or require, the responsible planning authority's duty to determine an application to be carried out, to any extent, by a designated person on the authority's behalf.
- (8) Nothing said or done by a designated person appointed under the regulations to process an application is binding on the responsible planning authority when determining the application.
- (9) Before making the first regulations under this section the Secretary of State must consult such representatives of local planning authorities, and such other persons, as the Secretary of State thinks fit.
- (10) Sections 162 to 164, which set out matters that may be included in regulations under this section, do not limit the power in section 214(6) (to make supplementary provision etc).
- (11) For the purposes of this group of sections (that is, this section and sections 162 to 164), processing an application means taking any action in relation to the application (other than determining it) of a kind that—
  - (a) might otherwise be taken by or for the responsible planning authority, and
  - (b) is specified in the regulations.
- (12) In this group of sections “connected application”, in relation to an application for planning permission that is to be or has been processed by a designated person under the regulations (“the main application”), means—
  - (a) an application for approval of a matter reserved under an outline planning permission within the meaning of section 92 of the Town and Country Planning Act 1990 (where the main application resulted in the grant of such permission), or
  - (b) an application of a specified description, made under or by virtue of an enactment about planning, that relates to some or all of the land to which the main application relates.
- (13) In this group of sections “designated person” means a person—
  - (a) who is designated by the Secretary of State in accordance with the regulations, and
  - (b) whose designation has not been withdrawn in accordance with the regulations.

The Secretary of State may designate a local planning authority.

- (14) In this group of sections—
  - “local planning authority” has the same meaning as in the Town and Country Planning Act 1990;
  - “planning permission” means planning permission under Part 3 of that Act;
  - “responsible planning authority”, in relation to an application for planning permission or a connected application, means the local planning authority responsible for determining the application;
  - “specified” means specified in regulations under this section.

## **162 Regulations under section 161: general** E+W

- (1) Regulations under section 161 may—

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- (a) require a designated person (subject to any specified exceptions) to process an application for planning permission if chosen to do so by an applicant;
  - (b) provide that, where an application for planning permission is to be or has been processed by a designated person, any connected application must (subject to any specified exceptions) also be processed by that person;
  - (c) allow a responsible planning authority to take over the processing of an application for planning permission, or a connected application, in specified circumstances.
- (2) The regulations may make provision about—
- (a) eligibility to act as a designated person;
  - (b) the capacity of a local planning authority to act as a designated person;
  - (c) actions to be taken or procedures to be followed—
    - (i) by persons making applications for planning permission or connected applications,
    - (ii) by designated persons, or
    - (iii) by responsible planning authorities,
 and periods within which the actions or procedures are to be taken or followed;
  - (d) matters to be considered by designated persons or responsible planning authorities;
  - (e) performance standards for designated persons;
  - (f) the investigation of complaints or concerns about designated persons;
  - (g) cases where a person ceases to be a designated person or where a designated person is unable to continue processing an application.
- (3) The provision that may be made under subsection (2)(c) includes provision requiring a designated person to provide assistance to the responsible planning authority in connection with—
- (a) any appeal against the authority's determination of the application;
  - (b) any application to the court made in relation to that determination.
- (4) The provision that may be made under subsection (2)(f) includes—
- (a) provision about the payment of compensation;
  - (b) provision for a designated person to be required to indemnify the responsible authority for any compensation that the authority is required to pay;
  - (c) provision applying anything in Part 3 of the Local Government Act 1974 (local government administration) with or without modifications.
- (5) The regulations may confer powers on the Mayor of London or the Secretary of State in cases where a direction is given under section 2A or 77 of the Town and Country Planning Act 1990 (“call-in” directions).

## 163 Regulations under section 161: fees and payments **E+W**

- (1) Regulations under section 161 may make provision about—
- (a) the setting, publication and charging of fees by designated persons or responsible planning authorities;
  - (b) the refunding of fees, by designated persons or responsible planning authorities, in specified circumstances.

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- (2) The provision that may be made under subsection (1)(a) includes provision giving power to the Secretary of State to prevent the charging of fees that he or she considers excessive.
- (3) The provision that may be made under subsection (1)(b) includes provision requiring a designated person or a responsible planning authority to refund to an applicant some or all of a fee paid by the applicant to a designated person where the person or the authority fails to do a particular thing within a specified period.
- (4) The regulations may authorise the making of payments by the Secretary of State to local planning authorities or designated persons.

#### **164 Regulations under section 161: information** E+W

- (1) Regulations under section 161 may make provision—
  - (a) requiring responsible planning authorities to disclose information to designated persons;
  - (b) requiring designated persons to disclose information to responsible planning authorities or to other designated persons;
  - (c) restricting the uses to which information disclosed by virtue of paragraph (a) or (b) may be put;
  - (d) restricting further disclosure of such information.
- (2) The regulations may make provision for designated persons or responsible planning authorities to be required to provide information to the Secretary of State.

*Review of minimum energy performance requirements*

#### **165 Review of minimum energy performance requirements** E+W

After section 2B of the Building Act 1984 insert—

*“Duty to review minimum energy performance requirements*

##### **2C Review of minimum energy performance requirements**

The Secretary of State must carry out a review of any minimum energy performance requirements approved by the Secretary of State under building regulations in relation to dwellings in England.”

*Urban development corporations*

#### **166 Designation of urban development areas: procedure** E+W

- (1) Section 134 of the Local Government, Planning and Land Act 1980 (urban development areas) is amended as follows.
- (2) After subsection (1) insert—
  - “(1A) Before making an order under subsection (1) in relation to land in England, the Secretary of State must consult the following persons—

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- (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the proposed urban development area;
- (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the proposed urban development area;
- (c) each local authority for an area which falls wholly or partly within the proposed urban development area; and
- (d) any other person whom the Secretary of State considers it appropriate to consult.”

(3) For subsection (4) substitute—

“(4) A statutory instrument containing an order made by the Secretary of State under subsection (1) does not have effect until approved by a resolution of each House of Parliament.

(4A) If a draft of an instrument containing an order by the Secretary of State under subsection (1) would, but for this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

(4B) An order made by the Welsh Ministers under subsection (1) (by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006) does not have effect until approved by a resolution of the National Assembly for Wales.

(4C) An order made by the Scottish Ministers under subsection (1) (by virtue of section 53 of the Scotland Act 1998) is subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”

## **167 Establishment of urban development corporations: procedure** E+W

(1) Section 135 of the Local Government, Planning and Land Act 1980 (urban development corporations) is amended as follows.

(2) After subsection (1) insert—

“(1A) Before making an order under this section in relation to an urban development area in England, the Secretary of State must consult the following persons—

- (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the urban development area;
- (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the urban development area;
- (c) each local authority for an area which falls wholly or partly within the urban development area; and
- (d) any other person whom the Secretary of State considers it appropriate to consult.”

(3) For subsection (3) substitute—

“(3) A statutory instrument containing an order made by the Secretary of State under this section does not have effect until approved by a resolution of each House of Parliament.



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- (3A) If a draft of an instrument containing an order by the Secretary of State under this section would, but for this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.
- (3B) An order made by the Welsh Ministers under this section (by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006) does not have effect until approved by a resolution of the National Assembly for Wales.
- (3C) An order made by the Scottish Ministers under this section (by virtue of section 53 of the Scotland Act 1998) is subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”

## 168 Sections 166 and 167: consequential repeals **E+W**

In the Deregulation Act 2015, omit sections 46 and 47.

PROSPECTIVE

### *New towns*

## 169 Designation of new town areas and establishment of corporations: procedure **E+W**

- (1) The New Towns Act 1981 is amended as follows.
- (2) In section 1 (designation of areas)—
- (a) after subsection (3) insert—
- “(3A) Before making an order under this section designating an area of land in England as the site of a proposed new town, the Secretary of State must consult the following persons (as well as the local authorities mentioned in subsection (1))—
- (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the site;
- (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the site;
- (c) any other person whom the Secretary of State considers it appropriate to consult.”
- (b) in subsection (4), after “section” insert “ designating areas of land in Wales ”.
- (3) In section 3 (establishment of development corporations for new towns), after subsection (2) insert—
- “(2A) Before making an order under this section in relation to a site in England, the Secretary of State must consult the following persons—
- (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the site;

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- (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the site;
- (c) every county or district council for an area which falls wholly or partly within the site;
- (d) any other person whom the Secretary of State considers it appropriate to consult.”

(4) In section 77 (regulations and orders)—

(a) after subsection (3) insert—

“(3ZA) The power of the Secretary of State to make orders under section 3 is also exercisable by statutory instrument.”;

(b) after subsection (3A) insert—

“(3B) A statutory instrument containing an order made by the Secretary of State under section 1, 2 or 3 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(3C) If a draft of an instrument containing an order of the Secretary of State under section 1, 2 or 3 would, but for this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.”;

(c) in subsection (4), for the words before paragraph (a) substitute “ A statutory instrument that is made by the Welsh Ministers (by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006) under any of the following provisions of this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales— ”;

(d) in subsection 4(a)(ii), omit “a county planning authority or, where the order is one designating an area in Wales, by”.

(5) In Schedule 1 (procedure for designating area), before paragraph 1 (and before the italic heading before that paragraph) insert—

**“Application of Schedule: Wales only**

A1 This Schedule applies only in relation to an order under section 1 designating an area of land in Wales as the site of a proposed new town.”

**170 New towns: objects of development corporations in England E+W**

In section 4 of the New Towns Act 1981 (objects and general powers of development corporations), after subsection (1) insert—

“(1A) In pursuing those objects a development corporation that is established for the purposes of a new town in England must aim to contribute to the achievement of sustainable development.

(1B) For the purposes of subsection (1A) a development corporation must (in particular) have regard to the desirability of good design.”

**Status:** Point in time view as at 12/07/2016. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Housing and Planning Act 2016, PART 6 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/10/2016

### *Sustainable drainage*

**171 Sustainable drainage** **E+W**

The Secretary of State must carry out a review of planning legislation, government planning policy and local planning policies concerning sustainable drainage in relation to the development of land in England.

**Status:**

Point in time view as at 12/07/2016. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Housing and Planning Act 2016, PART 6 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.