



Neighbourhood Planning Act 2017

2017 CHAPTER 20

PART 1

PLANNING

Neighbourhood planning

1 Duty to have regard to post-examination neighbourhood development plan

- (1) Section 70 of the Town and Country Planning Act 1990 (determination of applications for planning permission: general considerations) is amended as follows.
- (2) In subsection (2) (matters to which local planning authority must have regard in dealing with applications) after paragraph (a) insert—
 - “(aza) a post-examination draft neighbourhood development plan, so far as material to the application,”.
- (3) Before subsection (4) insert—
 - “(3B) For the purposes of subsection (2)(aza) (but subject to subsections (3D) and (3E)) a draft neighbourhood development plan is a “post-examination draft neighbourhood development plan” if—
 - (a) a local planning authority have made a decision under paragraph 12(4) of Schedule 4B with the effect that a referendum or referendums are to be held on the draft plan under that Schedule,
 - (b) the Secretary of State has directed under paragraph 13B(2)(a) of that Schedule that a referendum or referendums are to be held on the draft plan under that Schedule,
 - (c) an examiner has recommended under paragraph 13(2)(a) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (examination of modified plan) that a local planning authority should make the draft plan, or

- (d) an examiner has recommended under paragraph 13(2)(b) of that Schedule that a local planning authority should make the draft plan with modifications.
- (3C) In the application of subsection (2)(aza) in relation to a post-examination draft neighbourhood development plan within subsection (3B)(d), the local planning authority must take the plan into account as it would be if modified in accordance with the recommendations.
- (3D) A draft neighbourhood development plan within subsection (3B)(a) or (b) ceases to be a post-examination draft neighbourhood development plan for the purposes of subsection (2)(aza) if—
- (a) section 38A(4)(a) (duty to make plan) or (6) (cases in which duty does not apply) of the Planning and Compulsory Purchase Act 2004 applies in relation to the plan,
 - (b) section 38A(5) (power to make plan) of that Act applies in relation to the plan and the plan is made by the local planning authority,
 - (c) section 38A(5) of that Act applies in relation to the plan and the local planning authority decide not to make the plan,
 - (d) a single referendum is held on the plan and half or fewer of those voting in the referendum vote in favour of the plan, or
 - (e) two referendums are held on the plan and half or fewer of those voting in each of the referendums vote in favour of the plan.
- (3E) A draft neighbourhood development plan within subsection (3B)(c) or (d) ceases to be a post-examination draft neighbourhood development plan for the purposes of subsection (2)(aza) if—
- (a) the local planning authority make the draft plan (with or without modifications), or
 - (b) the local planning authority decide not to make the draft plan.
- (3F) The references in subsection (3B) to Schedule 4B are to that Schedule as applied to neighbourhood development plans by section 38A(3) of the Planning and Compulsory Purchase Act 2004.”

2 Notification of applications to neighbourhood planning bodies

- (1) Schedule 1 to the Town and Country Planning Act 1990 (local planning authorities: distribution of functions) is amended as follows.
- (2) Paragraph 8 (duty to notify parish council of planning application etc) is amended in accordance with subsections (3) to (5).
- (3) After sub-paragraph (3) insert—
 - “(3A) Sub-paragraph (3B) applies to a local planning authority who have the function of determining applications for planning permission or permission in principle if—
 - (a) there is a relevant neighbourhood development plan for a neighbourhood area all or part of which falls within the authority’s area, and
 - (b) a parish council are authorised to act in relation to the neighbourhood area as a result of section 61F.

- (3B) The local planning authority must notify the parish council of—
- (a) any relevant planning application, and
 - (b) any alteration to that application accepted by the authority.
- (3C) Sub-paragraph (3B) does not apply if the parish council have notified the local planning authority in writing that they do not wish to be notified of any such application.
- (3D) If the parish council have notified the local planning authority in writing that they only wish to be notified under sub-paragraph (3B) of applications of a particular description, that sub-paragraph only requires the authority to notify the council of applications of that description.
- (3E) For the purposes of sub-paragraphs (3A) to (3D)—
- “neighbourhood area” means an area designated as such under section 61G;
- “relevant neighbourhood development plan” means—
- (a) a post-examination draft neighbourhood development plan as defined by section 70(3B) to (3F), or
 - (b) a neighbourhood development plan which forms part of a development plan by virtue of section 38(3) or (3A) of the Planning and Compulsory Purchase Act 2004 (plans which have been made or approved in a referendum);
- “relevant planning application” means an application which relates to land in the neighbourhood area and is an application for—
- (a) planning permission or permission in principle, or
 - (b) approval of a matter reserved under an outline planning permission within the meaning of section 92.”
- (4) In the opening words of sub-paragraph (4) for “the duty” substitute “a duty under this paragraph”.
- (5) In the opening words of sub-paragraph (5) for “their duty” substitute “a duty under this paragraph”.
- (6) Paragraph 8A (duty to notify neighbourhood forums) is amended in accordance with subsections (7) to (9).
- (7) After sub-paragraph (1) insert—
- “(1A) Sub-paragraph (1B) applies to a local planning authority who have the function of determining applications for planning permission or permission in principle if—
- (a) there is a relevant neighbourhood development plan for a neighbourhood area all or part of which falls within the authority’s area, and
 - (b) a neighbourhood forum are authorised to act in relation to the neighbourhood area as a result of section 61F.
- (1B) The local planning authority must notify the neighbourhood forum of—
- (a) any relevant planning application, and
 - (b) any alteration to that application accepted by the authority.

- (1C) Sub-paragraph (1B) does not apply if the neighbourhood forum has notified the local planning authority in writing that it does not wish to be notified of any such application.
- (1D) If the neighbourhood forum has notified the local planning authority in writing that it only wishes to be notified under sub-paragraph (1B) of applications of a particular description, that sub-paragraph only requires the authority to notify the forum of applications of that description.”
- (8) In sub-paragraph (2)—
- (a) before the definition of “neighbourhood forum” insert—
- ““neighbourhood area” means an area designated as such under section 61G;”, and
- (b) after the definition of “neighbourhood forum” insert—
- ““relevant neighbourhood development plan” means—
- (a) a post-examination draft neighbourhood development plan as defined by section 70(3B) to (3F), or
- (b) a neighbourhood development plan which forms part of a development plan by virtue of section 38(3) or (3A) of the Planning and Compulsory Purchase Act 2004 (development plans which have been approved in a referendum or made).”
- (9) In sub-paragraph (3) for “(3) to (6)” substitute “(3) and (4) to (6)”.
- (10) Section 62C of the Town and Country Planning Act 1990 (notification of parish councils of applications made to Secretary of State) is amended in accordance with subsections (11) and (12).
- (11) In subsection (2) after “paragraph 8(1)” insert “or (3B)”.
- (12) In subsection (3) after “Schedule 1” insert “or notifications received by the authority under paragraph 8(3C) or (3D) of that Schedule.

3 Status of approved neighbourhood development plan

In section 38 of the Planning and Compulsory Purchase Act 2004 (development plan) after subsection (3) insert—

- “(3A) For the purposes of any area in England (but subject to subsection (3B)) a neighbourhood development plan which relates to that area also forms part of the development plan for that area if—
- (a) section 38A(4)(a) (approval by referendum) applies in relation to the neighbourhood development plan, but
- (b) the local planning authority to whom the proposal for the making of the plan has been made have not made the plan.
- (3B) The neighbourhood development plan ceases to form part of the development plan if the local planning authority decide under section 38A(6) not to make the plan.”

4 Modification of neighbourhood development order or plan

- (1) Section 61M of the Town and Country Planning Act 1990 (revocation or modification of neighbourhood development orders) is amended in accordance with subsections (2) and (3).
- (2) After subsection (4) insert—
 - “(4A) A local planning authority may at any time by order modify a neighbourhood development order they have made if they consider that the modification does not materially affect any planning permission granted by the order.”
- (3) In subsection (5)—
 - (a) for “that order” substitute “the neighbourhood development order mentioned in subsection (4) or (4A)”, and
 - (b) after “(4)” insert “or (4A)”.
- (4) The Planning and Compulsory Purchase Act 2004 is amended in accordance with subsections (5) to (10).
- (5) In section 38A (meaning of “neighbourhood development plan”) after subsection (11) insert—
 - “(11A) Subsection (11) is subject to Schedule A2, which makes provision for the modification of a neighbourhood development plan.”
- (6) Section 38C (neighbourhood development plans: supplementary provisions) is amended in accordance with subsections (7) to (9).
- (7) After subsection (2) insert—
 - “(2A) Section 61F of the principal Act is to apply in accordance with subsection (2) of this section as if—
 - (a) subsections (8)(a) and (8B) also referred to a proposal for the modification of a neighbourhood development plan,
 - (b) subsection (13)(b) also referred to a proposal for the modification of a neighbourhood development plan made by a neighbourhood forum, and
 - (c) subsection (13)(c) also referred to any duty of a local planning authority under paragraph 7, 8 or 9 of Schedule A2 to this Act.”
- (8) In subsection (3)—
 - (a) the words from “the words” to the end of the subsection become paragraph (a), and
 - (b) at the end of that paragraph insert “, and
 - (b) the reference in subsection (4A) to a modification materially affecting any planning permission granted by the order were to a modification materially affecting the policies in the plan.”
- (9) In subsection (6)—
 - (a) the words from “on proposals” to the end of the subsection become paragraph (a), and
 - (b) at the end of that paragraph insert “, or

- (b) on proposals for the modification of neighbourhood development plans, or on modifications of neighbourhood development plans, that have already been made.”

(10) After Schedule A1 insert the Schedule A2 set out in Schedule 1 to this Act.

5 Changes to neighbourhood areas etc

(1) The Town and Country Planning Act 1990 is amended in accordance with subsections (2) to (4).

(2) In section 61F (authorisation to act in relation to neighbourhood areas) after subsection (8) insert—

“(8A) A designation ceases to have effect if—

- (a) a new parish council is created or there is a change in the area of a parish council, and
- (b) as a result, the neighbourhood area for which the neighbourhood forum is designated consists of or includes the whole or any part of the area of the parish council.

(8B) The operation of subsection (8A) does not affect the validity of any proposal for a neighbourhood development order made before the event mentioned in paragraph (a) of that subsection took place.”

(3) In section 61G (meaning of “neighbourhood area”) after subsection (6) insert—

“(6A) The power in subsection (6) to modify designations already made includes power—

- (a) to change the boundary of an existing neighbourhood area,
- (b) to replace an existing neighbourhood area with two or more separate neighbourhood areas, and
- (c) to replace two or more existing neighbourhood areas with a single neighbourhood area.

(6B) A neighbourhood area created by virtue of subsection (6A)(b) may have the boundary created by splitting it from the existing area or a different boundary.

(6C) A neighbourhood area created by virtue of subsection (6A)(c) may have the boundary created by combining the existing areas or a different boundary.

(6D) A modification under subsection (6) of a designation already made does not affect the continuation in force of a neighbourhood development order even though as a result of the modification—

- (a) it no longer relates to a neighbourhood area, or
- (b) it relates to more than one neighbourhood area.”

(4) In section 61J (provision that may be made by neighbourhood development order) after subsection (5) insert—

“(5A) Subsection (5) is subject to section 61G(6D) (effect of modification of existing neighbourhood area).”

(5) The Planning and Compulsory Purchase Act 2004 is amended in accordance with subsections (6) to (8).

(6) In section 38A (meaning of “neighbourhood development plan”) after subsection (11A) (as inserted by section 4) insert—

“(11B) Subsection (11C) applies if, as a result of a modification of a neighbourhood area under section 61G(6) of the principal Act, a neighbourhood development plan relates to more than one neighbourhood area.

(11C) The replacement of the plan by a new plan in relation to one or some of those areas does not affect the continuation in force of the plan in relation to the other area or areas.”

(7) In section 38B (provision that may be made by neighbourhood development plans) after subsection (2) insert—

“(2A) Subsections (1)(c) and (2) are subject to section 61G(6D) of the principal Act (as applied by section 38C(5A) of this Act).”

(8) In section 38C (supplementary provisions) after subsection (5) insert—

“(5A) Section 61G(6D) of the principal Act is to apply in relation to neighbourhood development plans as if it also provided that a modification under section 61G(6) of that Act of a designation of a neighbourhood area does not affect the continuation in force of a neighbourhood development plan even though, as a result of the modification, more than one plan has effect for the same area.”

6 Assistance in connection with neighbourhood planning

(1) Section 18 of the Planning and Compulsory Purchase Act 2004 (statement of community involvement) is amended as follows.

(2) At the beginning of subsection (2A) insert “Subject to subsection (2B),”.

(3) After subsection (2A) insert—

“(2B) A statement of community involvement must set out the local planning authority’s policies for giving advice or assistance under—

- (a) paragraph 3 of Schedule 4B to the principal Act (advice or assistance on proposals for making of neighbourhood development orders), and
- (b) paragraph 3 of Schedule A2 to this Act (advice or assistance on proposals for modification of neighbourhood development plans).

(2C) The reference in subsection (2B)(a) to Schedule 4B to the principal Act includes that Schedule as applied by section 38A(3) of this Act (process for making neighbourhood development plans).

(2D) Subsection (2B) applies regardless of whether, at any given time—

- (a) an area within the area of the authority has been designated as a neighbourhood area, or
- (b) there is a qualifying body which is entitled to submit proposals to the authority for the making by the authority of a neighbourhood development order or a neighbourhood development plan.”

7 Engagement by examiners with qualifying bodies etc

In Schedule 4B to the Town and Country Planning Act 1990 (process for making neighbourhood development orders), in paragraph 11 (regulations about independent examinations) after sub-paragraph (2) insert—

- “(3) The regulations may in particular impose duties on an examiner which are to be complied with by the examiner in considering the draft order under paragraph 8 and which require the examiner—
- (a) to provide prescribed information to each person within sub-paragraph (4);
 - (b) to publish a draft report containing the recommendations which the examiner is minded to make in the examiner’s report under paragraph 10;
 - (c) to invite each person within sub-paragraph (4) or representatives of such a person to one or more meetings at a prescribed stage or prescribed stages of the examination process;
 - (d) to hold a meeting following the issuing of such invitations if such a person requests the examiner to do so.
- (4) Those persons are—
- (a) the qualifying body,
 - (b) the local planning authority, and
 - (c) such other persons as may be prescribed.
- (5) Where the regulations make provision by virtue of sub-paragraph (3)(c) or (d), they may make further provision about—
- (a) the procedure for a meeting;
 - (b) the matters to be discussed at a meeting.”