



Planning and Compulsory Purchase Act 2004

2004 CHAPTER 5

PART 4

DEVELOPMENT CONTROL

Local development orders

40 Local development orders

- (1) In the principal Act after section 61 (supplementary provision about development orders) there are inserted the following sections—

“Local development orders

61A Local development orders

- (1) A local planning authority may by order (a local development order) make provision to implement policies—
- in one or more development plan documents (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004);
 - in a local development plan (within the meaning of Part 6 of that Act).
- (2) A local development order may grant planning permission—
- for development specified in the order;
 - for development of any class so specified.
- (3) A local development order may relate to—
- all land in the area of the relevant authority;
 - any part of that land;
 - a site specified in the order.

- (4) A local development order may make different provision for different descriptions of land.
- (5) But a development order may specify any area or class of development in respect of which a local development order must not be made.
- (6) A local planning authority may revoke a local development order at any time.
- (7) Schedule 4A makes provision in connection with local development orders.

61B Intervention by Secretary of State or National Assembly

- (1) At any time before a local development order is adopted by a local planning authority the appropriate authority may direct that the order (or any part of it) is submitted to it for its approval.
- (2) If the appropriate authority gives a direction under subsection (1)—
 - (a) the authority must not take any step in connection with the adoption of the order until the appropriate authority gives its decision;
 - (b) the order has no effect unless it (or, if the direction relates to only part of an order, the part) has been approved by the appropriate authority.
- (3) In considering an order or part of an order submitted under subsection (1) the appropriate authority may take account of any matter which it thinks is relevant.
- (4) It is immaterial whether any such matter was taken account of by the local planning authority.
- (5) The appropriate authority—
 - (a) may approve or reject an order or part of an order submitted to it under subsection (1);
 - (b) must give reasons for its decision under paragraph (a).
- (6) If the appropriate authority thinks that a local development order is unsatisfactory—
 - (a) it may at any time before the order is adopted by the local planning authority direct them to modify it in accordance with the direction;
 - (b) if it gives such a direction it must state its reasons for doing so.
- (7) The local planning authority—
 - (a) must comply with the direction;
 - (b) must not adopt the order unless the appropriate authority gives notice that it is satisfied that they have complied with the direction.
- (8) The appropriate authority—
 - (a) may at any time by order revoke a local development order if it thinks it is expedient to do so;
 - (b) must, if it revokes a local development order, state its reasons for doing so.
- (9) Subsections (3) to (6) of section 100 apply to an order under subsection (8) above as they apply to an order under subsection (1) of that section and for that

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purpose references to the Secretary of State must be construed as references to the appropriate authority.

- (10) The appropriate authority is—
- (a) the Secretary of State in relation to England;
 - (b) the National Assembly for Wales in relation to Wales.

61C Permission granted by local development order

- (1) Planning permission granted by a local development order may be granted—
 - (a) unconditionally, or
 - (b) subject to such conditions or limitations as are specified in the order.
 - (2) If the permission is granted for development of a specified description the order may enable the local planning authority to direct that the permission does not apply in relation to—
 - (a) development in a particular area, or
 - (b) any particular development.”
- (2) In each of the following provisions of the principal Act in each place where it occurs after “development order” there is inserted “or a local development order”—
- (a) section 56(5)(a) (definition of material development);
 - (b) section 57(3) (extent of permission granted by development order);
 - (c) section 58(1)(a) (grant of planning permission by development order);
 - (d) section 77(1) (certain applications to be referred to the Secretary of State);
 - (e) section 78(1)(c) (right of appeal in relation to certain planning decisions);
 - (f) section 88(9) (grant of planning permission in enterprise zone);
 - (g) section 91(4)(a) (no limit to duration of planning permission granted by development order);
 - (h) section 108 (compensation for refusal of planning permission formerly granted by development order);
 - (i) section 109(6) (apportionment of compensation for depreciation);
 - (j) section 253(2)(c) (cases in which certain procedures may be carried out in anticipation of planning permission);
 - (k) section 264(5)(b) (land treated not as operational land);
 - (l) section 279(1)(a)(i) (compensation for certain decisions and orders).
- (3) Section 333 of the principal Act (regulations and orders) is amended as follows—
- (a) in subsection (4) after “55(2)(f),” there is inserted “61A(5)”;
 - (b) in subsection (5)(b) after “28,” there is inserted “61A(5) (unless it is made by the National Assembly for Wales),”.
- (4) Schedule 1 further amends the principal Act.

*Revision of development orders***41 Effect of revision or revocation of development order on incomplete development**

In the principal Act after section 61C (planning permission granted by local development orders) (inserted by section 40 of this Act) there is inserted the following section—

“61D Effect of revision or revocation of development order on incomplete development

- (1) A development order or local development order may include provision permitting the completion of development if—
 - (a) planning permission is granted by the order in respect of the development, and
 - (b) the planning permission is withdrawn at a time after the development is started but before it is completed.
- (2) Planning permission granted by a development order is withdrawn—
 - (a) if the order is revoked;
 - (b) if the order is amended so that it ceases to grant planning permission in respect of the development or materially changes any condition or limitation to which the grant of permission is subject;
 - (c) by the issue of a direction under powers conferred by the order.
- (3) Planning permission granted by a local development order is withdrawn—
 - (a) if the order is revoked under section 61A(6) or 61B(8);
 - (b) if the order is revised in pursuance of paragraph 2 of Schedule 4A so that it ceases to grant planning permission in respect of the development or materially changes any condition or limitation to which the grant of permission is subject;
 - (c) by the issue of a direction under powers conferred by the order.
- (4) The power under this section to include provision in a development order or a local development order may be exercised differently for different purposes.”

*Applications***42 Applications for planning permission and certain consents**

- (1) In the principal Act for section 62 (form and content of applications for planning permission) there is substituted the following section—

“62 Applications for planning permission

- (1) A development order may make provision as to applications for planning permission made to a local planning authority.
- (2) Provision referred to in subsection (1) includes provision as to—
 - (a) the form and manner in which the application must be made;

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- (b) particulars of such matters as are to be included in the application;
 - (c) documents or other materials as are to accompany the application.
- (3) The local planning authority may require that an application for planning permission must include—
 - (a) such particulars as they think necessary;
 - (b) such evidence in support of anything in or relating to the application as they think necessary.
- (4) But a requirement under subsection (3) must not be inconsistent with provision made under subsection (1).
- (5) A development order must require that an application for planning permission of such description as is specified in the order must be accompanied by such of the following as is so specified—
 - (a) a statement about the design principles and concepts that have been applied to the development;
 - (b) a statement about how issues relating to access to the development have been dealt with.
- (6) The form and content of a statement mentioned in subsection (5) is such as is required by the development order.”
- (2) In section 73 of the principal Act (determination of applications to develop land without compliance with conditions previously attached) subsection (3) is omitted.
- (3) In section 198 of that Act (tree preservation orders) after subsection (7) there is inserted—
 - “(8) In relation to an application for consent under a tree preservation order the appropriate authority may by regulations make provision as to—
 - (a) the form and manner in which the application must be made;
 - (b) particulars of such matters as are to be included in the application;
 - (c) the documents or other materials as are to accompany the application.
 - (9) The appropriate authority is—
 - (a) the Secretary of State in relation to England;
 - (b) the National Assembly for Wales in relation to Wales,and in the case of regulations made by the National Assembly for Wales section 333(3) must be ignored.”
- (4) In section 220 of that Act (regulations controlling display of advertisements) after subsection (2) there is inserted the following subsection—
 - “(2A) The regulations may also make provision as to—
 - (a) the form and manner in which an application for consent must be made;
 - (b) particulars of such matters as are to be included in the application;
 - (c) any documents or other materials which must accompany the application.”
- (5) In the principal Act before section 328 (settled land and land of universities and colleges) there is inserted the following section—

“327A Applications: compliance with requirements

- (1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—
- (a) the form or manner in which the application must be made;
 - (b) the form or content of any document or other matter which accompanies the application.
- (2) The local planning authority must not entertain such an application if it fails to comply with the requirement.”
- (6) In section 10(2) of the listed buildings Act (applications for listed buildings consent) the words from “shall be made” to “require and” are omitted.
- (7) In section 10(3) of that Act for paragraph (a) there are substituted the following paragraphs—
- “(a) the form and manner in which such applications are to be made;
 - (aa) particulars of such matters as are to be included in such applications;
 - (ab) the documents or other materials as are to accompany such applications;”.
- (8) In section 10 of that Act after subsection (3) there are inserted the following subsections—
- “(4) The regulations must require that an application for listed building consent of such description as is prescribed must be accompanied by such of the following as is prescribed—
 - (a) a statement about the design principles and concepts that have been applied to the works;
 - (b) a statement about how issues relating to access to the building have been dealt with. - (5) The form and content of a statement mentioned in subsection (4) is such as is prescribed.”
- (9) In section 89(1) of that Act (application of certain provisions of the principal Act) after the entry relating to section 323 there is inserted—
- “section 327A (compliance with requirements relating to applications),”.

43 Power to decline to determine applications

- (1) For section 70A of the principal Act (power of local planning authority to decline to determine application) there are substituted the following sections—

“70A Power to decline to determine subsequent application

- (1) A local planning authority may decline to determine a relevant application if—
- (a) any of the conditions in subsections (2) to (4) is satisfied, and
 - (b) the authority think there has been no significant change in the relevant considerations since the relevant event.

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- (2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application referred to him under section 76A or 77.
- (3) The condition is that in that period the Secretary of State has dismissed an appeal—
 - (a) against the refusal of a similar application, or
 - (b) under section 78(2) in respect of a similar application.
- (4) The condition is that—
 - (a) in that period the local planning authority have refused more than one similar application, and
 - (b) there has been no appeal to the Secretary of State against any such refusal.
- (5) A relevant application is—
 - (a) an application for planning permission for the development of any land;
 - (b) an application for approval in pursuance of section 60(2).
- (6) The relevant considerations are—
 - (a) the development plan so far as material to the application;
 - (b) any other material considerations.
- (7) The relevant event is—
 - (a) for the purposes of subsections (2) and (4) the refusal of the similar application;
 - (b) for the purposes of subsection (3) the dismissal of the appeal.
- (8) An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.

70B Power to decline to determine overlapping application

- (1) A local planning authority may decline to determine an application for planning permission for the development of any land which is made at a time when any of the conditions in subsections (2) to (4) applies in relation to a similar application.
- (2) The condition is that a similar application is under consideration by the local planning authority and the determination period for that application has not expired.
- (3) The condition is that a similar application is under consideration by the Secretary of State in pursuance of section 76A or 77 or on an appeal under section 78 and the Secretary of State has not issued his decision.
- (4) The condition is that a similar application—
 - (a) has been granted by the local planning authority,
 - (b) has been refused by them, or
 - (c) has not been determined by them within the determination period,

and the time within which an appeal could be made to the Secretary of State under section 78 has not expired.

- (5) An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.
- (6) The determination period is—
 - (a) the period prescribed by the development order for the determination of the application, or
 - (b) such longer period as the applicant and the authority have agreed for the determination of the application.”
- (2) In section 78(2)(aa) of that Act after “70A” there is inserted “or 70B”.
- (3) After section 81 of the listed buildings Act (authorities with functions under the Act) there are inserted the following sections—

“Power to decline to determine application

81A Power to decline to determine subsequent application

- (1) A local planning authority may decline to determine an application for a relevant consent if—
 - (a) one or more of the conditions in subsections (2) to (4) is satisfied, and
 - (b) the authority think there has been no significant change in any material considerations since the relevant event.
- (2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application referred to him under section 12.
- (3) The condition is that in that period the Secretary of State has dismissed an appeal—
 - (a) against the refusal of a similar application, or
 - (b) under section 20(2) in respect of a similar application.
- (4) The condition is that—
 - (a) in that period the local planning authority have refused more than one similar application, and
 - (b) there has been no appeal to the Secretary of State against any such refusal.
- (5) Relevant consent is—
 - (a) listed building consent, or
 - (b) conservation area consent.
- (6) The relevant event is—
 - (a) for the purposes of subsections (2) and (4) the refusal of the similar application;
 - (b) for the purposes of subsection (3) the dismissal of the appeal.

- (7) An application for relevant consent is similar to another application if (and only if) the local planning authority think that the building and works to which the applications relate are the same or substantially the same.
- (8) For the purposes of an application for conservation area consent a reference to a provision of this Act is a reference to that provision as excepted or modified by regulations under section 74.

81B Power to decline to determine overlapping application

- (1) A local planning authority may decline to determine an application for a relevant consent which is made at a time when any of the conditions in subsections (2) to (4) applies in relation to a similar application.
 - (2) The condition is that a similar application is under consideration by the local planning authority and the determination period for that application has not expired.
 - (3) The condition is that a similar application is under consideration by the Secretary of State in pursuance of section 12 or on an appeal under section 20 and the Secretary of State has not issued his decision.
 - (4) The condition is that a similar application—
 - (a) has been granted by the local planning authority,
 - (b) has been refused by them, or
 - (c) has not been determined by them within the determination period, and the time within which an appeal could be made to the Secretary of State under section 20 has not expired.
 - (5) Relevant consent is—
 - (a) listed building consent, or
 - (b) conservation area consent.
 - (6) An application for relevant consent is similar to another application if (and only if) the local planning authority think that the building and works to which the applications relate are the same or substantially the same.
 - (7) The determination period is—
 - (a) the period prescribed for the determination of the application, or
 - (b) such longer period as the applicant and the authority have agreed for the determination of the application.
 - (8) For the purposes of an application for conservation area consent a reference to a provision of this Act is a reference to that provision as excepted or modified by regulations under section 74.”
- (4) Section 20(2) of that Act (appeals) is amended as follows—
- (a) for “neither” there is substituted “done none of the following”;
 - (b) after paragraph (a) for “nor” there is substituted—
 - “(aa) given notice to the applicant that they have exercised their power under section 81A or 81B to decline to determine the application;”.

- (5) This section has effect only in relation to applications made under the principal Act or the listed buildings Act which are received by the local planning authority after this section comes into force.

Major infrastructure projects

44 Major infrastructure projects

In the principal Act the following sections are inserted before section 77 (Reference of applications to the Secretary of State)—

“76A Major infrastructure projects

- (1) This section applies to—
- (a) an application for planning permission;
 - (b) an application for the approval of a local planning authority required under a development order,
- if the Secretary of State thinks that the development to which the application relates is of national or regional importance.
- (2) The Secretary of State may direct that the application must be referred to him instead of being dealt with by the local planning authority.
- (3) If the Secretary of State gives a direction under subsection (2) he may also direct that any application—
- (a) under or for the purposes of the planning Acts, and
 - (b) which he thinks is connected with the application mentioned in subsection (1),
- must also be referred to him instead of being dealt with by the local planning authority.
- (4) If the Secretary of State gives a direction under this section—
- (a) the application must be referred to him;
 - (b) he must appoint an inspector to consider the application.
- (5) If the Secretary of State gives a direction under subsection (2) the applicant must prepare an economic impact report which must—
- (a) be in such form and contain such matter as is prescribed by development order;
 - (b) be submitted to the Secretary of State in accordance with such provision as is so prescribed.
- (6) For the purposes of subsection (5) the Secretary of State may, by development order, prescribe such requirements as to publicity and notice as he thinks appropriate.
- (7) A direction under this section or section 76B may be varied or revoked by a subsequent direction.
- (8) The decision of the Secretary of State on any application referred to him under this section is final.

- (9) Regional relates to a region listed in Schedule 1 to the Regional Development Agencies Act 1998 (c. 45).
- (10) The following provisions of this Act apply (with any necessary modifications) to an application referred to the Secretary of State under this section as they apply to an application which falls to be determined by a local planning authority—
 - (a) section 70;
 - (b) section 72(1) and (5);
 - (c) section 73;
 - (d) section 73A.
- (11) A development order may apply (with or without modifications) any requirements imposed by the order by virtue of section 65 or 71 to an application referred to the Secretary of State under this section.
- (12) This section does not apply to an application which relates to the development of land in Wales.

76B Major infrastructure projects: inspectors

- (1) This section applies if the Secretary of State appoints an inspector under section 76A(4)(b) (the lead inspector).
- (2) The Secretary of State may direct the lead inspector—
 - (a) to consider such matters relating to the application as are prescribed;
 - (b) to make recommendations to the Secretary of State on those matters.
- (3) After considering any recommendations of the lead inspector the Secretary of State may—
 - (a) appoint such number of additional inspectors as he thinks appropriate;
 - (b) direct that each of the additional inspectors must consider such matters relating to the application as the lead inspector decides.
- (4) An additional inspector must—
 - (a) comply with such directions as to procedural matters as the lead inspector gives;
 - (b) report to the lead inspector on the matters he is appointed to consider.
- (5) A copy of directions given as mentioned in subsection (4)(a) must be given to—
 - (a) the person who made the application;
 - (b) the local planning authority;
 - (c) any other person who requests it.
- (6) If the Secretary of State does not act under subsection (3) he must direct the lead inspector to consider the application on his own.
- (7) In every case the lead inspector must report to the Secretary of State on—
 - (a) his consideration of the application;
 - (b) the consideration of the additional inspectors (if any) of the matters mentioned in subsection (3)(b).
- (8) The function of the lead inspector in pursuance of subsection (2)—

- (a) may be exercised from time to time;
- (b) includes making recommendations as to the number of additional inspectors required from time to time.

(9) The power of the Secretary of State under subsection (3) to appoint an additional inspector includes power to revoke such an appointment.”

Simplified planning zones

45 Simplified planning zones

(1) In section 83 of the principal Act (making simplified planning zone schemes) subsection (1) is omitted.

(2) Before section 83(2) of that Act there are inserted the following subsections—

“(1A) This section applies if—

- (a) the regional spatial strategy for the region in which the area of a local planning authority in England is situated identifies the need for a simplified planning zone in that area (or any part of it);
- (b) the criteria prescribed by the National Assembly for Wales for the need for a simplified planning zone are satisfied in relation to the area (or any part of the area) of a local planning authority in Wales.

(1B) The local planning authority must consider the question for which part or parts of their area a simplified planning zone scheme is desirable.

(1C) The local planning authority must keep under review the question mentioned in subsection (1B).”

(3) For section 83(2) of that Act there are substituted the following subsections—

“(2) A local planning authority must make a simplified planning zone scheme for all or any part of their area—

- (a) if as a result of the consideration mentioned in subsection (1B) or the review mentioned in subsection (1C) they decide that it is desirable to do so;
- (b) if they are directed to do so by the Secretary of State or the National Assembly for Wales (as the case may be).

(2A) A local planning authority may at any time—

- (a) alter a scheme adopted by them;
- (b) with the consent of the Secretary of State alter a scheme made or altered by him under paragraph 12 of Schedule 7 or approved by him under paragraph 11 of that Schedule;
- (c) with the consent of the National Assembly for Wales alter a scheme made or altered by it under paragraph 12 of Schedule 7 or approved by it under paragraph 11 of that Schedule.

(2B) A simplified planning zone scheme for an area in England must be in conformity with the regional spatial strategy.”

(4) In section 83 of that Act after subsection (3) there is inserted the following subsection—

Status: This is the original version (as it was originally enacted).

- “(4) In this section and in Schedule 7—
- (a) a reference to the regional spatial strategy must be construed in relation to any area in Greater London as a reference to the spatial development strategy;
 - (b) a reference to a region must be construed in relation to such an area as a reference to Greater London.”
- (5) In section 85(1) of that Act (duration of simplified planning zone scheme) for the words from “period” to the end there is substituted “specified period”.
- (6) After section 85(1) of that Act there is inserted the following subsection—
- “(1A) The specified period is the period not exceeding 10 years—
- (a) beginning with the date when the scheme is adopted or approved, and
 - (b) which is specified in the scheme.”
- (7) In Schedule 7 of that Act in paragraph 2 (notification of proposal to make scheme) for “decide under section 83(2) to make or” there is substituted “are required under section 83(2) to make or decide under section 83(2A) to”.
- (8) In Schedule 7 of that Act paragraphs 3 and 4 are omitted.
- (9) In Schedule 7 of that Act in paragraph 12 (default powers of Secretary of State) for sub-paragraph (1) there are substituted the following sub-paragraphs—
- “(1) This paragraph applies if each of the following conditions is satisfied.
- (1A) The first condition is that—
- (a) the regional spatial strategy for the region in which the area of a local planning authority is situated identifies the need for a simplified planning zone in any part of their area, or
 - (b) the criteria prescribed by the National Assembly for Wales for the need for a simplified planning zone are satisfied in relation to the area of a local planning authority in Wales.
- (1B) The second condition is that the Secretary of State or the National Assembly for Wales (as the case may be) is satisfied after holding a local inquiry or other hearing that the authority are not taking within a reasonable period the steps required by this Schedule for the adoption of proposals for the making or alteration of a scheme.
- (1C) The Secretary of State or the National Assembly for Wales (as the case may be) may make or alter the scheme.”

Planning contribution

46 Planning contribution

- (1) The Secretary of State may, by regulations, make provision for the making of a planning contribution in relation to the development or use of land in the area of a local planning authority.
- (2) The contribution may be made—
- (a) by the prescribed means,

- (b) by compliance with the relevant requirements, or
 - (c) by a combination of such means and compliance.
- (3) The regulations may require the local planning authority to include in a development plan document (or in such other document as is prescribed)—
- (a) a statement of the developments or uses or descriptions of development or use in relation to which they will consider accepting a planning contribution;
 - (b) a statement of the matters relating to development or use in relation to which they will not consider accepting a contribution by the prescribed means;
 - (c) the purposes to which receipts from payments made in respect of contributions are (in whole or in part) to be put;
 - (d) the criteria by reference to which the value of a contribution made by the prescribed means is to be determined.
- (4) The regulations may make provision as to circumstances in which—
- (a) except in the case of a contribution to which subsection (3)(b) applies, the person making the contribution (the contributor) must state the form in which he will make the contribution;
 - (b) the contribution may not be made by compliance with the relevant requirements if it is made by the prescribed means;
 - (c) the contribution may not be made by the prescribed means if it is made by compliance with the relevant requirements;
 - (d) a contribution must not be made.
- (5) The prescribed means are—
- (a) the payment of a sum the amount and terms of payment of which are determined in accordance with criteria published by the local planning authority for the purposes of subsection (3)(d),
 - (b) the provision of a benefit in kind the value of which is so determined, or
 - (c) a combination of such payment and provision.
- (6) The relevant requirements are such requirements relating to the development or use as are—
- (a) prescribed for the purposes of this section, and
 - (b) included as part of the terms of the contribution,
- and may include a requirement to make a payment of a sum.
- (7) Development plan document must be construed in accordance with section 37(3).

47 Planning contribution: regulations

- (1) This section applies for the purpose of regulations made under section 46.
- (2) Maximum and minimum amounts may be prescribed in relation to a payment falling within section 46(5)(a).
- (3) Provision may be made to enable periodic adjustment of the criteria mentioned in section 46(3)(d).
- (4) The local planning authority may be required to publish an annual report containing such information in relation to the planning contribution as is prescribed.

- (5) If a document is prescribed for the purposes of section 46(3) the regulations may prescribe—
- (a) the procedure for its preparation and the time at which it must be published;
 - (b) the circumstances in which and the procedure by which the Secretary of State may take steps in relation to the preparation of the document.
- (6) Provision may be made for the enforcement by the local planning authority of the terms of a planning contribution including provision—
- (a) for a person obstructing the taking of such steps as are prescribed to be guilty of an offence punishable by a fine not exceeding level 3 on the standard scale;
 - (b) for a person deriving title to the land from the contributor to be bound by the terms of the contribution;
 - (c) for a condition to be attached to any planning permission relating to the land requiring the contribution to be made before any development is started;
 - (d) for the enforcement of a planning contribution in respect of land which is Crown land within the meaning of section 293(1) of the principal Act.
- (7) The regulations may—
- (a) require the local planning authority to apply receipts from planning contributions made by the prescribed means only to purposes mentioned in section 46(3)(c);
 - (b) make provision for setting out in writing the terms of the planning contribution;
 - (c) make provision in relation to the modification or discharge of a planning contribution.
- (8) The regulations may—
- (a) make different provision in relation to the areas of different local planning authorities or different descriptions of local planning authority;
 - (b) exclude their application (in whole or in part) in relation to the area of one or more local planning authorities or descriptions of local planning authority.

48 Planning contribution: Wales

In relation to land in Wales, sections 46 and 47 apply subject to the following modifications—

- (a) references to the Secretary of State must be construed as references to the National Assembly for Wales;
- (b) the reference to a development plan document must be construed as a reference to a local development plan (within the meaning of section 62).

Miscellaneous

49 Development to include certain internal operations

- (1) In the principal Act in section 55 (meaning of development) after subsection (2) there are inserted the following subsections—
- “(2A) The Secretary of State may in a development order specify any circumstances or description of circumstances in which subsection (2) does not apply to

operations mentioned in paragraph (a) of that subsection which have the effect of increasing the gross floor space of the building by such amount or percentage amount as is so specified.

(2B) The development order may make different provision for different purposes.”

- (2) This subsection applies if—
- (a) section 55(2) of the principal Act is disapplied in respect of any operations by virtue of a development order under section 55(2A) of that Act,
 - (b) at the date the development order comes into force a certificate under section 192 of the principal Act (certificate of lawfulness of proposed use or development) is in force in respect of the operations, and
 - (c) before that date no such operations have been begun.
- (3) If subsection (2) applies the certificate under section 192 of the principal Act is of no effect.
- (4) A development order made for the purposes of section 55(2A) of the principal Act does not affect any operations begun before it is made.

50 Appeal made: functions of local planning authority

- (1) In the principal Act after section 78 (right to appeal) there is inserted the following section—

“78A Appeal made: functions of local planning authorities

- (1) This section applies if a person who has made an application mentioned in section 78(1)(a) appeals to the Secretary of State under section 78(2).
- (2) At any time before the end of the additional period the local planning authority may give the notice referred to in section 78(2).
- (3) If the local planning authority give notice as mentioned in subsection (2) that their decision is to refuse the application—
 - (a) the appeal must be treated as an appeal under section 78(1) against the refusal;
 - (b) the Secretary of State must give the person making the appeal an opportunity to revise the grounds of the appeal;
 - (c) the Secretary of State must give such a person an opportunity to change any option the person has chosen relating to the procedure for the appeal.
- (4) If the local planning authority give notice as mentioned in subsection (2) that their decision is to grant the application subject to conditions the Secretary of State must give the person making the appeal the opportunity—
 - (a) to proceed with the appeal as an appeal under section 78(1) against the grant of the application subject to conditions;
 - (b) to revise the grounds of the appeal;
 - (c) to change any option the person has chosen relating to the procedure for the appeal.
- (5) The Secretary of State must not issue his decision on the appeal before the end of the additional period.

(6) The additional period is the period prescribed by development order for the purposes of this section and which starts on the day on which the person appeals under section 78(2).”

(2) In the listed buildings Act after section 20 (right to appeal) there is inserted the following section—

“20A Appeal made: functions of local planning authorities

(1) This section applies if a person who has made an application mentioned in section 20(1)(a) appeals to the Secretary of State under section 20(2).

(2) At any time before the end of the additional period the local planning authority may give the notice referred to in section 20(2).

(3) If the local planning authority give notice as mentioned in subsection (2) that their decision is to refuse the application—

(a) the appeal must be treated as an appeal under section 20(1) against the refusal;

(b) the Secretary of State must give the person making the appeal an opportunity to revise the grounds of the appeal;

(c) the Secretary of State must give such a person an opportunity to change any option the person has chosen relating to the procedure for the appeal.

(4) If the local planning authority give notice as mentioned in subsection (2) that their decision is to grant the application subject to conditions the Secretary of State must give the person making the appeal the opportunity—

(a) to proceed with the appeal as an appeal under section 20(1) against the grant of the application subject to conditions;

(b) to revise the grounds of the appeal;

(c) to change any option the person has chosen relating to the procedure for the appeal.

(5) The Secretary of State must not issue his decision on the appeal before the end of the additional period.

(6) The additional period is the period prescribed for the purposes of this section and which starts on the day on which the person appeals under section 20(2).”

(3) This section has effect only in relation to relevant applications which are received by the local planning authority after the commencement of this section.

(4) The following are relevant applications—

(a) an application mentioned in section 78(1)(a) of the principal Act;

(b) an application mentioned in section 20(1)(a) of the listed buildings Act;

(c) an application mentioned in section 20(1)(a) of the listed buildings Act as given effect by section 74(3) of that Act (application of certain provisions to the control of demolition in conservation areas).

51 Duration of permission and consent

(1) Section 91 of the principal Act (limit on duration of planning permission) is amended as follows—

- (a) in subsections (1)(a) and (3) for the words “five years” there is substituted “three years”;
- (b) after subsection (3) there are inserted the following subsections—

“(3A) Subsection (3B) applies if any proceedings are begun to challenge the validity of a grant of planning permission or of a deemed grant of planning permission.

(3B) The period before the end of which the development to which the planning permission relates is required to be begun in pursuance of subsection (1) or (3) must be taken to be extended by one year.

(3C) Nothing in this section prevents the development being begun from the time the permission is granted or deemed to be granted.”

(2) In section 92 of that Act (outline planning permission)—

- (a) in subsection (2)(b) sub-paragraph (i) is omitted;
- (b) in subsection (2)(b) in sub-paragraph (ii) the words “if later” are omitted;
- (c) in subsection (4) “five years” is omitted.

(3) In section 73 of the principal Act (applications to develop land without compliance with existing conditions) after subsection (4) there is inserted the following subsection—

“(5) Planning permission must not be granted under this section to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which—

- (a) a development must be started;
- (b) an application for approval of reserved matters (within the meaning of section 92) must be made.”

(4) Section 18 of the listed buildings Act (limit of duration of listed buildings consent) is amended as follows—

- (a) in subsections (1)(a) and (2) for the words “five years” there is substituted “three years”;
- (b) after subsection (2) there are inserted the following subsections—

“(2A) Subsection (2B) applies if any proceedings are begun to challenge the validity of a grant of listed building consent or of a deemed grant of listed building consent.

(2B) The period before the end of which the works to which the consent relates are required to be begun in pursuance of subsection (1) or (2) must be taken to be extended by one year.

(2C) Nothing in this section prevents the works being begun from the time the consent is granted.”

(5) In section 19 of that Act (variation or discharge of conditions) after subsection (4) there is inserted the following subsection—

“(5) But a variation or discharge of conditions under this section must not—

- (a) vary a condition subject to which a consent was granted by extending the time within which the works must be started;
 - (b) discharge such a condition.”
- (6) This section has effect only in relation to applications made under the principal Act or the listed buildings Act which are received by the local planning authority after the commencement of the section.

52 Temporary stop notice

After section 171D of the principal Act (penalties for non-compliance with planning contravention notice) there are inserted the following sections—

“Temporary stop notices

171E Temporary stop notice

- (1) This section applies if the local planning authority think—
- (a) that there has been a breach of planning control in relation to any land, and
 - (b) that it is expedient that the activity (or any part of the activity) which amounts to the breach is stopped immediately.
- (2) The authority may issue a temporary stop notice.
- (3) The notice must be in writing and must—
- (a) specify the activity which the authority think amounts to the breach;
 - (b) prohibit the carrying on of the activity (or of so much of the activity as is specified in the notice);
 - (c) set out the authority’s reasons for issuing the notice.
- (4) A temporary stop notice may be served on any of the following—
- (a) the person who the authority think is carrying on the activity;
 - (b) a person who the authority think is an occupier of the land;
 - (c) a person who the authority think has an interest in the land.
- (5) The authority must display on the land—
- (a) a copy of the notice;
 - (b) a statement of the effect of the notice and of section 171G.
- (6) A temporary stop notice has effect from the time a copy of it is first displayed in pursuance of subsection (5).
- (7) A temporary stop notice ceases to have effect—
- (a) at the end of the period of 28 days starting on the day the copy notice is so displayed,
 - (b) at the end of such shorter period starting on that day as is specified in the notice, or
 - (c) if it is withdrawn by the local planning authority.

171F Temporary stop notice: restrictions

- (1) A temporary stop notice does not prohibit—
 - (a) the use of a building as a dwelling house;
 - (b) the carrying out of an activity of such description or in such circumstances as is prescribed.
- (2) A temporary stop notice does not prohibit the carrying out of any activity which has been carried out (whether or not continuously) for a period of four years ending with the day on which the copy of the notice is first displayed as mentioned in section 171E(6).
- (3) Subsection (2) does not prevent a temporary stop notice prohibiting—
 - (a) activity consisting of or incidental to building, engineering, mining or other operations, or
 - (b) the deposit of refuse or waste materials.
- (4) For the purposes of subsection (2) any period during which the activity is authorised by planning permission must be ignored.
- (5) A second or subsequent temporary stop notice must not be issued in respect of the same activity unless the local planning authority has first taken some other enforcement action in relation to the breach of planning control which is constituted by the activity.
- (6) In subsection (5) enforcement action includes obtaining the grant of an injunction under section 187B.

171G Temporary stop notice: offences

- (1) A person commits an offence if he contravenes a temporary stop notice—
 - (a) which has been served on him, or
 - (b) a copy of which has been displayed in accordance with section 171E(5).
- (2) Contravention of a temporary stop notice includes causing or permitting the contravention of the notice.
- (3) An offence under this section may be charged by reference to a day or a longer period of time.
- (4) A person may be convicted of more than one such offence in relation to the same temporary stop notice by reference to different days or periods of time.
- (5) A person does not commit an offence under this section if he proves—
 - (a) that the temporary stop notice was not served on him, and
 - (b) that he did not know, and could not reasonably have been expected to know, of its existence.
- (6) A person convicted of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding £20,000;
 - (b) on conviction on indictment, to a fine.

- (7) In determining the amount of the fine the court must have regard in particular to any financial benefit which has accrued or has appeared to accrue to the person convicted in consequence of the offence.

171H Temporary stop notice: compensation

- (1) This section applies if and only if a temporary stop notice is issued and at least one of the following paragraphs applies—
- (a) the activity which is specified in the notice is authorised by planning permission or a development order or local development order;
 - (b) a certificate in respect of the activity is issued under section 191 or granted under that section by virtue of section 195;
 - (c) the authority withdraws the notice.
- (2) Subsection (1)(a) does not apply if the planning permission is granted on or after the date on which a copy of the notice is first displayed as mentioned in section 171E(6).
- (3) Subsection (1)(c) does not apply if the notice is withdrawn following the grant of planning permission as mentioned in subsection (2).
- (4) A person who at the time the notice is served has an interest in the land to which the notice relates is entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition effected by the notice.
- (5) Subsections (3) to (7) of section 186 apply to compensation payable under this section as they apply to compensation payable under that section; and for that purpose references in those subsections to a stop notice must be taken to be references to a temporary stop notice.”

53 Fees and charges

- (1) Section 303 (fees for planning applications, etc) of the principal Act is amended as follows.
- (2) The following subsections are substituted for subsections (1) and (2)—
- “(1) The appropriate authority may by regulations make provision for the payment of a charge or fee to a local planning authority in respect of—
- (a) the performance by the local planning authority of any function they have;
 - (b) anything done by them which is calculated to facilitate or is conducive or incidental to the performance of any such function.
- (2) The regulations may prescribe—
- (a) the person by whom the charge or fee is payable;
 - (b) provision as to the calculation of the charge or fee (including the person by whom it is to be calculated);
 - (c) circumstances in which no charge or fee is to be paid;
 - (d) circumstances in which a charge or fee is to be transferred from one local planning authority to another.

- (2A) The appropriate authority is—
- (a) the Secretary of State in relation to England;
 - (b) the National Assembly for Wales in relation to Wales,
- and in the case of regulations made by the National Assembly for Wales section 333(3) must be ignored.”
- (3) In subsection (4) after the first “prescribed” there is inserted “charge or”.
- (4) After subsection (5) there are inserted the following subsections—
- “(5A) If the local planning authority calculate the amount of fees or charges in pursuance of provision made by regulations under subsection (1) the authority must secure that, taking one financial year with another, the income from the fees or charges does not exceed the cost of the performance of the function or doing of the thing (as the case may be).
- (5B) A financial year is the period of 12 months beginning with 1 April.”
- (5) Subsection (6) is omitted.

54 Duty to respond to consultation

- (1) This section applies to a prescribed requirement to consult any person or body (the consultee) which exercises functions for the purposes of any enactment.
- (2) A prescribed requirement to consult is a requirement—
- (a) with which the appropriate authority or a local planning authority must comply before granting any permission, approval or consent under or by virtue of the planning Acts;
 - (b) which is prescribed for the purposes of this subsection.
- (3) At any time before an application is made for any permission, approval or consent mentioned in subsection (2) any person may in relation to a proposed development consult the consultee on any matter in respect of which the appropriate authority is or the local planning authority are required to consult the consultee.
- (4) The consultee must give a substantive response to any consultation mentioned in subsection (2) or by virtue of subsection (3) before the end of—
- (a) the period prescribed for the purposes of this subsection, or
 - (b) such other period as is agreed in writing between the consultee and the appropriate authority or the local planning authority (as the case may be).
- (5) The appropriate authority may also prescribe—
- (a) the procedure to be followed for the purposes of this section;
 - (b) the information to be provided to the consultee for the purposes of the consultation;
 - (c) the requirements of a substantive response.
- (6) Anything prescribed for the purposes of subsections (1) to (5) must be prescribed by development order.
- (7) A development order may—
- (a) require consultees to give the appropriate authority a report as to their compliance with subsection (4);

- (b) prescribe the form and content of the report;
 - (c) prescribe the times at which the report is to be made.
- (8) The appropriate authority is—
- (a) the Secretary of State in relation to England;
 - (b) the National Assembly for Wales in relation to Wales.

55 Time in which Secretary of State to take decisions

- (1) Schedule 2 contains provisions about the time in which the Secretary of State must take certain decisions.
- (2) But Schedule 2 does not apply in relation to any decision taken in the exercise of a function in relation to Wales if the function is exercisable in relation to Wales by the National Assembly for Wales by virtue of an order under section 22 of the Government of Wales Act 1998 (c. 38).