

# **PLANNING AND COMPULSORY PURCHASE ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2: Local Development**

##### ***Section 13: Survey of area***

36. **Section 13** provides for the survey function of local planning authorities. An authority must keep under review matters which are likely to affect the development of their area or the planning of its development. An authority may also keep matters in any neighbouring area under review, to the extent that those matters might affect the area of the authority, and in doing so they must consult the authority for the neighbouring area concerned.

##### ***Section 14: Survey of area: county councils***

37. **Section 14** provides for the survey function of county councils. County councils are to keep matters relating to minerals and waste development under review, as well as certain matters which are required to be kept under review under section 13. The Secretary of State may make regulations requiring or may direct a county council to keep certain matters under review and to make the results of the review available to such persons as he specifies. With regard to this latter function it is immaterial whether the matters relate to minerals and waste development.

##### ***Section 15: Local development scheme***

38. **Section 15** sets out the roles of the local planning authority and the Secretary of State in relation to an authority's local development scheme. Every local planning authority must prepare and maintain a local development scheme specifying the documents that will be local development documents, their subject matter and area and the timetable for their preparation and revision. The local planning authority must submit their local development scheme to the Secretary of State who can direct changes to the scheme as he thinks appropriate. He can also make regulations for bringing the scheme into effect.

##### ***Section 16: Minerals and waste development scheme***

39. **Section 16** provides for county councils to prepare and maintain minerals and waste development schemes and explains the way in which Part 2 of the Act applies to those schemes. The major difference between a local development scheme and a minerals and waste development scheme is that the provisions in Part 2 on joint committees will not apply to documents prepared under the latter.

***Section 17: Local development documents***

40. **Section 17** makes provision relating to local development documents (LDDs). A local planning authority must include as LDDs in their local development scheme those documents which are prescribed and their statement of community involvement. The LDDs together must set out the authority's policies relating to the development and use of land in their area. In the case of LDDs included in a minerals and waste development scheme, the LDDs together must also set out the authority's policies relating to minerals and waste development. The Secretary of State may prescribe the form and content of LDDs and which descriptions of those documents are development plan documents (which are to be subject to the process of independent examination and which will form part of the authority's development plan).

***Section 18: Statement of community involvement***

41. **Section 18** defines a local planning authority's statement of community involvement as a statement of their policy for involving interested parties in matters relating to development in their area. The statement will apply to the preparation and revision of LDDs and to the exercise of the authority's functions in relation to development control. The statement will be subject to independent examination as if it were a development plan document.

***Section 19: Preparation of local development documents***

42. **Section 19** sets out the requirements for preparing LDDs. The local planning authority must prepare each LDD in accordance with their local development scheme. The authority must have regard to the matters listed in the section, including national policies, the RSS for their region and their community strategy, and must carry out a sustainability appraisal of the proposals in each document. Once the authority have adopted their statement of community involvement they must comply with it in preparing any local development document.

***Section 20: Independent examination***

43. **Section 20** requires the local planning authority to submit every development plan document to the Secretary of State for independent examination and provides for the arrangements and procedures for the examination. The purpose of the examination will be to determine whether the development plan document is sound and whether it satisfies the requirements relating to its preparation. Any person who makes representations which ask for any matter in the development plan document to be changed has a right to appear in person at the examination. The examination must be carried out by a person appointed by the Secretary of State and that person must make recommendations, which the local planning authority must publish.

***Section 21: Intervention by Secretary of State***

44. **Section 21** allows the Secretary of State, if he thinks an LDD is unsatisfactory, to direct a local planning authority to modify the LDD before it is adopted. It also allows the Secretary of State to direct that a development plan document or any part of it is submitted to him for his approval. If an independent examination of that document is already in process, the person appointed to carry out that examination is required, if he has not already made his recommendations, to report to the Secretary of State, who must publish the person's recommendations. If the Secretary of State's direction is given before the document has been submitted for examination, the Secretary of State is required to hold an examination.

***Sections 22-26: Withdrawal, adoption, conformity with regional strategy, revocation and revision of LDDs***

45. Sections 22 to 26 deal with the arrangements for LDDs to be withdrawn, adopted, checked for conformity with regional strategy, revoked and revised. A local planning authority can withdraw an LDD at any time before they adopt it. But an authority cannot withdraw a development plan document once it has been submitted for independent examination unless the person carrying out the examination so recommends or the Secretary of State directs the document to be withdrawn. An authority may adopt an LDD which is not a development plan document with or without changes. But it can only adopt a development plan document in accordance with the recommendations of the person appointed to hold the independent examination.
46. LDDs must be in general conformity with the RSS or the Mayor of London's spatial development strategy (as appropriate). (In relation to development plan documents, a local planning authority must request the opinion of the RPB or the Mayor, as applicable, as to the conformity of those documents with the RSS or spatial development strategy.) If the RPB or the Mayor does not believe the LDD to be in general conformity with the appropriate regional strategy, its or his opinion will be treated as a representation seeking a change, and it or he will accordingly have the right to appear in person at the examination. The Secretary of State may, however, direct that the RPB's opinion should be ignored.
47. The Secretary of State may revoke an LDD if an authority ask him to do so. He may also prescribe types of LDD that an authority may revoke without reference to him.
48. An authority may prepare a revision of an LDD at any time, and must prepare a revision if the Secretary of State so directs, adhering to any timetable he sets. Revisions to LDDs must comply with the same requirements as those which apply to the preparation of LDDs.

***Section 27: Secretary of State's default powers***

49. Section 27 contains default powers for the Secretary of State to prepare or revise development plan documents if he thinks the local planning authority are failing properly to carry out these functions themselves. The authority must reimburse the Secretary of State for any expenditure he incurs in exercising these powers.

***Section 28: Joint local development documents***

50. Section 28 enables and sets out the arrangements for two or more local planning authorities jointly to prepare an LDD. If an authority withdraw from an agreement to prepare an LDD jointly, it will be possible for the remaining authority or authorities to continue with the preparation of the LDD provided that the document satisfies the conditions required for it to be treated as a "corresponding document".

***Section 29-31: Joint committees***

51. Sections 29-31 contain provisions for joint committees of one or more local planning authorities and one or more county councils in whose area(s) there are district councils. The Secretary of State may by order constitute a joint committee to be the local planning authority for such area and in relation to such matters as the constituent authorities agree. Provision is also made to enable the joint committee to exercise additional functions where the constituent authorities agree. If a joint committee breaks down, provision is made to enable successor authorities (authorities which were constituent authorities of the joint committee or a successor joint committee) to preserve the effect of the local development scheme or document provided that the scheme or document satisfies the conditions for treatment as a "corresponding" scheme or document.

***Section 32: Exclusion of certain representations***

52. **Section 32** allows the Secretary of State or a local planning authority to disregard representations in relation to an LDD if, in substance, such representations are made in respect of anything that is done or proposed under certain orders or schemes made under the Highways (Miscellaneous Provisions) Act 1961, the Highways Act 1971, the Highways Act 1980, or the New Towns Act 1981. Those Acts set out specific procedures for considering the representations and objections concerned.

***Section 33: Urban development corporations***

53. **Section 33** allows the Secretary of State to direct that Part 2 of the Act does not apply to the area of an urban development corporation. If such a direction is made the local planning authority will not be required to prepare a local development scheme and local development documents etc in respect of that area.

***Section 34: Guidance***

54. **Section 34** requires a local planning authority to have regard to any guidance issued by the Secretary of State when exercising any function under Part 2.

***Section 35: Annual monitoring report***

55. **Section 35** requires local planning authorities to report annually to the Secretary of State on the implementation of their local development scheme and whether the policies in the local development documents are being achieved. The section also provides powers for the Secretary of State to make regulations prescribing what information an annual report must contain, the period it must cover, when it must be made and the form it must take.

***Section 36: Regulations***

56. **Section 36** gives the Secretary of State power to make regulations in connection with the exercise by any person of functions under Part 2.

***Section 37: Interpretation***

57. **Section 37** defines various terms used in Part 2.