



# Planning and Compulsory Purchase Act 2004

## 2004 CHAPTER 5

### PART 2

#### LOCAL DEVELOPMENT

##### *Survey*

### 13 Survey of area

- (1) The local planning authority must keep under review the matters which may be expected to affect the development of their area or the planning of its development.
- (2) These matters include—
  - (a) the principal physical, economic, social and environmental characteristics of the area of the authority;
  - (b) the principal purposes for which land is used in the area;
  - (c) the size, composition and distribution of the population of the area;
  - (d) the communications, transport system and traffic of the area;
  - (e) any other considerations which may be expected to affect those matters;
  - (f) such other matters as may be prescribed or as the Secretary of State (in a particular case) may direct.
- (3) The matters also include—
  - (a) any changes which the authority think may occur in relation to any other matter;
  - (b) the effect such changes are likely to have on the development of the authority's area or on the planning of such development.
- (4) The local planning authority may also keep under review and examine the matters mentioned in subsections (2) and (3) in relation to any neighbouring area to the extent that those matters may be expected to affect the area of the authority.

- (5) In exercising a function under subsection (4) a local planning authority must consult with the local planning authority for the neighbouring area in question.
- (6) If a neighbouring area is in Wales references to the local planning authority for that area must be construed in accordance with Part 6.

#### **14 Survey of area: county councils**

- (1) A county council in respect of so much of their area for which there is a district council must keep under review the matters which may be expected to affect development of that area or the planning of its development in so far as the development relates to a county matter.
- (2) Subsections (2) to (6) of section 13 apply for the purposes of subsection (1) as they apply for the purposes of that section; and references to the local planning authority must be construed as references to the county council.
- (3) The Secretary of State may by regulations require or (in a particular case) may direct a county council to keep under review in relation to so much of their area as is mentioned in subsection (1) such of the matters mentioned in section 13(1) to (4) as he prescribes or directs (as the case may be).
- (4) For the purposes of subsection (3)—
  - (a) it is immaterial whether any development relates to a county matter;
  - (b) if a matter which is prescribed or in respect of which the Secretary of State gives a direction falls within section 13(4) the county council must consult the local planning authority for the area in question.
- (5) The county council must make available the results of their review under subsection (3) to such persons as the Secretary of State prescribes or directs (as the case may be).
- (6) References to a county matter must be construed in accordance with paragraph 1 of Schedule 1 to the principal Act (ignoring sub-paragraph (1)(i)).

#### *Development schemes*

#### **15 Local development scheme**

- (1) The local planning authority must prepare and maintain a scheme to be known as their local development scheme.
- (2) The scheme must specify—
  - (a) the documents which are to be local development documents;
  - (b) the subject matter and geographical area to which each document is to relate;
  - (c) which documents are to be development plan documents;
  - (d) which documents (if any) are to be prepared jointly with one or more other local planning authorities;
  - (e) any matter or area in respect of which the authority have agreed (or propose to agree) to the constitution of a joint committee under section 29;
  - (f) the timetable for the preparation and revision of the documents;
  - (g) such other matters as are prescribed.

- (3) The local planning authority must —
  - (a) prepare the scheme in accordance with such other requirements as are prescribed;
  - (b) submit the scheme to the Secretary of State at such time as is prescribed or as the Secretary of State (in a particular case) directs;
  - (c) at that time send a copy of the scheme to the RPB or (if the authority are a London borough) to the Mayor of London.
- (4) The Secretary of State may direct the local planning authority to make such amendments to the scheme as he thinks appropriate.
- (5) Such a direction must contain the Secretary of State's reasons for giving it.
- (6) The local planning authority must comply with a direction given under subsection (4).
- (7) The Secretary of State may make regulations as to the following matters—
  - (a) publicity about the scheme;
  - (b) making the scheme available for inspection by the public;
  - (c) requirements to be met for the purpose of bringing the scheme into effect.
- (8) The local planning authority must revise their local development scheme—
  - (a) at such time as they consider appropriate;
  - (b) when directed to do so by the Secretary of State.
- (9) Subsections (2) to (7) apply to the revision of a scheme as they apply to the preparation of the scheme.

## **16 Minerals and waste development scheme**

- (1) A county council in respect of any part of their area for which there is a district council must prepare and maintain a scheme to be known as their minerals and waste development scheme.
- (2) Section 15 (ignoring subsections (1) and (2)(e)) applies in relation to a minerals and waste development scheme as it applies in relation to a local development scheme.
- (3) This Part applies to a minerals and waste development scheme as it applies to a local development scheme and for that purpose—
  - (a) references to a local development scheme include references to a minerals and waste development scheme;
  - (b) references to a local planning authority include references to a county council.
- (4) But subsection (3) does not apply to—
  - (a) section 17(3);
  - (b) section 24(1)(b), (4) and (7);
  - (c) the references in section 24(5) to subsection (4) and the Mayor;
  - (d) sections 29 to 31.

## *Documents*

### **17 Local development documents**

- (1) Documents which must be specified in the local development scheme as local development documents are—
  - (a) documents of such descriptions as are prescribed;
  - (b) the local planning authority's statement of community involvement.
- (2) The local planning authority may also specify in the scheme such other documents as they think are appropriate.
- (3) The local development documents must (taken as a whole) set out the authority's policies (however expressed) relating to the development and use of land in their area.
- (4) In the case of the documents which are included in a minerals and waste development scheme they must also (taken as a whole) set out the authority's policies (however expressed) in relation to development which is a county matter within the meaning of paragraph 1 of Schedule 1 to the principal Act (ignoring sub-paragraph (1)(i)).
- (5) If to any extent a policy set out in a local development document conflicts with any other statement or information in the document the conflict must be resolved in favour of the policy.
- (6) The authority must keep under review their local development documents having regard to the results of any review carried out under section 13 or 14.
- (7) Regulations under this section may prescribe—
  - (a) which descriptions of local development documents are development plan documents;
  - (b) the form and content of the local development documents;
  - (c) the time at which any step in the preparation of any such document must be taken.
- (8) A document is a local development document only in so far as it or any part of it—
  - (a) is adopted by resolution of the local planning authority as a local development document;
  - (b) is approved by the Secretary of State under section 21 or 27.

### **18 Statement of community involvement**

- (1) The local planning authority must prepare a statement of community involvement.
- (2) The statement of community involvement is a statement of the authority's policy as to the involvement in the exercise of the authority's functions under sections 19, 26 and 28 of this Act and Part 3 of the principal Act of persons who appear to the authority to have an interest in matters relating to development in their area.
- (3) For the purposes of sections 19(2) and 24 the statement of community involvement is not a local development document.
- (4) Section 20 applies to the statement of community involvement as if it were a development plan document.
- (5) But in section 20(5)(a)—

- (a) the reference to section 19 must be construed as if it does not include a reference to subsection (2) of that section;
  - (b) the reference to section 24(1) must be ignored.
- (6) In the following provisions of this Part references to a development plan document include references to the statement of community involvement—
- (a) section 22;
  - (b) section 23(2) to (5).

## **19 Preparation of local development documents**

- (1) Local development documents must be prepared in accordance with the local development scheme.
- (2) In preparing a local development document the local planning authority must have regard to—
- (a) national policies and advice contained in guidance issued by the Secretary of State;
  - (b) the RSS for the region in which the area of the authority is situated, if the area is outside Greater London;
  - (c) the spatial development strategy if the authority are a London borough or if any part of the authority's area adjoins Greater London;
  - (d) the RSS for any region which adjoins the area of the authority;
  - (e) the Wales Spatial Plan if any part of the authority's area adjoins Wales;
  - (f) the community strategy prepared by the authority;
  - (g) the community strategy for any other authority whose area comprises any part of the area of the local planning authority;
  - (h) any other local development document which has been adopted by the authority;
  - (i) the resources likely to be available for implementing the proposals in the document;
  - (j) such other matters as the Secretary of State prescribes.
- (3) In preparing the other local development documents the authority must also comply with their statement of community involvement.
- (4) But subsection (3) does not apply at any time before the authority have adopted their statement of community involvement.
- (5) The local planning authority must also—
- (a) carry out an appraisal of the sustainability of the proposals in each document;
  - (b) prepare a report of the findings of the appraisal.
- (6) The Secretary of State may by regulations make provision—
- (a) as to any further documents which must be prepared by the authority in connection with the preparation of a local development document;
  - (b) as to the form and content of such documents.
- (7) The community strategy is the strategy prepared by an authority under section 4 of the Local Government Act 2000 (c. 22).

## 20 Independent examination

- (1) The local planning authority must submit every development plan document to the Secretary of State for independent examination.
- (2) But the authority must not submit such a document unless—
  - (a) they have complied with any relevant requirements contained in regulations under this Part, and
  - (b) they think the document is ready for independent examination.
- (3) The authority must also send to the Secretary of State (in addition to the development plan document) such other documents (or copies of documents) and such information as is prescribed.
- (4) The examination must be carried out by a person appointed by the Secretary of State.
- (5) The purpose of an independent examination is to determine in respect of the development plan document—
  - (a) whether it satisfies the requirements of sections 19 and 24(1), regulations under section 17(7) and any regulations under section 36 relating to the preparation of development plan documents;
  - (b) whether it is sound.
- (6) Any person who makes representations seeking to change a development plan document must (if he so requests) be given the opportunity to appear before and be heard by the person carrying out the examination.
- (7) The person appointed to carry out the examination must—
  - (a) make recommendations;
  - (b) give reasons for the recommendations.
- (8) The local planning authority must publish the recommendations and the reasons.

## 21 Intervention by Secretary of State

- (1) If the Secretary of State thinks that a local development document is unsatisfactory—
  - (a) he may at any time before the document is adopted under section 23 direct the local planning authority to modify the document in accordance with the direction;
  - (b) if he gives such a direction he must state his reasons for doing so.
- (2) The authority—
  - (a) must comply with the direction;
  - (b) must not adopt the document unless the Secretary of State gives notice that he is satisfied that they have complied with the direction.
- (3) But subsection (2) does not apply if the Secretary of State withdraws the direction.
- (4) At any time before a development plan document is adopted by a local planning authority the Secretary of State may direct that the document (or any part of it) is submitted to him for his approval.
- (5) The following paragraphs apply if the Secretary of State gives a direction under subsection (4)—

- (a) the authority must not take any step in connection with the adoption of the document until the Secretary of State gives his decision;
  - (b) if the direction is given before the authority have submitted the document under section 20(1) the Secretary of State must hold an independent examination and section 20(4) to (7) applies accordingly;
  - (c) if the direction is given after the authority have submitted the document but before the person appointed to carry out the examination has made his recommendations he must make his recommendations to the Secretary of State;
  - (d) the document has no effect unless it or (if the direction relates to only part of a document) the part has been approved by the Secretary of State.
- (6) The Secretary of State must publish the recommendations made to him by virtue of subsection (5)(b) or (c) and the reasons of the person making the recommendations.
- (7) In considering a document or part of a document submitted under subsection (4) the Secretary of State may take account of any matter which he thinks is relevant.
- (8) It is immaterial whether any such matter was taken account of by the authority.
- (9) In relation to a document or part of a document submitted to him under subsection (4) the Secretary of State—
- (a) may approve, approve subject to specified modifications or reject the document or part;
  - (b) must give reasons for his decision under paragraph (a).
- (10) In the exercise of any function under this section the Secretary of State must have regard to the local development scheme.

## **22 Withdrawal of local development documents**

- (1) A local planning authority may at any time before a local development document is adopted under section 23 withdraw the document.
- (2) But subsection (1) does not apply to a development plan document at any time after the document has been submitted for independent examination under section 20 unless—
- (a) the person carrying out the examination recommends that the document is withdrawn and that recommendation is not overruled by a direction given by the Secretary of State, or
  - (b) the Secretary of State directs that the document must be withdrawn.

## **23 Adoption of local development documents**

- (1) The local planning authority may adopt a local development document (other than a development plan document) either as originally prepared or as modified to take account of—
- (a) any representations made in relation to the document;
  - (b) any other matter they think is relevant.
- (2) The authority may adopt a development plan document as originally prepared if the person appointed to carry out the independent examination of the document recommends that the document as originally prepared is adopted.

- (3) The authority may adopt a development plan document with modifications if the person appointed to carry out the independent examination of the document recommends the modifications.
- (4) The authority must not adopt a development plan document unless they do so in accordance with subsection (2) or (3).
- (5) A document is adopted for the purposes of this section if it is adopted by resolution of the authority.

## **24 Conformity with regional strategy**

- (1) The local development documents must be in general conformity with—
  - (a) the RSS (if the area of the local planning authority is in a region other than London);
  - (b) the spatial development strategy (if the local planning authority are a London borough).
- (2) A local planning authority whose area is in a region other than London—
  - (a) must request the opinion in writing of the RPB as to the general conformity of a development plan document with the RSS;
  - (b) may request the opinion in writing of the RPB as to the general conformity of any other local development document with the RSS.
- (3) Not later than the end of the period prescribed for the purposes of this section the RPB must send its opinion to—
  - (a) the Secretary of State;
  - (b) the local planning authority.
- (4) A local planning authority which are a London borough—
  - (a) must request the opinion in writing of the Mayor of London as to the general conformity of a development plan document with the spatial development strategy;
  - (b) may request the opinion in writing of the Mayor as to the general conformity of any other local development document with the spatial development strategy.
- (5) Whether or not the local planning authority make a request mentioned in subsection (2) or (4) the RPB or the Mayor (as the case may be) may give an opinion as to the general conformity of a local development document with the RSS or the spatial development strategy (as the case may be).
- (6) If in the opinion of the RPB a document is not in general conformity with the RSS the RPB must be taken to have made representations seeking a change to the document.
- (7) If in the opinion of the Mayor a document is not in general conformity with the spatial development strategy the Mayor must be taken to have made representations seeking a change to the document.
- (8) But the Secretary of State may in any case direct that subsection (6) must be ignored.
- (9) If at any time no body is recognised as the RPB under section 2 the functions of the RPB under this section must be exercised by the Secretary of State and subsections (3)(a), (6) and (8) of this section must be ignored.



## **25 Revocation of local development documents**

The Secretary of State —

- (a) may at any time revoke a local development document at the request of the local planning authority;
- (b) may prescribe descriptions of local development document which may be revoked by the authority themselves.

## **26 Revision of local development documents**

- (1) The local planning authority may at any time prepare a revision of a local development document.
- (2) The authority must prepare a revision of a local development document—
  - (a) if the Secretary of State directs them to do so, and
  - (b) in accordance with such timetable as he directs.
- (3) This Part applies to the revision of a local development document as it applies to the preparation of the document.
- (4) Subsection (5) applies if any part of the area of the local planning authority is an area to which an enterprise zone scheme relates.
- (5) As soon as practicable after the occurrence of a relevant event—
  - (a) the authority must review every local development document in the light of the enterprise zone scheme;
  - (b) if they think that any modifications of the document are required in consequence of the scheme they must prepare a revised document containing the modifications.
- (6) The following are relevant events—
  - (a) the making of an order under paragraph 5 of Schedule 32 to the Local Government, Planning and Land Act 1980 (c. 65) (designation of enterprise zone);
  - (b) the giving of notification under paragraph 11(1) of that Schedule (approval of modification of enterprise zone scheme).
- (7) References to an enterprise zone and an enterprise zone scheme must be construed in accordance with that Act.

## **27 Secretary of State's default power**

- (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 must hold an independent examination and section 20(4) to (7) applies accordingly.
- (3) The Secretary of State must publish the recommendations and reasons of the person appointed to hold the examination.
- (4) The Secretary of State may—
  - (a) prepare or revise (as the case may be) the document, and

- (b) approve the document as a local development document.
- (5) The Secretary of State must give reasons for anything he does in pursuance of subsection (4).
- (6) 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 (4), and
  - (b) which the authority failed or omitted to do as mentioned in subsection (1).

## **28 Joint local development documents**

- (1) Two or more local planning authorities may agree to prepare one or more joint local development documents.
- (2) This Part applies for the purposes of any step which may be or is required to be taken in relation to a joint local development document as it applies for the purposes of any step which may be or is required to be taken in relation to a local development document.
- (3) For the purposes of subsection (2) anything which must be done by or in relation to a local planning authority in connection with a local development document must be done by or in relation to each of the authorities mentioned in subsection (1) in connection with a joint local development document.
- (4) Any requirement of this Part in relation to the RSS is a requirement in relation to the RSS for the region in which each authority mentioned in subsection (1) is situated.
- (5) If the authorities mentioned in subsection (1) include one or more London boroughs the requirements of this Part in relation to the spatial development strategy also apply.
- (6) Subsections (7) to (9) apply if a local planning authority withdraw from an agreement mentioned in subsection (1).
- (7) Any step taken in relation to the document must be treated as a step taken by—
  - (a) an authority which were a party to the agreement for the purposes of any corresponding document prepared by them;
  - (b) two or more other authorities who were parties to the agreement for the purposes of any corresponding joint local development document.
- (8) Any independent examination of a local development document to which the agreement relates must be suspended.
- (9) If before the end of the period prescribed for the purposes of this subsection an authority which were a party to the agreement request the Secretary of State to do so he may direct that—
  - (a) the examination is resumed in relation to the corresponding document;
  - (b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.
- (10) A joint local development document is a local development document prepared jointly by two or more local planning authorities.
- (11) The Secretary of State may by regulations make provision as to what is a corresponding document.

### *Joint committees*

## **29 Joint committees**

- (1) This section applies if one or more local planning authorities agree with one or more county councils in relation to any area of such a council for which there is also a district council to establish a joint committee to be, for the purposes of this Part, the local planning authority—
  - (a) for the area specified in the agreement;
  - (b) in respect of such matters as are so specified.
- (2) The Secretary of State may by order constitute a joint committee to be the local planning authority—
  - (a) for the area;
  - (b) in respect of those matters.
- (3) Such an order—
  - (a) must specify the authority or authorities and county council or councils (the constituent authorities) which are to constitute the joint committee;
  - (b) may make provision as to such other matters as the Secretary of State thinks are necessary or expedient to facilitate the exercise by the joint committee of its functions.
- (4) Provision under subsection (3)(b)—
  - (a) may include provision corresponding to provisions relating to joint committees in Part 6 of the Local Government Act 1972 (c. 70);
  - (b) may apply (with or without modifications) such enactments relating to local authorities as the Secretary of State thinks appropriate.
- (5) If an order under this section is annulled in pursuance of a resolution of either House of Parliament—
  - (a) with effect from the date of the resolution the joint committee ceases to be the local planning authority as mentioned in subsection (2);
  - (b) anything which the joint committee (as the local planning authority) was required to do for the purposes of this Part must be done for their area by each local planning authority which were a constituent authority of the joint committee;
  - (c) each of those local planning authorities must revise their local development scheme accordingly.
- (6) Nothing in this section or section 30 confers on a local planning authority constituted by virtue of an order under this section any function in relation to section 13 or 14.
- (7) The policies adopted by the joint committee in the exercise of its functions under this Part must be taken for the purposes of the planning Acts to be the policies of each of the constituent authorities which are a local planning authority.
- (8) Subsection (9) applies to any function—
  - (a) which is conferred on a local planning authority (within the meaning of the principal Act) under or by virtue of the planning Acts, and
  - (b) which relates to the authority's local development scheme or local development documents.

- (9) If the authority is a constituent authority of a joint committee references to the authority's local development scheme or local development documents must be construed as including references to the scheme or documents of the joint committee.
- (10) For the purposes of subsection (4) a local authority is any of the following—
- (a) a county council;
  - (b) a district council;
  - (c) a London borough council.

### **30 Joint committees: additional functions**

- (1) This section applies if the constituent authorities to a joint committee agree that the joint committee is to be, for the purposes of this Part, the local planning authority for any area or matter which is not the subject of—
- (a) an order under section 29, or
  - (b) an earlier agreement under this section.
- (2) Each of the constituent authorities and the joint committee must revise their local development scheme in accordance with the agreement.
- (3) With effect from the date when the last such revision takes effect the joint committee is, for the purposes of this Part, the local planning authority for the area or matter mentioned in subsection (1).

### **31 Dissolution of joint committee**

- (1) This section applies if a constituent authority requests the Secretary of State to revoke an order constituting a joint committee as the local planning authority for any area or in respect of any matter.
- (2) The Secretary of State may revoke the order.
- (3) Any step taken by the joint committee in relation to a local development scheme or a local development document must be treated for the purposes of any corresponding scheme or document as a step taken by a successor authority.
- (4) A successor authority is—
- (a) a local planning authority which were a constituent authority of the joint committee;
  - (b) a joint committee constituted by order under section 29 for an area which does not include an area which was not part of the area of the joint committee mentioned in subsection (1).
- (5) If the revocation takes effect at any time when an independent examination is being carried out in relation to a local development document the examination must be suspended.
- (6) But if before the end of the period prescribed for the purposes of this subsection a successor authority falling within subsection (4)(a) requests the Secretary of State to do so he may direct that—
- (a) the examination is resumed in relation to the corresponding document;
  - (b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.

- (7) The Secretary of State may by regulations make provision as to what is a corresponding scheme or document.

### *Miscellaneous*

## **32 Exclusion of certain representations**

- (1) This section applies to any representation or objection in respect of anything which is done or is proposed to be done in pursuance of—
- (a) an order or scheme under section 10, 14, 16, 18, 106(1) or (3) or 108(1) of the Highways Act 1980 (c. 66);
  - (b) an order or scheme under section 7, 9, 11, 13 or 20 of the Highways Act 1959 (c. 25), section 3 of the Highways (Miscellaneous Provisions) Act 1961 (c. 63) or section 1 or 10 of the Highways Act 1971 (c. 41) (which provisions were replaced by the provisions mentioned in paragraph (a));
  - (c) an order under section 1 of the New Towns Act 1981 (c. 64).
- (2) If the Secretary of State or a local planning authority thinks that a representation made in relation to a local development document is in substance a representation or objection to which this section applies he or they (as the case may be) may disregard it.

## **33 Urban development corporations**

The Secretary of State may direct that this Part does not apply to the area of an urban development corporation.

## **34 Guidance**

In the exercise of any function conferred under or by virtue of this Part the local planning authority must have regard to any guidance issued by the Secretary of State.

## **35 Annual monitoring report**

- (1) Every local planning authority must make an annual report to the Secretary of State.
- (2) The annual report must contain such information as is prescribed as to—
- (a) the implementation of the local development scheme;
  - (b) the extent to which the policies set out in the local development documents are being achieved.
- (3) The annual report must—
- (a) be in respect of such period of 12 months as is prescribed;
  - (b) be made at such time as is prescribed;
  - (c) be in such form as is prescribed;
  - (d) contain such other matter as is prescribed.

## General

### 36 Regulations

- (1) The Secretary of State may by regulations make provision in connection with the exercise by any person of functions under this Part.
- (2) The regulations may in particular make provision as to—
  - (a) the procedure to be followed by the local planning authority in carrying out the appraisal under section 19;
  - (b) the procedure to be followed in the preparation of local development documents;
  - (c) requirements about the giving of notice and publicity;
  - (d) requirements about inspection by the public of a local development document or any other document;
  - (e) the nature and extent of consultation with and participation by the public in anything done under this Part;
  - (f) the making of representations about any matter to be included in a local development document;
  - (g) consideration of any such representations;
  - (h) the remuneration and allowances payable to a person appointed to carry out an independent examination under section 20;
  - (i) the determination of the time at which anything must be done for the purposes of this Part;
  - (j) the manner of publication of any draft, report or other document published under this Part;
  - (k) monitoring the exercise by local planning authorities of their functions under this Part;
  - (l) the making of reasonable charges for the provision of copies of documents required by or under this Part.

### 37 Interpretation

- (1) Local development scheme must be construed in accordance with section 15.
- (2) Local development document must be construed in accordance with section 17.
- (3) A development plan document is a document which—
  - (a) is a local development document, and
  - (b) forms part of the development plan.
- (4) Local planning authorities are—
  - (a) district councils;
  - (b) London borough councils;
  - (c) metropolitan district councils;
  - (d) county councils in relation to any area in England for which there is no district council;
  - (e) the Broads Authority.
- (5) A National Park authority is the local planning authority for the whole of its area and subsection (4) must be construed subject to that.

- (6) RSS and RPB must be construed in accordance with Part 1.
- (7) This section applies for the purposes of this Part.