

Schedules

Schedule 1

Article 7

Transitional provision in relation to planning functions exercised by previous authorities prior to 1st June 2023

Transitional provision in connection with planning functions

1.—(1) Subject to paragraphs 2 to 9, this paragraph applies in respect of any functions which are transferred to the Corporation by virtue of Part 2 of this Order and in respect of which a previous authority ceases to be the local planning authority responsible for exercising those functions.

(2) Anything which was in the process of being done by, to or in relation to the previous authority in connection with any of the functions mentioned in sub-paragraph (1) before 1st June 2023 may be continued after that date by, to or in relation to the Corporation and, if continued, must be treated as having been done by, to or in relation to the Corporation.

(3) Nothing in sub-paragraph (2) requires the Corporation to continue with any step mentioned in that sub-paragraph.

Transitional provision: planning applications

2.—(1) This paragraph applies as respects any application for planning permission or permission in principle, or for a consent, approval or determination under the 1990 Act, the Listed Buildings Act or the Hazardous Substances Act(1), or under any order or regulation made or having effect under those Acts which—

- (a) relates in whole or in part to any land in the development area,
- (b) was made before 1st June 2023 to a previous authority, and
- (c) has not been determined by 1st June 2023.

(2) Subject to sub-paragraph (3), the previous authority must transmit any application to which this paragraph applies to the Corporation for determination.

(3) Where an application to which this paragraph applies is the subject of a direction made (whether before or after 1st June 2023) by the Secretary of State under section 77 of the 1990 Act(2) or section 12 of the Listed Buildings Act(3) requiring that the application be referred to the Secretary of State, the previous authority continues to be the local planning authority in respect of the application—

- (a) for the purposes of section 77 of the 1990 Act or section 12 of the Listed Buildings Act (as the case may be), and

(1) By virtue of section 3(4) of that Act, as amended by paragraph 38 of Schedule 22 to the Localism Act 2011, the Corporation is, subject to these transitional provisions, the hazardous substances authority for the development area.

(2) Section 77 was amended by paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991, by paragraph 10 of Schedule 12 to the Localism Act 2011, by paragraph 11 of Schedule 4 to the Infrastructure Act 2015 (c. 7) (for certain purposes), by paragraph 20 of Schedule 12 to the Housing and Planning Act 2016, and by S.I. 2014/2773. It is prospectively amended by paragraph 2 of Schedule 10 to the Planning Act 2008 (c. 29) from a date and time to be appointed and by paragraph 11 of Schedule 4 to the Infrastructure Act 2015 for remaining purposes.

(3) Section 12 was amended by section 17 of the Transport and Works Act 1992 (c. 42) and S.I. 2014/2772. It is prospectively amended by paragraph 16 of Schedule 10 to the Planning Act 2008 from a date and time to be appointed.

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- (b) for the purposes of any Planning Inquiry Commission constituted by the Secretary of State under section 101 of the 1990 Act to inquire into the application.
- (4) Where sub-paragraph (3) applies, the previous authority must notify the Corporation of the direction and transmit to the Secretary of State any representations received from the Corporation.
- (5) Where the previous authority transmits an application to which this paragraph applies to the Corporation for determination—
 - (a) the previous authority must notify the applicant that the Corporation is to be the local planning authority for the application,
 - (b) the application must be accompanied by a copy of any representations received concerning the application, and
 - (c) the application must be treated as received by the Corporation from the applicant on the day on which it is transmitted to the Corporation.
- (6) Where any planning document has been, or is in the process of being, issued by the previous authority in relation to an application to which this paragraph applies before the day on which it is transmitted to the Corporation, no further planning document is required to be issued by the Corporation solely as a result of the transfer of functions to the Corporation by this Order.

Transition provision: enforcement action

- 3.—**(1) This paragraph applies where a previous authority has before 1st June 2023 in relation to any land in the development area—
- (a) issued an enforcement notice under section 172 of the 1990 Act(4),
 - (b) served a stop notice under section 183 of the 1990 Act(5),
 - (c) served a breach of condition notice under section 187A of the 1990 Act(6),
 - (d) served a notice requiring the replacement of trees under section 207 of the 1990 Act(7),
 - (e) served a notice requiring steps for remedying the condition of land under section 215 of the 1990 Act,
 - (f) issued a listed building enforcement notice under section 38 of the Listed Buildings Act(8), or
 - (g) served a discontinuance notice under regulation 8 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007(9).
- (2) The previous authority continues to be the local planning authority for the purposes of the notice—
- (a) in the case of an enforcement notice, until the end of the period for compliance with the notice (construed in accordance with section 173(9) of the 1990 Act);
 - (b) in the case of a stop notice, until the notice ceases to have effect (construed in accordance with section 184(4) or 184(5) of the 1990 Act(10));
 - (c) in the case of a breach of condition notice, until the end of the period for compliance with the notice (construed in accordance with section 187A(7) of the 1990 Act);

(4) Section 172 was substituted by section 5(1) of the Planning and Compensation Act 1991.

(5) Section 183 was amended by section 9(1) of the Planning and Compensation Act 1991.

(6) Section 187A was inserted by section 2 of the Planning and Compensation Act 1991 and amended by section 126(2) of the Localism Act 2011.

(7) Section 207 was amended by section 23(1) of the Planning and Compensation Act 1991 and by paragraph 12 of Schedule 8 to the Planning Act 2008.

(8) Section 38 was amended by paragraphs 2 and 19 of Schedule 3 to the Planning and Compensation Act 1991.

(9) S.I. 2007/783, to which there are amendments not relevant to this Order.

(10) Section 184(4) and (5) was amended by paragraph 28 of Schedule 7 to the Planning and Compensation Act 1991.

- (d) in the case of notice requiring the replacement of trees, until the end of the period for compliance (construed in accordance with section 207(3) of the 1990 Act);
 - (e) in the case of a notice requiring steps for remedying the condition of land, until the end of the period for compliance with the notice (construed in accordance with section 216(7) of the 1990 Act);
 - (f) in the case of a listed building enforcement notice, until the end of the period for compliance with the notice (construed in accordance with section 38(3) of the Listed Buildings Act);
 - (g) in the case of a discontinuance notice, until the end of the period within which the display or the use of the site, as the case may be, is to be discontinued (construed in accordance with regulation 8(3)(c) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007).
- (3) The previous authority must transmit a copy of the notice to the Corporation.

Transitional provision: planning appeals

- 4.—(1) This paragraph applies where an appeal is made to the Secretary of State under—
- (a) section 78, 174 or 208(1) of the 1990 Act,
 - (b) section 20 of the Listed Buildings Act(11),
 - (c) section 21 of the Hazardous Substances Act(12), or
 - (d) regulation 19(1) of the Tree Preservation Regulations,

in respect of a decision or notice, or failure to make a decision or give notice by a previous authority in relation to any land in the development area before 1st June 2023.

- (2) The previous authority—
- (a) continues to be the local planning authority for the purposes of the appeal,
 - (b) must notify the Corporation of the appeal, and
 - (c) must transmit to the Secretary of State any representation from the Corporation.

Transitional provision: compensation in connection with planning functions

5.—(1) Where a right to compensation arises under section 107, 108, 115 or 186 of the 1990 Act(13), section 28 or 29 of the Listed Buildings Act or regulation 24 of the Tree Preservation Regulations in consequence of action taken in relation to any land in the development area by a previous authority, the liability to pay compensation lies with that authority.

- (2) Where—
- (a) the Secretary of State makes a determination—

(11) Section 20 was amended by sections 43(4)(a) and 43(4)(b) of the Planning and Compulsory Purchase Act 2004 (c. 5). It is prospectively amended by paragraph 17 of Schedule 10 to the Planning Act 2008 from a date and time to be appointed.

(12) Section 21 was amended by Part 8 of Schedule 16 to the Environmental Protection Act 1990 (c. 43) and by paragraph 6 of Schedule 11 to the Planning Act 2008 Act. It is prospectively amended by paragraph 27 of Schedule 10 to the Planning Act 2008 from a date and time to be appointed.

(13) Section 107 was amended by paragraph 8 of Schedule 1 and paragraph 13 of Schedule 6 to the Planning and Compensation Act 1991 and by paragraph 28 of Schedule 12 to the Housing and Planning Act 2016. Section 108 was amended by section 13(3) of the Planning and Compensation Act 1991, by section 40 of, and by paragraph 6 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004, by section 189 of the Planning Act 2008, by paragraph 15 of Schedule 12 to the Localism Act 2011, by paragraph 3 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24), by paragraph 15 of Schedule 4 to the Infrastructure Act 2015, by paragraph 29 of Schedule 12 to the Housing and Planning Act 2016, and by S.I. 2006/1281. Section 186 was amended by section 9(3) of and paragraph 29 of Schedule 7 to, the Planning Compensation Act 1991 and by S.I. 2009/1307. Regulation 26 of S.I. 2012/605 make transitional provision in respect of these sections.

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- (i) of an appeal against action taken by such an authority as is mentioned in sub-paragraph (1), or
 - (ii) on a reference made to the Secretary of State by such an authority, and
- (b) that determination gives rise to a right of compensation, that authority is liable to pay the compensation.

(3) Where the Secretary of State makes an order under section 100 of the 1990 Act⁽¹⁴⁾ in respect of any permission to develop any land in the development area granted before 1st June 2023, the previous authority in relation to that land when the permission was granted is liable to pay any compensation arising from the order.

- (4) Where before 1st June 2023 the Secretary of State—
- (a) makes an order under section 104 or 202 of, or paragraph 11 of Schedule 9 to, the 1990 Act⁽¹⁵⁾ in respect of any land in the development area, or
 - (b) serves a notice under section 185 of that Act in respect of any land in the development area,
- the previous authority in relation to that land when the order was made or notice was served (as the case may be) is liable to pay any compensation arising from the order or notice.

Transitional provision: section 106 agreements

6. Where before 1st June 2023 a planning obligation entered into by agreement or otherwise under section 106 of the 1990 Act⁽¹⁶⁾—

- (a) relates to any land in the development area, and
- (b) identifies a previous authority as the local planning authority by whom that obligation is enforceable,

that obligation is enforceable by the Corporation.

Transitional provision: local development orders

7.—(1) Any local development order adopted under section 61A of the 1990 Act⁽¹⁷⁾ by a previous authority in relation to the development area (or part of it) before 1st June 2023 has effect on or after that date as if it had been made by the Corporation.

(2) Nothing in sub-paragraph (1) affects any power of the Secretary of State or the Corporation to revoke a document to which that paragraph relates.

(3) Where before 1st June 2023 a previous authority has taken or started any step in relation to the preparation of a local development order which relates to the development area (or part of it)—

- (a) that step must be treated on or after 1st June 2023 as a step taken or started by the Corporation, and
- (b) the previous authority must transmit a copy of any representations received concerning that draft order to the Corporation.

(4) Where any planning document has been, or is in the process of being, issued by the planning authority in relation to the draft order referred to in sub-paragraph (3), no further planning document

(14) Section 100 was amended by paragraph 5 of Schedule 1 to the Planning and Compensation Act 1991 and by [S.I. 2017/276](#).

(15) Section 202 was amended by section 192(5) of, and paragraph 10 of Schedule 8 to, the Planning Act 2008.

(16) Section 106 was substituted by section 12 of the Planning and Compensation Act 1991, and was amended by section 33 of the Greater London Authority Act 2007 (c. 24), by section 174 of the Planning Act 2008 and by paragraph 3 of Schedule 2 to the Growth and Infrastructure Act 2013 (c. 27). It is prospectively amended by section 158(3) of the Housing and Planning Act 2016, and by paragraph 3 of Schedule 14 to the Environment Act 2021 (c. 30), from a date and time to be appointed.

(17) Section 61A was inserted by section 40 of the Planning and Compulsory Purchase Act 2004, and amended by section 188 of the Planning Act 2008.

is required to be issued by the Corporation solely as a result of the transfer of functions to the Corporation by this Order.

Transitional provision: neighbourhood planning

8.—(1) This paragraph applies as respects any area application, neighbourhood forum application or order proposal which—

- (a) relates in whole or in part to land in the development area,
- (b) was made before 1st June 2023 to the previous authority, and
- (c) has not been determined by that date.

(2) The application or proposal referred to in paragraph (1) is treated as if it had been made—

- (a) in relation to such of the development area as corresponds to the area, or part of the area, to which the document relates, to the Corporation, and
- (b) in relation to such of its area outside of the development area as corresponds to the area, or part of the area, to which the document relates, to the previous authority.

(3) The previous authority must transmit any application or proposal referred to in paragraph (1) to the Corporation for determination.

(4) In this paragraph and paragraph 9—

“area application” means an application for the designation of a neighbourhood development area made under section 61G of the 1990 Act(18);

“neighbourhood forum application” means an application for designation of a neighbourhood forum made by an organisation or body under section 61F of the 1990 Act(19);

“order proposal” means a proposal for a neighbourhood development order for the purposes of section 61E of the 1990 Act(20) submitted by a qualifying body(21) under paragraph 1 of Schedule 4B to the 1990 Act(22) or a community right to build order submitted by a community organisation(23) under paragraph 1 of Schedule 4B to the 1990 Act, as read with paragraph 2 of Schedule 4C to the 1990 Act(24).

9.—(1) Any step taken or started before 1st June 2023 by a previous authority in relation to an area application, neighbourhood forum application or order proposal transmitted to the Corporation under paragraph 8(3) is to be treated on and after that date as a step taken or started—

- (a) in relation to the development area, or part of the development area, as corresponds to the area, or part of the area, to which that document relates, by the Corporation, and
- (b) in relation to such of its area outside of the development area, or part of the development area, as corresponds to the area, or part of the area, to which that document relates, by the previous authority.

(2) Where the previous authority transmits an area application, neighbourhood forum application or order proposal to the Corporation for determination under paragraph 8(3), the application must

(18) Section 61G was inserted by paragraph 2 of Part 1 of Schedule 9 to the 2011 Act and amended by section 5(3) of the Neighbourhood Planning Act 2017 (c. 20) and section 139 of the Housing and Planning Act 2016.

(19) Section 61F was inserted by paragraph 2 of Part 1 of Schedule 9 to the Localism Act 2011, and amended by section 5(2) of the Neighbourhood Planning Act 2017.

(20) Section 61E was inserted by paragraph 2 of Part 1 of Schedule 9 to the Localism Act 2011 and amended by section 140(2) of the Housing and Planning Act 2016 and S.I. 2018/1232.

(21) For the purposes of neighbourhood development orders, the definition of “qualifying body” is in section 61E(6) of the Town and Country Planning Act 1990. A “community organisation” is to be regarded as a qualifying body (see paragraph 4(2) of Schedule 4C to the Town and Country Planning Act 1990).

(22) Schedule 4B was inserted by Schedule 10 to the Localism Act 2011.

(23) The definition of “community organisation” is in paragraph 3 of Schedule 4C to the Town and Country Planning Act 1990.

(24) Schedule 4C was inserted by Schedule 11 to the Localism Act 2011.

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be accompanied by a copy of any representations received by the previous authority concerning the application or proposal.

(3) Where any planning document has been, or is in the process of being, issued by the previous authority in relation to an area application, neighbourhood forum application or order proposal before the day on which it is transmitted to the Corporation under paragraph 8(3), no further planning document is required to be issued by the Corporation solely because the application or proposal has been transmitted.

(4) Where an order proposal transmitted to the Corporation under paragraph 8(3) has been submitted for examination under paragraph 7 of Schedule 4B to the 1990 Act before 1st June 2023 and the person appointed to carry out that examination has not at that date made their recommendations—

- (a) nothing in this Order prevents that person from deciding that the document meets the requirements set out in paragraph 8 of that Schedule, and
- (b) that person must send their recommendations to both the Corporation and the previous authority.