



# 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.”

### *Local development documents*

## 8 Content of development plan documents

- (1) In section 19 of the Planning and Compulsory Purchase Act 2004 (preparation of local development documents) after subsection (1A) insert—

“(1B) Each local planning authority must identify the strategic priorities for the development and use of land in the authority’s area.

(1C) Policies to address those priorities must be set out in the local planning authority’s development plan documents (taken as a whole).

(1D) Subsection (1C) does not apply in the case of a London borough council or a Mayoral development corporation if and to the extent that the council or corporation are satisfied that policies to address those priorities are set out in the spatial development strategy.

(1E) If a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the authority’s area, subsection (1D) also applies in relation to—



- (a) a local planning authority whose area is within, or the same as, the area of the combined authority, and
  - (b) the spatial development strategy published by the combined authority.”
- (2) In section 34 of that Act (guidance)—
  - (a) the existing words become subsection (1), and
  - (b) after that subsection insert—
    - “(2) The Secretary of State must issue guidance for local planning authorities on how their local development documents (taken as a whole) should address housing needs that result from old age or disability.”
- (3) In section 35 of that Act (local planning authorities’ monitoring reports) after subsection (3) insert—
  - “(3A) Subsection (3B) applies if a London borough council or a Mayoral development corporation have determined in accordance with section 19(1D) that—
    - (a) policies to address the strategic priorities for the development and use of land in their area are set out in the spatial development strategy, and
    - (b) accordingly, such policies will not to that extent be set out in their development plan documents.
  - (3B) Each report by the council or corporation under subsection (2) must—
    - (a) indicate that such policies are set out in the spatial development strategy, and
    - (b) specify where in the strategy those policies are set out.
  - (3C) If a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the authority’s area, subsections (3A) and (3B) also apply in relation to—
    - (a) a local planning authority whose area is within, or the same as, the area of the combined authority, and
    - (b) the spatial development strategy published by the combined authority.”

## **9 Power to direct preparation of joint development plan documents**

- (1) The Planning and Compulsory Purchase Act 2004 is amended as follows.
- (2) After section 28 insert—

### **“28A Power to direct preparation of joint development plan documents**

- (1) The Secretary of State may direct two or more local planning authorities to prepare a joint development plan document.
- (2) The Secretary of State may give a direction under this section in relation to a document whether or not it is specified in the local development schemes

of the local planning authorities in question as a document which is to be prepared jointly with one or more other local planning authorities.

- (3) The Secretary of State may give a direction under this section only if the Secretary of State considers that to do so will facilitate the more effective planning of the development and use of land in the area of one or more of the local planning authorities in question.
- (4) A direction under this section may specify—
  - (a) the area to be covered by the joint development plan document to which the direction relates;
  - (b) the matters to be covered by that document;
  - (c) the timetable for preparation of that document.
- (5) The Secretary of State must, when giving a direction under this section, notify the local planning authorities to which it applies of the reasons for giving it.
- (6) If the Secretary of State gives a direction under this section, the Secretary of State may direct the local planning authorities to which it is given to amend their local development schemes so that they cover the joint development plan document to which it relates.
- (7) A joint development plan document is a development plan document which is, or is required to be, prepared jointly by two or more local planning authorities pursuant to a direction under this section.

### **28B Application of Part to joint development plan documents**

- (1) This Part applies for the purposes of any step which may be or is required to be taken in relation to a joint development plan document as it applies for the purposes of any step which may be or is required to be taken in relation to a development plan document.
- (2) For the purposes of subsection (1) anything which must be done by or in relation to a local planning authority in connection with a development plan document must be done by or in relation to each of the authorities mentioned in section 28A(1) in connection with a joint development plan document.
- (3) If the authorities mentioned in section 28A(1) include a London borough council or a Mayoral development corporation, the requirements of this Part in relation to the spatial development strategy also apply.
- (4) Those requirements also apply if—
  - (a) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 has the function of preparing the spatial development strategy for the combined authority's area, and
  - (b) the authorities mentioned in section 28A(1) include a local planning authority whose area is within, or is the same as, the area of the combined authority.

### **28C Modification or withdrawal of direction under section 28A**

- (1) The Secretary of State may modify or withdraw a direction under section 28A by notice in writing to the authorities to which it was given.
  - (2) The Secretary of State must, when modifying or withdrawing a direction under section 28A, notify the local planning authorities to which it was given of the reasons for the modification or withdrawal.
  - (3) The following provisions of this section apply if—
    - (a) the Secretary of State withdraws a direction under section 28A, or
    - (b) the Secretary of State modifies a direction under that section so that it ceases to apply to one or more of the local planning authorities to which it was given.
  - (4) Any step taken in relation to the joint development plan document to which the direction related is to be treated as a step taken by—
    - (a) a local planning authority to which the direction applied for the purposes of any corresponding document prepared by them, or
    - (b) two or more local planning authorities to which the direction applied for the purposes of any corresponding joint development plan document prepared by them.
  - (5) Any independent examination of a joint development plan document to which the direction related must be suspended.
  - (6) If before the end of the period prescribed for the purposes of this subsection a local planning authority to which the direction applied request the Secretary of State to do so, the Secretary of State may direct that—
    - (a) the examination is resumed in relation to—
      - (i) any corresponding document prepared by a local planning authority to which the direction applied, or
      - (ii) any corresponding joint development plan document prepared by two or more local planning authorities to which the direction applied, and
    - (b) any step taken for the purposes of the suspended examination has effect for the purposes of the resumed examination.
  - (7) The Secretary of State may by regulations make provision as to what is a corresponding document or a corresponding joint development plan document for the purposes of this section.”
- (3) In section 21 (intervention by Secretary of State) after subsection (11) insert—
- “(12) In the case of a joint local development document or a joint development plan document, the Secretary of State may apportion liability for the expenditure on such basis as the Secretary of State thinks just between the local planning authorities who have prepared the document.”
- (4) In section 27 (Secretary of State’s default powers) after subsection (9) insert—
- “(10) In the case of a joint local development document or a joint development plan document, the Secretary of State may apportion liability for the expenditure

on such basis as the Secretary of State thinks just between the local planning authorities for whom the document has been prepared.”

- (5) Section 28 (joint local development documents) is amended in accordance with subsections (6) and (7).
- (6) In subsection (9) for paragraph (a) substitute—
- “(a) the examination is resumed in relation to—
- (i) any corresponding document prepared by an authority which were a party to the agreement, or
- (ii) any corresponding joint local development document prepared by two or more other authorities which were parties to the agreement;”.
- (7) In subsection (11) (meaning of “corresponding document”) at the end insert “or a corresponding joint local development document for the purposes of this section.
- (8) In section 37 (interpretation) after subsection (5B) insert—
- “(5C) Joint local development document must be construed in accordance with section 28(10).
- (5D) Joint development plan document must be construed in accordance with section 28A(7).”
- (9) Schedule A1 (default powers exercisable by Mayor of London, combined authority and county council) is amended in accordance with subsections (10) and (11).
- (10) In paragraph 3 (powers exercised by the Mayor of London) after sub-paragraph (3) insert—
- “(4) In the case of a joint local development document or a joint development plan document, the Mayor may apportion liability for the expenditure on such basis as the Mayor thinks just between the councils for whom the document has been prepared.”
- (11) In paragraph 7 (powers exercised by combined authority) after sub-paragraph (3) insert—
- “(4) In the case of a joint local development document or a joint development plan document, the combined authority may apportion liability for the expenditure on such basis as the authority considers just between the authorities for whom the document has been prepared.”

## **10 County councils’ default powers in relation to development plan documents**

Schedule 2 makes provision for the exercise of default powers by county councils in relation to development plan documents.

## **11 Format of local development schemes and documents**

- (1) Section 36 of the Planning and Compulsory Purchase Act 2004 (regulations under Part 2) is amended in accordance with subsections (2) and (3).
- (2) In the heading after “Regulations” insert “and standards”.

(3) After subsection (2) insert—

“(3) The Secretary of State may from time to time publish data standards for—

- (a) local development schemes,
- (b) local development documents, or
- (c) local development documents of a particular kind.

(4) For this purpose a “data standard” is a written standard which contains technical specifications for a scheme or document or the data contained in a scheme or document.

(5) A local planning authority must comply with the data standards published under subsection (3) in preparing, publishing, maintaining or revising a scheme or document to which the standards apply.”

(4) In section 15(8AA) of that Act (cases in which direction to revise local development scheme may be given by Secretary of State or Mayor of London)—

- (a) after “only if” insert “—(a)”, and
- (b) at the end of paragraph (a) insert “, or  
(b) the Secretary of State has published data standards under section 36(3) which apply to the local development scheme and the person giving the direction thinks that the scheme should be revised so that it complies with the standards.”

## **12 Review of local development documents**

In section 17 of the Planning and Compulsory Purchase Act 2004 (local development documents) after subsection (6) insert—

“(6A) The Secretary of State may by regulations make provision requiring a local planning authority to review a local development document at such times as may be prescribed.

(6B) If regulations under subsection (6A) require a local planning authority to review a local development document—

- (a) they must consider whether to revise the document following each review, and
- (b) if they decide not to do so, they must publish their reasons for considering that no revisions are necessary.

(6C) Any duty imposed by virtue of subsection (6A) applies in addition to the duty in subsection (6).”

## **13 Statements of community involvement**

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

(2) In subsection (2) after “sections” insert “13, 15,”.

(3) After subsection (3A) insert—

“(3B) The Secretary of State may by regulations prescribe matters to be addressed by a statement of community involvement in addition to the matters mentioned in subsection (2).”

*Planning conditions*

**14 Restrictions on power to impose planning conditions**

(1) After section 100 of the Town and Country Planning Act 1990 insert—

*“Power to impose conditions on grant of planning permission in England*

**100ZA Restrictions on power to impose planning conditions in England**

- (1) The Secretary of State may by regulations provide that—
  - (a) conditions of a prescribed description may not be imposed in any circumstances on a relevant grant of planning permission for the development of land in England,
  - (b) conditions of a prescribed description may be imposed on any such grant only in circumstances of a prescribed description, or
  - (c) no conditions may be imposed on any such grant in circumstances of a prescribed description.
- (2) Regulations under subsection (1) may make provision only if (and in so far as) the Secretary of State is satisfied that the provision is appropriate for the purposes of ensuring that any condition imposed on a relevant grant of planning permission for the development of land in England is—
  - (a) necessary to make the development acceptable in planning terms,
  - (b) relevant to the development and to planning considerations generally,
  - (c) sufficiently precise to make it capable of being complied with and enforced, and
  - (d) reasonable in all other respects.
- (3) Before making regulations under subsection (1) the Secretary of State must carry out a public consultation.
- (4) Subsection (5) applies in relation to an application for a relevant grant of planning permission for the development of land in England.
- (5) Planning permission for the development of the land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition.
- (6) But the requirement under subsection (5) for the applicant to agree to the terms of a pre-commencement condition does not apply in such circumstances as may be prescribed.
- (7) Before making regulations under subsection (6) the Secretary of State must carry out a public consultation.

- (8) “Pre-commencement condition” means a condition imposed on a grant of planning permission (other than a grant of outline planning permission within the meaning of section 92) which must be complied with—
- (a) before any building or other operation comprised in the development is begun, or
  - (b) where the development consists of a material change in the use of any buildings or other land, before the change of use is begun.
- (9) A power conferred by any provision of this Part to impose a condition on a relevant grant of planning permission for the development of land in England is subject to—
- (a) regulations under subsection (1), and
  - (b) subsection (5).
- (10) The Secretary of State must issue guidance to local planning authorities about the operation of this section and regulations made under it.
- (11) The Secretary of State may, from time to time, revise guidance issued under subsection (10).
- (12) The Secretary of State must arrange for guidance issued or revised under this section to be published in such manner as the Secretary of State considers appropriate.
- (13) In this section—
- (a) references to a relevant grant of planning permission are to any grant of permission to develop land which is granted on an application made under this Part;
  - (b) references to a grant include the modification of any such grant;
  - (c) references to a condition include a limitation,
- and “prescribed” means prescribed by the Secretary of State.”
- (2) In section 333 of the Town and Country Planning Act 1990 (regulations and orders) after subsection (3ZA) insert—
- “(3ZAA) No regulations may be made under section 100ZA(1) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”
- (3) Section 100ZA of the Town and Country Planning Act 1990 (as inserted by subsection (1) of this section) has effect in relation to conditions on a grant or modification of planning permission only if the permission is granted or modified on or after the coming into force of this section.
- (4) Schedule 3 contains amendments in consequence of subsection (1).

*Permitted development rights relating to drinking establishments*

**15 Permitted development rights relating to drinking establishments**

- (1) As soon as reasonably practicable after the coming into force of this section, the Secretary of State must make a development order under the Town and Country Planning Act 1990 which—

- (a) removes any planning permission which is granted by a development order for development consisting of a change in the use of any building or land in England from a use within Class A4 to a use of a kind specified in the order (subject to paragraph (c)),
  - (b) removes any planning permission which is granted by a development order for a building operation consisting of the demolition of a building in England which is used, or was last used, for a purpose within Class A4 or for a purpose including use within that class, and
  - (c) grants planning permission for development consisting of a change in the use of a building in England and any land within its curtilage from a use within Class A4 to a mixed use consisting of a use within that Class and a use within Class A3.
- (2) Subsection (1) does not require the development order to remove planning permission for development which has been carried out before the coming into force of the order.
- (3) Subsection (1) does not prevent—
- (a) the inclusion of transitional, transitory or saving provision in the development order, or
  - (b) the subsequent exercise of the Secretary of State’s powers by development order to grant, remove or otherwise make provision about planning permission for the development of buildings or land used, or last used, for a purpose within Class A4 or for a purpose including use within that class.
- (4) A reference in this section to Class A3 or Class A4 is to the class of use of that name listed in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (SI 1987/764).
- (5) Expressions used in this section that are defined in the Town and Country Planning Act 1990 have the same meaning as in that Act.

*Development of new towns by local authorities*

**16 Development of new towns by local authorities**

- (1) The New Towns Act 1981 is amended as follows.
- (2) After section 1 insert—

**“1A Local authority to oversee development of new town**

- (1) This section applies where the Secretary of State is considering designating an area of land in England as the site of a proposed new town in an order under section 1.
- (2) The Secretary of State may, in an order under section 1, appoint one or more local authorities to oversee the development of the area as a new town.
- (3) But a local authority may only be appointed if the area of land mentioned in subsection (1) is wholly or partly within the area of the local authority.
- (4) The Secretary of State may by regulations make provision about how a local authority is to oversee the development of an area as a new town.



---

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

---

- (5) Regulations under subsection (4) may, for example—
- (a) provide that a local authority is to exercise specified functions under this Act which would otherwise be exercisable by the Secretary of State, the appropriate Minister or the Treasury;
  - (b) provide that a local authority is to exercise such functions subject to specified conditions or limitations;
  - (c) provide that specified functions under this Act may be exercised only with the consent of a local authority;
  - (d) make provision about the membership of a corporation established under section 3, including the proportion of the members of the corporation who may be members of or employed by a local authority;
  - (e) modify provisions of this Act;
  - (f) make different provision for different purposes;
  - (g) make incidental, supplementary or consequential provision.
- (6) In subsection (5)(a) the reference to “functions” does not include a power to make regulations or other instruments of a legislative character.
- (7) Where two or more local authorities are appointed in an order containing provision by virtue of subsection (2), the Secretary of State may in that order provide—
- (a) that a specified function is to be exercised by a specified local authority, or
  - (b) that a specified function is to be exercised by two or more specified local authorities jointly.
- (8) In this section—
- “local authority” means—
    - (a) a district council,
    - (b) a county council, or
    - (c) a London borough council;
  - “specified” means specified in—
    - (a) an order containing provision by virtue of subsection (2), or
    - (b) regulations under subsection (4).”
- (3) In section 77 (regulations and orders)—
- (a) in subsection (2), after “which” insert “, subject to subsection (2A),”, and
  - (b) after subsection (2) insert—
    - “(2A) A statutory instrument containing regulations under section 1A(4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

### *Planning register*

## **17 Register of planning applications etc**

After section 69 of the Town and Country Planning Act 1990 insert—

**“69A The register: additional requirements in relation to England**

- (1) A register kept under section 69 by a local planning authority in England must (in addition to the information prescribed under that section) also contain such information as is prescribed as to—
  - (a) prior approval applications made in connection with planning permission granted by a development order;
  - (b) the manner in which such applications have been dealt with by the authority;
  - (c) notifications of proposed development made in connection with planning permission granted by a development order;
  - (d) any actions taken by the authority following such notifications.
- (2) A “prior approval application”, in connection with planning permission granted by a development order, means an application made to a local planning authority for—
  - (a) any approval of the authority required under the order, or
  - (b) a determination from the authority as to whether such approval is required.
- (3) A “notification of proposed development”, in connection with planning permission granted by a development order, means a notification made to a local planning authority to meet a requirement under the order.
- (4) The power in subsection (1)(b) to prescribe information as to the manner in which applications have been dealt with by a local planning authority includes power to prescribe information as to cases where the authority does not respond to an application.
- (5) Where the register is kept in two or more parts, each part must contain such information as is prescribed relating to the matters mentioned in subsection (1) (a) and (c).
- (6) A development order may also make provision—
  - (a) for a specified part of the register to contain copies of applications or notifications and of any documents or material submitted with them;
  - (b) for the entry relating to an application (and everything relating to it) to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of;
  - (c) for the entry relating to a notification (and everything relating to it) to be removed from that part of the register in such circumstances as may be prescribed.
- (7) Provision under subsection (6)(b) or (c) does not prevent the inclusion of a different entry relating to the application or notification in another part of the register.
- (8) Anything prescribed under this section must be prescribed by development order.
- (9) A development order—
  - (a) may make different provision for different kinds of application or notification;

- (b) may make provision which applies generally or only in relation to particular kinds of notification or application.”