



Localism Act 2011

2011 CHAPTER 20

PART 6

PLANNING

CHAPTER 6

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

138 Procedural changes relating to applications for development consent

- (1) The Planning Act 2008 is amended as follows.
- (2) In section 56(2) (persons to be notified of the acceptance of an application for an order granting development consent) for paragraph (b) (relevant local authorities under section 102(5)) substitute—
 - “(b) each local authority that is within section 56A.”
- (3) After section 56 insert—

“56A Local authorities for the purposes of sections 56(2)(b) and 60(2)(a)

- (1) A local authority is within this section if the land is in the authority's area.
- (2) A local authority (“A”) is within this section if—
 - (a) the land is in the area of another local authority (“B”),
 - (b) B is a unitary council or a lower-tier district council, and
 - (c) any part of the boundary of A's area is also a part of the boundary of B's area.
- (3) If the land is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this section if—
 - (a) D is not a lower-tier district council, and

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- (b) any part of the boundary of D's area is also part of the boundary of C's area.
- (4) In this section—
- “the land” means the land to which the application concerned relates or any part of that land;
- “local authority” has the meaning given in section 102(8);
- “lower-tier district council” means a district council in England for an area for which there is a county council;
- “unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;
- “upper-tier county council” means a county council in England for each part of whose area there is a district council.”
- (4) In section 60(2) (persons who the Commission must invite to submit local impact reports) for paragraph (a) (relevant local authorities under section 102(5)) substitute—
- “(a) each local authority that is within section 56A, and”.
- (5) In section 88 (initial assessment of issues, and preliminary meeting)—
- (a) in subsection (3) (persons who must be invited to preliminary meeting) omit the “and” at the end of paragraph (a),
- (b) in that subsection after paragraph (b) insert—
- “(c) each statutory party, and
- (d) each local authority that is within section 88A,” and
- (c) after that subsection insert—
- “(3A) In subsection (3)(c) “statutory party” means a person specified in, or of a description specified in, regulations made by the Secretary of State.”
- (6) After section 88 insert—
- “88A Local authorities for the purposes of section 88(3)(d)**
- (1) A local authority (“A”) is within this section if—
- (a) the land is in the area of another local authority (“B”),
- (b) B is a unitary council or a lower-tier district council, and
- (c) any part of the boundary of A's area is also a part of the boundary of B's area.
- (2) If the land is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this section if—
- (a) D is not a lower-tier district council, and
- (b) any part of the boundary of D's area is also part of the boundary of C's area.
- (3) In this section—
- “the land” means the land to which the application relates or any part of that land;
- “local authority” has the meaning given in section 102(8);

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“lower-tier district council” means a district council in England for an area for which there is a county council;

“unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

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

(7) In section 89 (Examining authority's decisions about how application is to be examined and the notification of those decisions to parties) after subsection (2) insert—

“(2A) Upon making the decisions required by subsection (1), the Examining authority must inform each person mentioned in section 88(3)(c) and (d)—

(a) of those decisions, and

(b) that the person may notify the Examining authority in writing that the person is to become an interested party.”

(8) In section 102 (interpretation of Chapter 4: “interested party” and other expressions)—

(a) in subsection (1) for paragraph (b) (statutory party is interested party) substitute—

“(aa) the person has been notified of the acceptance of the application in accordance with section 56(2)(d),

(ab) the Examining authority has under section 102A decided that it considers that the person is within one or more of the categories set out in section 102B,”

(b) in subsection (1) for paragraph (c) (relevant local authority is interested party) insert—

“(c) the person is a local authority in whose area the land is located,

(ca) the person—

(i) is mentioned in section 88(3)(c) or (d), and

(ii) has notified the Examining authority as mentioned in section 89(2A)(b),”

(c) after subsection (1) (definition of interested party) insert—

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

(d) omit subsection (3) (definition of statutory party),

(e) omit subsections (5) to (7) (which further define the local authorities that are relevant local authorities), and

(f) in subsection (8) (definition of local authority) for “subsections (5) to (7)” substitute “ subsection (1)(c) ”.

(9) After section 102 insert—

“102A Persons in certain categories may ask to become interested parties etc

(1) Subsection (2) applies if—

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

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

102B Categories for the purposes of section 102A

- (1) A person is within Category 1 if the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.
- (2) A person is within Category 2 if the person—
 - (a) is interested in the land, or
 - (b) has power—
 - (i) to sell and convey the land, or
 - (ii) to release the land.
- (3) An expression, other than “the land”, that appears in subsection (2) of this section and also in section 5(1) of the Compulsory Purchase Act 1965 has in subsection (2) the meaning that it has in section 5(1) of that Act.
- (4) A person is within Category 3 if, should the order sought by the application be made and fully implemented, the person would or might be entitled—
 - (a) as a result of the implementing of the order,
 - (b) as a result of the order having been implemented, or
 - (c) as a result of use of the land once the order has been implemented,
 to make a relevant claim.
- (5) In subsection (4) “relevant claim” means—
 - (a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);
 - (b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);

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(c) a claim under section 152(3).

(6) In this section “the land” means the land to which the application relates or any part of that land.”

(10) In Schedule 12 (application of Act to Scotland: modifications) after paragraph 9 insert—

“9A Section 102B applies as if—

- (a) in subsection (2)(b), the words from “or” to the end were omitted,
- (b) in subsection (3), references to section 5(1) of the Compulsory Purchase Act 1965 were references to section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, and
- (c) in subsection (5)—

(i) for paragraph (a) there were substituted—

“(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947”; and

(ii) in paragraph (b), the reference to Part 1 of the Land Compensation Act 1973 were a reference to Part 1 of the Land Compensation (Scotland) Act 1973.”

Commencement Information

I1 S. 138(1)-(4)s. 138(6)-(10) in force at 1.4.2012 by S.I. 2012/628, art. 7(a)

I2 S. 138(5) in force at 15.1.2012 for specified purposes by S.I. 2012/57, art. 2(c)

I3 S. 138(5) in force at 1.4.2012 in so far as not already in force by S.I. 2012/628, art. 7(a)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 158(8)-(9B) substituted for s. 158(8)(9) by [2016 c. 22 s. 121\(2\)\(e\)](#)
- s. 202(3A) inserted by [2023 c. 55 s. 176\(2\)](#)