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Town and Country Planning Act 1990

1990 CHAPTER 8

PART II

DEVELOPMENT PLANS

CHAPTER II

STRUCTURE AND LOCAL PLANS: NON-METROPOLITAN AREAS

Modifications etc. (not altering text)

- C1** Pt. II Chapter II (ss. 29-54): certain functions transferred to the Council of the Isles (Isles of Scilly) (27.7.1992) by S.I. 1992/1620, **art. 3** (with arts. 4(b), 5(2), Sch. Pt. II)
Pt. II Ch. II (ss. 29-54): applied (with modifications) (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. III para. 13(3)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**
Pt. II Ch. II (ss. 29-54): power to apply conferred (19.9.1995) by 1995 c. 25, **ss. 67(2)(b)(4)**, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 6)

Preliminary

29 Application of Chapter II to non-metropolitan areas.

Subject to the transitional provisions in Schedule 2, this Chapter applies only to the area of any local planning authority outside Greater London and the metropolitan counties and to any part of a National Park in such a county.

Surveys, etc.

30 Survey of planning areas.

- (1) The local planning authority—

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- (a) shall keep under review the matters which may be expected to affect the development of their area or the planning of its development; and
 - (b) may, if they think fit, at any time institute a fresh survey of their area examining those matters.
- (2) Without prejudice to the generality of subsection (1), the matters to be kept under review and examined under that subsection shall include—
- (a) the principal physical and economic characteristics of the area of the authority (including the principal purposes for which land is used) and, so far as they may be expected to affect that area, of any neighbouring areas;
 - (b) the size, composition and distribution of the population of that area (whether resident or otherwise);
 - (c) without prejudice to paragraph (a), the communications, transport system and traffic of that area and, so far as they may be expected to affect that area, of any neighbouring areas;
 - (d) any considerations not mentioned in paragraph (a), (b) or (c) which may be expected to affect any matters so mentioned;
 - (e) such other matters as may be prescribed or as the Secretary of State may in any particular case direct;
 - (f) any changes already projected in any of the matters mentioned in any of the previous paragraphs and the effect which those changes are likely to have on the development of that area or the planning of such development.
- (3) A survey under subsection (1)(b) may relate to only part of the area of an authority; and references in subsection (2) to the area of an authority or any neighbouring areas shall be construed accordingly.
- (4) A local planning authority shall, for the purpose of discharging their functions under this section of examining and keeping under review any matters relating to the area of another such authority, consult with that other authority about those matters.

Structure plans

31 Structure plans: continuity, form and content.

- (1) Each structure plan approved by the Secretary of State under the 1971 Act with respect to the area of a local planning authority which is in operation immediately before the commencement of this Act shall continue in force after its commencement (subject to any alterations then in operation and to the following provisions of this Part).
- (2) The structure plan for any area shall be a written statement—
 - (a) formulating the local planning authority's policy and general proposals in respect of the development and other use of land in that area (including measures for the improvement of the physical environment and the management of traffic); and
 - (b) containing such other matters as may be prescribed or as the Secretary of State may in any particular case direct.
- (3) The written statement shall be illustrated by such diagram or diagrams as may be prescribed, which shall be treated as forming part of the plan.

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- (4) In formulating their policy and general proposals under subsection (2), the local planning authority shall secure that the policy and proposals are justified by the results of their survey under section 6 of the 1971 Act or any fresh survey instituted by them under section 30 and by any other information which they may obtain and shall have regard—
- (a) to current policies with respect to the economic planning and development of the region as a whole;
 - (b) to the resources likely to be available for the carrying out of the proposals of the structure plan; and
 - (c) to such other matters as the Secretary of State may direct them to take into account.
- (5) Where under section 7(7) of the 1971 Act the Secretary of State gave a consent or direction for the preparation of a structure plan for part of the area of a local planning authority, references in this Part of this Act to the area of the authority shall, in relation to a structure plan, be construed as including references to part of that area.

32 Alteration and replacement of structure plans.

- (1) A local planning authority may at any time submit to the Secretary of State and shall, if so directed by him, submit to him within a period specified in the direction, proposals for such alterations to the structure plan for their area as appear to them to be expedient or, as the case may be, as the Secretary of State may direct.
- (2) Such proposals may relate to the whole or part of the area to which the plan relates.
- (3) A local planning authority may at any time submit proposals for the repeal and replacement of the structure plan for their area to the Secretary of State.
- (4) An authority submitting a proposal under subsection (3) for the repeal and replacement of a structure plan shall at the same time submit to the Secretary of State the structure plan with which they propose that it shall be replaced.
- (5) Proposals under subsection (1) or (3) shall be accompanied by an explanatory memorandum summarising—
- (a) in the case of proposals under subsection (1), the reasons which in the opinion of the local planning authority justify the alterations which they are proposing; and
 - (b) in the case of proposals under subsection (3), the reasons which in their opinion justify the repeal and replacement of the structure plan.
- (6) The explanatory memorandum shall also state the relationship of the proposals to general proposals for the development and other use of land in neighbouring areas which may be expected to affect the area to which the proposals relate.
- (7) The explanatory memorandum—
- (a) shall also contain any information on which the proposals are based; and
 - (b) may contain such illustrative material as the local planning authority think appropriate.

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33 Publicity in connection with proposals for alteration or replacement of structure plans.

- (1) When preparing proposals for the alteration or repeal and replacement of a structure plan for their area and before finally determining their content for submission to the Secretary of State, the local planning authority shall take such steps as will in their opinion secure—
 - (a) that adequate publicity is given in their area to the matters which they propose to include in the proposals and to the proposed content of the explanatory memorandum relating to each such matter;
 - (b) that persons who may be expected to desire an opportunity of making representations to the authority with respect to those matters are made aware that they are entitled to an opportunity of doing so; and
 - (c) that such persons are given an adequate opportunity of making such representations.
- (2) The authority shall consider any representations made to them within the prescribed period.
- (3) Not later than the submission of proposals to the Secretary of State, the local planning authority shall make copies of the proposals as submitted to the Secretary of State and of the explanatory memorandum available for inspection at their office and at such other places as may be prescribed.
- (4) Each copy of the proposals and of the explanatory memorandum shall be accompanied by a statement of the time within which objections to the proposals may be made to the Secretary of State.
- (5) Proposals submitted by the local planning authority to the Secretary of State for his approval shall be accompanied by a statement containing such particulars, if any, as may be prescribed—
 - (a) of the steps which the authority have taken to comply with subsections (1) and (2); and
 - (b) of the authority's consultations with, and consideration of the views of, other persons with respect to those matters.
- (6) If after considering the statement submitted with, and the matters included in, the proposals and any other information provided by the local planning authority, the Secretary of State is satisfied that the purposes of paragraphs (a) to (c) of subsection (1) have been adequately achieved by the steps taken by the authority in compliance with that subsection, he shall proceed to consider whether to approve the proposals.
- (7) If the Secretary of State is not satisfied as mentioned in subsection (6), he shall return the proposals to the authority and direct them—
 - (a) to take such further action as he may specify in order better to achieve those purposes; and
 - (b) after doing so, to resubmit the proposals with such modifications, if any, as they then consider appropriate and, if so required by the direction, to do so within a specified period.
- (8) Where the Secretary of State returns the proposals to the local planning authority under subsection (7), he shall—
 - (a) inform the authority of his reasons for doing so, and

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- (b) if any person has made an objection to the proposals to him, also inform that person that he has returned the proposals.
- (9) A local planning authority who are given directions under subsection (7) shall immediately withdraw the copies of the proposals made available for inspection as required by subsection (3).
- (10) Subsections (3) to (9) shall apply, with the necessary modifications, in relation to proposals resubmitted to the Secretary of State in accordance with directions given under subsection (7) as they apply in relation to the proposals as originally submitted.

34 Withdrawal of proposals for alteration and replacement of structure plans.

- (1) Proposals for the alteration or repeal and replacement of a structure plan submitted to the Secretary of State for his approval may be withdrawn by the local planning authority submitting them by a notice given to the Secretary of State at any time before he has approved them.
- (2) Proposals which are so withdrawn shall be treated as never having been submitted.
- (3) On the withdrawal of such proposals, the authority preparing them shall also withdraw the copies of the proposals which they have made available for inspection in accordance with section 33(3), and shall give notice that the proposals have been withdrawn to every person who has made an objection to them.
- (4) In determining the steps to be taken by them to secure the purposes of paragraphs (a) to (c) of section 33(1), the local planning authority preparing such proposals may take into account any steps taken to secure those purposes in connection with any other such proposals which either were not submitted to the Secretary of State for his approval or were so submitted and then withdrawn.
- (5) The authority submitting for approval by the Secretary of State proposals in the case of which they have taken any steps into account by virtue of subsection (4) shall give particulars of those steps in their statement to him under subsection (5) of section 33 and the Secretary of State may treat the steps as having been taken by them in connection with those proposals in determining under subsection (6) of that section whether he is satisfied as there mentioned.

35 Approval or rejection of proposals for alteration or replacement of structure plans.

- (1) The Secretary of State may, after considering proposals for the alteration or repeal and replacement of a structure plan submitted (or resubmitted) to him, either approve them (in whole or in part and with or without modifications or reservations) or reject them.
- (2) In considering any such proposals the Secretary of State may take into account any matters which he thinks are relevant, whether or not they were taken into account in the proposals as submitted to him.
- (3) Where on taking any such proposals into consideration the Secretary of State does not determine then to reject them, he shall before determining whether or not to approve them—
 - (a) consider any objections to the proposals, so far as they are made in accordance with regulations under this Chapter, and

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- (b) subject to subsection (4), cause a person or persons appointed by him for the purpose to hold an examination in public of such matters affecting his consideration of the proposals as he considers ought to be so examined.
- (4) If it appears to the Secretary of State, on consideration of the proposals, that no matters which require an examination in public arise from them or from any structure plan submitted with them under section 32(4), no such examination need be held.
- [^{F1}(5) The Secretary of State may, after consultation with the Lord Chancellor, make regulations with respect to the procedure to be followed at any examination under subsection (3)(b).]
- (6) The Secretary of State need not secure to any local planning authority or other person a right to be heard at any such examination and, subject to subsection (7), only such bodies and persons as he may before or during the course of the examination invite to do so may take part in it.
- (7) The person or persons holding the examination may before or during the course of the examination invite additional bodies or persons to take part in it if it appears to him or them desirable to do so.
- (8) An examination under subsection (3)(b) shall constitute a statutory inquiry for the purposes of section 1(1)(c) of the ^{M1}Tribunals and Inquiries Act 1971 but shall not constitute such an inquiry for any other purpose of that Act.
- (9) On considering any proposals the Secretary of State may (but need not) consult with or consider the views of any local planning authority or other person.
- (10) On exercising his powers under subsection (1) in relation to any proposals, the Secretary of State shall give such statement as he considers appropriate of the reasons governing his decision.

Textual Amendments

F1 S. 35(5) omitted (*temp.*) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, 2

Marginal Citations

M1 1971 c. 62.

VALID FROM 25/11/1991

35A ^{F2}Calling in of proposals for approval by Secretary of State.

- (1) The Secretary of State may, at any time before the local planning authority have adopted proposals for the alteration or replacement of a structure plan, direct that all or any part of the proposals shall be submitted to him for his approval.
- (2) If he gives such a direction—
- (a) the local planning authority shall not take any further steps for the adoption of any of the proposals until the Secretary of State has given his decision on the proposals or the relevant part of the proposals; and

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- (b) the proposals or the relevant part of the proposals shall not have effect unless approved by him and shall not require adoption by the authority under section 35.
- (3) Subsection (2)(a) applies in particular to holding or proceeding with an examination in public under section 35B(1).
- (4) The Secretary of State may, after considering proposals submitted to him in compliance with a direction under subsection (1)—
 - (a) approve them, in whole or in part and with or without modifications or reservations; or
 - (b) reject them.
- (5) In considering proposals so submitted to him the Secretary of State—
 - (a) shall take into account any objections made in accordance with the regulations; and
 - (b) may take into account any matters which he thinks relevant, whether or not they were taken into account in preparing the proposals.
- (6) For the purpose of taking into account any objection or matter, the Secretary of State may, but need not, consult with any local planning authority or other person.
- (7) The Secretary of State shall give the authority such statement as he considers appropriate of the reasons governing his decision on any proposals submitted to him.
- (8) Subject to section 287, proposals approved by the Secretary of State under this section shall become operative on such day as he may appoint.

Textual Amendments

- F2** Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

VALID FROM 25/11/1991

F335B Examination in public.

- (1) Before adopting proposals for the alteration or replacement of a structure plan, the local planning authority shall, unless the Secretary of State otherwise directs, cause an examination in public to be held of such matters affecting the consideration of the proposals as—
 - (a) they consider ought to be so examined; or
 - (b) the Secretary of State directs.
- (2) Where proposals are submitted to the Secretary of State in compliance with a direction under section 35A(1), he may cause an examination in public to be held of any matter specified by him.
- (3) An examination in public shall be conducted by a person or persons appointed by the Secretary of State for the purpose.

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- (4) No person shall have a right to be heard at an examination in public.
- (5) The following may take part in an examination in public—
 - (a) in the case of an examination held under subsection (1), the local planning authority; and
 - (b) in any case, any person invited to do so by the person or persons holding the examination or the person causing the examination to be held.
- (6) The Secretary of State may, after consultation with the Lord Chancellor, make regulations with respect to the procedure to be followed at any examination in public.
- (7) An examination in public shall constitute a statutory inquiry for the purposes of section 1(1)(c) of the ^{M2}Tribunals and Inquiries Act 1971 but shall not constitute such an inquiry for any other purpose of that Act.

Textual Amendments

F3 Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by *Planning and Compensation Act 1991 (c. 34, SIF 123:1)*, s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); *S.I. 1991/2728, art.2*; *S.I. 1991/2905, art.4*

Marginal Citations

M2 1971 c. 62.

VALID FROM 25/11/1991

35C ^{F4}Duties to notify authorities responsible for local plans

- (1) An authority responsible for a structure plan shall, where any proposals of theirs for the alteration or replacement of a structure plan are adopted or approved—
 - (a) notify any authority responsible for a local plan in their area that the proposals have been adopted or approved; and
 - (b) supply that authority with a statement that the local plan is or, as the case may be, is not in general conformity with the altered or new structure plan.
- (2) A statement that a local plan is not in general conformity with a structure plan shall specify the respects in which it is not in such conformity.
- (3) An authority responsible for a structure plan shall, where any proposals of theirs for the alteration or replacement of a structure plan are withdrawn, notify any authority responsible for a local plan in their area that the proposals have been withdrawn.
- (4) Nothing in this section requires an authority to notify or supply a statement to themselves.
- (5) For the purposes of this section an authority shall be regarded as responsible—
 - (a) for a structure plan, if they are entitled to prepare proposals for its alteration or replacement; and
 - (b) for a local plan, if they are under a duty to prepare a local plan or are entitled to prepare proposals for its alteration or replacement.

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Textual Amendments

- F4** Ss. 32-40 substituted (25.11.1991 for certain purposes and otherwise 10.2.1992) for ss. 32-41 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, **Sch. 4 Pt. I para.17** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.4**

Local plans

36 Local plans.

- (1) A local plan shall consist of—
 - (a) a written statement formulating in such detail as the local planning authority think appropriate their proposals for the development and other use of land in their area, or for any description of development or other use of such land, including such measures as the authority think fit for the improvement of the physical environment and the management of traffic;
 - (b) a map showing those proposals; and
 - (c) such diagrams, illustrations or other descriptive matter as the authority think appropriate to explain or illustrate the proposals in the plan, or as may be prescribed.
- (2) Different local plans may be prepared for different purposes for the same area.
- (3) In formulating their proposals in a local plan the local planning authority shall have regard to any information and any other considerations which appear to them to be relevant or which may be prescribed or which the Secretary of State may in any particular case direct them to take into account.
- (4) A local planning authority may prepare a local plan for a part of their area (an “action area”) which they have selected for the commencement during a prescribed period of comprehensive treatment, by development, redevelopment or improvement of the whole or part of the area selected, or partly by one method and partly by another.
- (5) A local plan prepared for an action area shall indicate the nature of the treatment selected for the area.
- (6) For the purpose of discharging their functions with respect to local plans a district planning authority may, in so far as it appears to them necessary to do so having regard to any survey made by the county planning authority under section 6 of the 1971 Act or section 30, examine the matters mentioned in subsections (1) and (2) of section 30 so far as relevant to their area.
- (7) In preparing a local plan a local planning authority shall take into account the provisions of any scheme under paragraph 3 of Schedule 32 to the ^{M3}Local Government, Planning and Land Act 1980 relating to land in their area which has been designated under that Schedule as an enterprise zone.

Marginal Citations

- M3** 1980 c.65.

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37 Local plan schemes.

- (1) A local plan scheme for each county shall be maintained in accordance with this section setting out a programme for the making, alteration, repeal or replacement of local plans for areas in the county, except any part of the county included in a National Park.
- (2) The scheme shall, as regards each local plan for which it provides—
 - (a) specify the title and nature of the plan and the area to which it is to apply and give an indication of its scope,
 - (b) indicate where appropriate its relationship with the other local plans provided for by the scheme, and
 - (c) designate the local planning authority, whether county or district, responsible for the plan;
 and may contain any appropriate incidental, consequential, transitional and supplementary provisions.
- (3) The district planning authorities shall keep under review the need for, and adequacy of, local plans for their area and may make recommendations to the county planning authority for incorporation into the local plan scheme.
- (4) The county planning authority shall, in the light of the recommendations of the district planning authorities and in consultation with those authorities, make and then keep under review and from time to time amend the local plan scheme.
- (5) As soon as practicable after making or amending a local plan scheme the county planning authority shall send a copy of the scheme, or the scheme as amended, to the Secretary of State.
- (6) If a district planning authority make representations to the Secretary of State that they are dissatisfied with a local plan scheme, the Secretary of State may amend the scheme.
- (7) A local planning authority may prepare proposals for the making, alteration, repeal or replacement of a local plan—
 - (a) in any case, except in the case of proposals relating only to land in a National Park, only where authorised to do so by the local plan scheme, and
 - (b) in the case of proposals for the alteration, repeal or replacement of a local plan approved by the Secretary of State, only with the consent of the Secretary of State;
 but subject to any direction of the Secretary of State under section 38.

38 Power of Secretary of State to direct making of local plan, etc.

- (1) The Secretary of State may, after consulting a local planning authority, direct them to make, alter, repeal or replace a local plan with respect to their area or part of it.
- (2) A direction for the making, alteration or replacement of a local plan shall specify the nature of the plan or, as the case may be, the nature of the alteration required.
- (3) The authority shall comply with the direction as soon as possible.
- (4) The county planning authority shall make such amendments of the relevant local plan scheme as appear to them appropriate in consequence of the direction.

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39 Publicity and consultation: general.

- (1) A local planning authority who propose to make, alter, repeal or replace a local plan shall proceed in accordance with this section, unless section 40 applies.
- (2) They shall take such steps as will in their opinion secure—
 - (a) that adequate publicity is given to the proposals in the area to which the plan relates;
 - (b) that persons who may be expected to wish to make representations about the proposals are made aware that they are entitled to do so; and
 - (c) that such persons are given an adequate opportunity of making such representations.
- (3) They shall consider any representations made to them within the prescribed period.
- (4) They shall—
 - (a) consult the county planning authority or, as the case may be, the district planning authority with respect to their proposals;
 - (b) give that authority a reasonable opportunity to express their views; and
 - (c) take those views into consideration.
- (5) They shall then, having prepared the relevant documents, that is, the proposed plan, alterations, instrument of repeal or replacement plan, as the case may be, and having obtained any certificate required by section 46—
 - (a) make copies of the documents available for inspection at their office,
 - (b) send a copy of them to the Secretary of State, and
 - (c) send a copy of them to the district or county planning authority, as the case may require.
- (6) Each copy of the documents made available for inspection shall be accompanied by a statement of the time within which objections may be made.

40 Publicity and consultation: short procedure for certain alterations, etc.

- (1) Where a local planning authority propose to alter, repeal or replace a local plan and it appears to them that the issues involved are not of sufficient importance to warrant the full procedure set out in section 39, they may proceed instead in accordance with this section.
- (2) They shall prepare the relevant documents, that is, the proposed alterations, instrument of repeal or replacement plan, as the case may be, and, having obtained any certificate required by section 46, shall—
 - (a) make copies of the documents available for inspection at their office,
 - (b) send a copy of them to the Secretary of State, and
 - (c) send a copy of them to the county or district planning authority, as the case may require.
- (3) Each copy of the documents made available for inspection shall be accompanied by a statement of the time within which representations or objections may be made.
- (4) They shall then take such steps as may be prescribed for the purpose of—

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- (a) advertising the fact that the documents are available for inspection and the places and times at which, and period during which, they may be inspected, and
 - (b) inviting the making of representations or objections in accordance with regulations.
- (5) They shall consider any representations made to them within the prescribed period.

41 Powers of Secretary of State to secure adequate publicity and consultation.

- (1) The documents sent by the local planning authority to the Secretary of State under section 39 shall be accompanied by a statement—
- (a) of the steps which the authority have taken to comply with subsections (2) and (3) of that section, and
 - (b) of the authority's consultations with other persons and their consideration of the views of those persons.
- (2) The documents sent by the local planning authority to the Secretary of State under section 40 shall be accompanied by a statement of the steps which the authority are taking to comply with subsections (4) and (5) of that section.
- (3) If, on considering the statement and the proposals and any other information provided by the local planning authority, the Secretary of State is not satisfied with the steps taken by the authority, he may, within 21 days of the receipt of the statement, direct the authority not to take further steps for the adoption of the proposals without—
- (a) if they have proceeded in accordance with section 40, proceeding instead in accordance with section 39, or
 - (b) in any case, taking such further steps as he may specify, and satisfying him that they have done so.
- (4) A local planning authority who are given directions by the Secretary of State shall—
- (a) immediately withdraw the copies of the documents made available for inspection as required by section 39(5) or 40(2), and
 - (b) notify any person by whom objections to the proposals have been made to the authority that the Secretary of State has given such directions.

42 Objections: local inquiry or other hearing.

- (1) The local planning authority may cause a local inquiry or other hearing to be held for the purpose of considering objections to their proposals for the making, alteration, repeal or replacement of a local plan.
- (2) They shall hold such a local inquiry or other hearing in the case of objections made in accordance with regulations unless all the persons who have made such objections have indicated in writing that they do not wish to appear.
- (3) A local inquiry or other hearing shall be held by a person appointed by the Secretary of State or, in such cases as may be prescribed, by the authority themselves.
- (4) Regulations may—
- (a) make provision with respect to the appointment, and qualifications for appointment, of persons to hold a local inquiry or other hearing;

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- (b) include provision enabling the Secretary of State to direct a local planning authority to appoint a particular person, or one of a specified list or class of persons;
 - (c) make provision with respect to the remuneration and allowances of the person appointed.
- (5) Subsections (2) and (3) of section 250 of the ^{M4}Local Government Act 1972 (power to summon and examine witnesses) apply to an inquiry held under this section.
- (6) The ^{M5}Tribunals and Inquiries Act 1971 shall apply to a local inquiry or other hearing held under this section as it applies to a statutory inquiry held by the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by a local authority.

Marginal Citations

M4 1972 c. 70.

M5 1971 c. 62.

43 Adoption of proposals.

- (1) After the expiry of the period given for making objections to proposals for the making, alteration, repeal or replacement of a local plan or, if such objections were duly made within that period, after considering the objections so made, the local planning authority may, subject to this section and to section 44, by resolution adopt the proposals.
- (2) They may adopt the proposals as originally prepared or as modified so as to take account of—
- (a) any such objections as are mentioned in subsection (1) or any other objections to the proposals, or
 - (b) any other considerations which appear to the authority to be material.
- (3) The authority shall not adopt any proposals which do not conform generally to the structure plan.
- (4) After copies of the proposals have been sent to the Secretary of State and before they have been adopted by the local planning authority, the Secretary of State may, if it appears to him that the proposals are unsatisfactory, direct the authority to consider modifying the proposals in such respects as are indicated in the direction.
- (5) An authority to whom a direction is given shall not adopt the proposals unless they satisfy the Secretary of State that they have made the modifications necessary to conform with the direction or the direction is withdrawn.
- (6) Where an objection to the proposals has been made by the Minister of Agriculture, Fisheries and Food and the local planning authority do not propose to modify their proposals to take account of the objection—
- (a) the authority shall send particulars of the objection to the Secretary of State, together with a statement of their reasons for not modifying their proposals to take account of it, and

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- (b) they shall not adopt the proposals unless the Secretary of State authorises them to do so.

44 Calling in of proposals for approval by Secretary of State.

- (1) After copies of proposals have been sent to the Secretary of State and before they have been adopted by the local planning authority, the Secretary of State may direct that the proposals shall be submitted to him for his approval.
- (2) If he does give such a direction—
 - (a) the authority shall not take any further steps for the adoption of the proposals and in particular shall not hold or proceed with a local inquiry or other hearing in respect of the proposals under section 42; and
 - (b) the proposals shall not have effect unless approved by the Secretary of State and shall not require adoption by the authority.
- (3) Where particulars of an objection made by the Minister of Agriculture, Fisheries and Food have been sent to the Secretary of State under section 43(6), then, unless the Secretary of State is satisfied that that Minister no longer objects to the proposals, he shall give a direction in respect of the proposals under this section.

45 Approval of proposals by Secretary of State.

- (1) The Secretary of State may after considering proposals submitted to him under section 44 either approve them (in whole or in part and with or without modifications or reservations) or reject them.
- (2) In considering the proposals he may take into account any matters he thinks are relevant, whether or not they were taken into account in the proposals as submitted.
- (3) Where on taking the proposals into consideration the Secretary of State does not determine then to reject them, he shall before determining whether or not to approve them—
 - (a) consider any objections to them made in accordance with regulations,
 - (b) give any person who made such an objection which has not been withdrawn an opportunity of appearing before and being heard by a person appointed by him for the purpose, and
 - (c) if a local inquiry or other hearing is held, also give such an opportunity to the authority and such other persons as he thinks fit,
 except so far as the objections have already been considered, or a local inquiry or other hearing into the objections has already been held, by the authority.
- (4) In considering the proposals the Secretary of State may consult with or consider the views of any local planning authority or any other person; but he need not do so, or give an opportunity for the making of representations or objections, or cause a local inquiry or other hearing to be held, except as provided by subsection (3).

Conformity between plans

46 Certificate of conformity.

- (1) The proposals in a local plan shall be in general conformity with the structure plan.

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- (2) A district planning authority who have prepared proposals for the making, alteration, repeal or replacement of a local plan shall not take the steps mentioned in section 39(5) or 40(2) unless a certificate that the proposals conform generally to the structure plan has been issued in accordance with this section.
- (3) The district planning authority shall request the county planning authority to certify that their proposals so conform and that authority shall, within a month of receiving the request, or such longer period as may be agreed between the authorities, consider the matter and, if satisfied that the proposals do so conform, issue a certificate to that effect.
- (4) If it appears to the county planning authority that the proposals do not so conform in any respect, they shall, during or as soon as possible after the end of that period, refer the question whether they so conform in that respect to the Secretary of State to be determined by him.
- (5) The Secretary of State may in any case by direction to a county planning authority reserve for his own determination the question whether proposals for the making, alteration, repeal or replacement of a local plan conform generally to the structure plan.
- (6) On determining a question so referred to or reserved for him, the Secretary of State—
 - (a) if he is of the opinion that the proposals do so conform, may issue, or direct the county planning authority to issue, a certificate to that effect, and
 - (b) if he is of the contrary opinion, may direct the district planning authority to revise their proposals in such respects as he thinks appropriate so that they will so conform.

47 Alteration of structure plan.

- (1) Where proposals for the alteration or replacement of a structure plan have been prepared and submitted to the Secretary of State, a local planning authority proposing to make, alter, repeal or replace a local plan may apply to him for a direction under subsection (2).
- (2) On such an application the Secretary of State may direct that it shall be assumed for the purpose of the making, alteration, repeal or replacement of the local plan that the structure plan proposals have been approved by him, subject to such modifications as may from time to time be proposed by him and notified to the county planning authority.
- (3) Such a direction ceases to have effect if the Secretary of State rejects the proposals for the alteration or replacement of the structure plan.
- (4) Before giving such a direction the Secretary of State shall consult—
 - (a) in the case of an application by a county planning authority, any district planning authority whose area is affected by the relevant local plan proposals;
 - (b) in the case of an application by a district planning authority, the county planning authority.
- (5) A county planning authority shall, on the approval of proposals for the alteration or replacement of a structure plan, consider whether the local plans for areas affected conform generally to the structure plan as altered or, as the case may be, to the new plan.

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- (6) Within the period of one month from the date on which the county planning authority receive notice of the Secretary of State’s approval of the proposals, they shall send—
- (a) to the Secretary of State, and
 - (b) to every district planning authority responsible for such a local plan, lists of the local plans so affected which, in their opinion, do and do not so conform.

48 Local plan to prevail in cases of conflict with structure plan.

- (1) Where there is a conflict between any of the provisions of a local plan in force for an area and the provisions of the relevant structure plan, the provisions of the local plan shall be taken to prevail for all purposes.
- (2) Where the structure plan is altered or replaced and the local plan is specified in a list under section 47(6) as a plan which does not conform to the structure plan as altered or replaced, subsection (1) does not apply until a proposal for the alteration of the local plan, or for its repeal and replacement, has been adopted or approved by the Secretary of State and the alteration, or replacement plan, has come into force.

Supplementary

49 Disregarding of representations with respect to development authorised by or under other enactments.

Notwithstanding anything in the previous provisions of this Chapter, neither the Secretary of State nor a local planning authority need consider representations or objections with respect to a local plan or any proposal to alter, repeal or replace a structure plan or a local plan if it appears to the Secretary of State or, as the case may be, the authority that those representations or objections are in substance representations or objections with respect to things done or proposed to be done in pursuance of—

- (a) an order or scheme under section 10, 14, 16, 18, 106(1) or (3) or 108(1) of the ^{M6}Highways Act 1980;
- (b) an order or scheme under any provision replaced by the provisions of the Highways Act 1980 mentioned in paragraph (a) (namely, an order or scheme under section 7, 9, 11, 13 or 20 of the ^{M7}Highways Act 1959, section 3 of the ^{M8}Highways (Miscellaneous Provisions) Act 1961 or section 1 or 10 of the ^{M9}Highways Act 1971);
- (c) an order under section 1 of the ^{M10}New Towns Act 1981.

Marginal Citations

- M6** 1980 c. 66.
M7 1959 c. 25.
M8 1961 c. 63.
M9 1971 c. 41.
M10 1981 c. 64.

50 Joint structure and local plans.

- (1) Where a structure plan has been prepared by two or more local planning authorities jointly, the power of making proposals under section 32 for the alteration or for the

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repeal and replacement of the plan may be exercised as respects their respective areas by any of the authorities by whom it was prepared, and the Secretary of State may under that section direct any of them to submit such proposals as respects their respective areas.

- (2) Subsection (3) shall apply instead of section 33(1)(b) and (c) in relation to joint proposals to alter or repeal and replace a joint structure plan and references in section 33 to subsection (1) of that section and the purposes of paragraphs (a) to (c) of it shall include references to subsection (3) and the purposes of paragraphs (a) and (b) of that subsection respectively.
- (3) The local planning authorities shall take such steps as will in their opinion secure—
 - (a) that persons who may be expected to desire an opportunity of making representations to any of the authorities are made aware that they are entitled to an opportunity of doing so;
 - (b) that such persons are given an adequate opportunity of making such representations.
- (4) Each of the authorities by whom proposals for the alteration or repeal and replacement of a joint structure plan have been prepared shall have the duty imposed by section 33(3) of making copies of the proposals and explanatory memorandum available for inspection.
- (5) Where two or more local planning authorities jointly prepare proposals for the alteration or repeal and replacement of a structure plan under this section, all or any of them may withdraw them under section 34(1) and on their doing so all the authorities shall comply with subsection (3) of that section.
- (6) Where two or more local planning authorities jointly prepare proposals for the making, alteration, repeal or replacement of a local plan—
 - (a) the local planning authorities are jointly responsible for taking the steps required by section 39 or 40, except that they each have the duty imposed by section 39(5)(a) or 40(2)(a) of making copies of the relevant documents available for inspection and objections to the proposals may be made to any of those authorities and the statement required by section 39(6) or 40(3) to accompany the relevant documents shall state that objections may be so made;
 - (b) it shall be for each of the local planning authorities to adopt the proposals under section 43(1) and they may do so as respects any part of their area to which the proposals relate, but any modifications subject to which the proposals are adopted must have the agreement of all those authorities.
- (7) Where—
 - (a) a structure plan has been jointly prepared by two or more county planning authorities, or
 - (b) a local plan has been jointly prepared by two or more district planning authorities,a request for a certificate under section 46 that the local plan conforms generally to the structure plan shall be made by each district planning authority to the county planning authority for the area comprising the district planning authority's area and it shall be for that county planning authority to deal with the request.
- (8) Where a local plan has been made jointly, the power of making proposals for its alteration, repeal or replacement may be exercised as respects their respective areas by any of the authorities by whom it was made, in accordance with the provisions of

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the relevant local plan scheme, and the Secretary of State may under section 38 direct any of them to make proposals as respects their respective areas.

- (9) The date appointed under section 53(5) for the coming into operation of a local plan prepared jointly by two or more local planning authorities or for the alteration, repeal or replacement of a local plan in pursuance of proposals so prepared shall be one jointly agreed by those authorities and shall be specified in their respective resolutions adopting the plan or proposals.

51 Default powers.

- (1) Where, by virtue of any of the previous provisions of this Chapter, any survey is required to be carried out, or any local plan or proposals for the alteration, repeal or replacement of such a plan or of a structure plan are required to be prepared or submitted to the Secretary of State, or steps are required to be taken for the adoption of any local plan or any such proposals, then—

- (a) if at any time the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the relevant local planning authority are not carrying out the survey or are not taking the steps necessary to enable them to submit or adopt a local plan or such proposals within a reasonable period; or
- (b) in a case where a period is specified for the submission or adoption of a local plan or any such proposals, if no such plan or proposals have been submitted or adopted within that period,

the Secretary of State may carry out the survey or prepare and make a local plan or, as the case may be, alter, repeal or replace such a plan or a structure plan, as he thinks fit.

- (2) Where under subsection (1) the Secretary of State may do anything which should have been done by a local planning authority (“the defaulting authority”) he may, if he thinks fit, authorise any other local planning authority who appear to him to have an interest in the proper planning of the area of the defaulting authority to do it.
- (3) The previous provisions of this Chapter shall, so far as applicable, apply with any necessary modifications in relation to the doing of anything under this section by the Secretary of State or an authority other than the defaulting authority and the thing so done.
- (4) The defaulting authority—
- (a) shall on demand repay to the Secretary of State so much of any expenses incurred by him in connection with the doing of anything which should have been done by them as he certifies to have been incurred in the performance of their functions; and
 - (b) shall repay to any other authority who do under this section anything which should have been done by the defaulting authority any expenses certified by the Secretary of State to have been reasonably incurred by that other authority in connection with the doing of that thing.

VALID FROM 10/02/1992

[^{F5}51A Urban development corporations.

- (1) The Secretary of State may direct—
- (a) that a structure plan shall not operate; or

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- (b) that a local plan shall not be prepared or operate, in relation to the area of an urban development corporation.
- (2) The Secretary of State may direct that proposals for the alteration or replacement of a structure plan or a local plan shall not be prepared in relation to the area of an urban development corporation.]

Textual Amendments

- F5** S. 51A inserted (10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 27, Sch. 4 Pt. I, para.26 (with s. 84(5)); S.I. 1991/2905, art.4

52 Reviews of plans in enterprise zones.

- (1) As soon as practicable after an order has been made under paragraph 5 of Schedule 32 to the ^{M11}Local Government, Planning and Land Act 1980 (adoption of enterprise zone scheme) or a notification has been given under paragraph 11 of that Schedule (modification of such a scheme)—
- (a) any county planning authority for an area in which the enterprise zone is wholly or partly situated shall review any structure plan for their area or for part of it which relates to the whole or part of the zone in the light of the provisions of the scheme or modified scheme; and
- (b) any local planning authority for an area in which the enterprise zone is wholly or partly situated shall review any local plan prepared by it which relates to any land in the zone.
- (2) A county planning authority shall submit to the Secretary of State proposals for any alterations to a structure plan which they consider necessary to take account of the scheme or the modified scheme.
- (3) A local planning authority shall make proposals for any alterations to such a local plan as is mentioned in subsection (1)(b) which they consider necessary to take account of the scheme or the modified scheme, or for the repeal or replacement of any such plan whose repeal or replacement they consider necessary for that purpose.

Marginal Citations

- M11** 1980 c. 65.

53 Supplementary provisions as to structure and local plans.

- (1) Without prejudice to the previous provisions of this Chapter, the Secretary of State may make regulations with respect to the form and content of structure and local plans and the procedure to be followed in connection with their preparation, withdrawal, adoption, submission, approval, making, alteration, repeal and replacement.
- (2) In particular any such regulations may—
- (a) provide for publicity to be given to the report of any survey carried out by a local planning authority under section 30;
- (b) provide for the notice to be given of or the publicity to be given to—

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- (i) matters included or proposed to be included in any such plan,
 - (ii) the approval, adoption or making of any such plan or any alteration, repeal or replacement of it, or
 - (iii) any other prescribed procedural step,
- and for publicity to be given to the procedure to be followed as mentioned in subsection (1);
- (c) make provision with respect to the making and consideration of representations with respect to matters to be included in, or objections to, any such plan or proposals for its alteration, repeal or replacement;
 - (d) without prejudice to paragraph (b), provide for notice to be given to particular persons of the approval, adoption or alteration of any plan, if they have objected to the plan and have notified the relevant local planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge for receiving it;
 - (e) require or authorise a local planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;
 - (f) require a local planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request with copies of any plan or document which has been made public for the purpose mentioned in section 33(1)(a) or 39(2)(a) or has been made available for inspection under section 33(3) or 39(5)(a) or 40(2)(a), subject (if the regulations so provide) to the payment of a reasonable charge;
 - (g) provide for the publication and inspection of any structure plan or local plan which has been approved, adopted or made, or any document approved, adopted or made altering, repealing or replacing any such plan, and for copies of any such plan or document to be made available on sale.
- (3) Regulations under this section may extend throughout England and Wales or to specified areas only and may make different provision for different cases.
- (4) Subject to the previous provisions of this Chapter and to any regulations under this section, the Secretary of State may give directions to any local planning authority, or to local planning authorities generally—
- (a) for formulating the procedure for the carrying out of their functions under this Chapter;
 - (b) for requiring them to give him such information as he may require for carrying out any of his functions under this Chapter.
- (5) Subject to the provisions of section 287, a structure plan or local plan or any alteration, repeal or replacement of such a plan shall become operative on a date appointed for the purpose in the relevant notice of approval, resolution of adoption or notice of the making, alteration, repeal or replacement of the plan.

54 Meaning of “development plan” outside Greater London and the metropolitan counties.

- (1) Subject to subsection (4), for the purposes of this Act and any other enactment relating to town and country planning, the ^{M12}Land Compensation Act 1961 and the ^{M13}Highways Act 1980, the development plan for any district outside Greater London and the metropolitan counties (whether the whole or part of the area of a local planning authority) shall be taken as consisting of—

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- (a) the provisions of the structure plan for the time being in force for that area or the relevant part of that area, together with the Secretary of State's notice of approval of the plan;
 - (b) any alterations to that plan, together with the Secretary of State's notices of approval of them;
 - (c) any provisions of a local plan for the time being applicable to the district, together with a copy of the authority's resolution of adoption or, as the case may be, the Secretary of State's notice of approval of the local plan; and
 - (d) any alterations to that local plan, together with a copy of the authority's resolutions of adoption or, as the case may be, the Secretary of State's notices of approval of them.
- (2) References in subsection (1) to the provisions of any plan, notices of approval, alterations and resolutions of adoption shall, in relation to a district forming part of the area to which they are applicable, be respectively construed as references to so much of those provisions, notices, alterations and resolutions as is applicable to the district.
- (3) References in subsection (1) to notices of approval shall, in relation to any plan or alteration made by the Secretary of State under section 51, be construed as references to notices of the making of the plan or alteration.
- (4) This section has effect subject to Part III of Schedule 2 (old development plans).
- (5) Any reference in the Land Compensation Act 1961 to an area defined in the current development plan as an area of comprehensive development shall be construed as a reference to an action area for which a local plan is in force.

Marginal Citations

M12 1961 c. 33.

M13 1980 c. 66.

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