



Housing and Planning Act 2016

2016 CHAPTER 22

PART 6

PLANNING IN ENGLAND

Powers for piloting alternative provision of processing services

161 Processing of planning applications by alternative providers

- (1) The Secretary of State may by regulations provide for temporary arrangements in particular areas in England to test the practicality and desirability of competition in the processing (but not determining) of applications to do with planning.
- (2) The regulations may make provision—
 - (a) for an application for planning permission that falls to be determined by a specified local planning authority in England to be processed, if the applicant so chooses, not by that authority but by a designated person;
 - (b) for any connected application also to be processed by a designated person and not by that authority.
- (3) The regulations must specify a period after which any such provision ceases to apply.

That period (whether as originally specified or as subsequently extended) must end no later than five years after the first regulations under this section come into force.
- (4) The Secretary of State must—
 - (a) review the operation and effectiveness of any arrangements made under the regulations;
 - (b) no later than 12 months after the date when the arrangements (or the last of them) cease to have effect—
 - (i) lay a report before each House of Parliament, or
 - (ii) make a statement to the House of Parliament of which that Secretary of State is a member,setting out the results and conclusions of the review.

- (5) The regulations may provide that—
- (a) they apply only to applications that relate to development of a specified description;
 - (b) designations of persons by the Secretary of State (see subsection (13)) may be made so as to apply only in relation to applications that relate to development of a specified description.
- (6) The regulations may—
- (a) apply or disapply, in relation to England, any enactment about planning;
 - (b) modify the effect of any such enactment in relation to England.
- (7) The regulations may not contain anything that allows or requires, or could allow or require, the responsible planning authority’s duty to determine an application to be carried out, to any extent, by a designated person on the authority’s behalf.
- (8) Nothing said or done by a designated person appointed under the regulations to process an application is binding on the responsible planning authority when determining the application.
- (9) Before making the first regulations under this section the Secretary of State must consult such representatives of local planning authorities, and such other persons, as the Secretary of State thinks fit.
- (10) Sections 162 to 164, which set out matters that may be included in regulations under this section, do not limit the power in section 214(6) (to make supplementary provision etc).
- (11) For the purposes of this group of sections (that is, this section and sections 162 to 164), processing an application means taking any action in relation to the application (other than determining it) of a kind that—
- (a) might otherwise be taken by or for the responsible planning authority, and
 - (b) is specified in the regulations.
- (12) In this group of sections “connected application”, in relation to an application for planning permission that is to be or has been processed by a designated person under the regulations (“the main application”), means—
- (a) an application for approval of a matter reserved under an outline planning permission within the meaning of section 92 of the Town and Country Planning Act 1990 (where the main application resulted in the grant of such permission), or
 - (b) an application of a specified description, made under or by virtue of an enactment about planning, that relates to some or all of the land to which the main application relates.
- (13) In this group of sections “designated person” means a person—
- (a) who is designated by the Secretary of State in accordance with the regulations, and
 - (b) whose designation has not been withdrawn in accordance with the regulations.

The Secretary of State may designate a local planning authority.

- (14) In this group of sections—
- “local planning authority” has the same meaning as in the Town and Country Planning Act 1990;

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

“planning permission” means planning permission under Part 3 of that Act;
“responsible planning authority”, in relation to an application for planning permission or a connected application, means the local planning authority responsible for determining the application;
“specified” means specified in regulations under this section.

162 Regulations under section 161: general

- (1) Regulations under section 161 may—
 - (a) require a designated person (subject to any specified exceptions) to process an application for planning permission if chosen to do so by an applicant;
 - (b) provide that, where an application for planning permission is to be or has been processed by a designated person, any connected application must (subject to any specified exceptions) also be processed by that person;
 - (c) allow a responsible planning authority to take over the processing of an application for planning permission, or a connected application, in specified circumstances.
- (2) The regulations may make provision about—
 - (a) eligibility to act as a designated person;
 - (b) the capacity of a local planning authority to act as a designated person;
 - (c) actions to be taken or procedures to be followed—
 - (i) by persons making applications for planning permission or connected applications,
 - (ii) by designated persons, or
 - (iii) by responsible planning authorities,and periods within which the actions or procedures are to be taken or followed;
 - (d) matters to be considered by designated persons or responsible planning authorities;
 - (e) performance standards for designated persons;
 - (f) the investigation of complaints or concerns about designated persons;
 - (g) cases where a person ceases to be a designated person or where a designated person is unable to continue processing an application.
- (3) The provision that may be made under subsection (2)(c) includes provision requiring a designated person to provide assistance to the responsible planning authority in connection with—
 - (a) any appeal against the authority’s determination of the application;
 - (b) any application to the court made in relation to that determination.
- (4) The provision that may be made under subsection (2)(f) includes—
 - (a) provision about the payment of compensation;
 - (b) provision for a designated person to be required to indemnify the responsible authority for any compensation that the authority is required to pay;
 - (c) provision applying anything in Part 3 of the Local Government Act 1974 (local government administration) with or without modifications.
- (5) The regulations may confer powers on the Mayor of London or the Secretary of State in cases where a direction is given under section 2A or 77 of the Town and Country Planning Act 1990 (“call-in” directions).

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163 Regulations under section 161: fees and payments

- (1) Regulations under section 161 may make provision about—
 - (a) the setting, publication and charging of fees by designated persons or responsible planning authorities;
 - (b) the refunding of fees, by designated persons or responsible planning authorities, in specified circumstances.
- (2) The provision that may be made under subsection (1)(a) includes provision giving power to the Secretary of State to prevent the charging of fees that he or she considers excessive.
- (3) The provision that may be made under subsection (1)(b) includes provision requiring a designated person or a responsible planning authority to refund to an applicant some or all of a fee paid by the applicant to a designated person where the person or the authority fails to do a particular thing within a specified period.
- (4) The regulations may authorise the making of payments by the Secretary of State to local planning authorities or designated persons.

164 Regulations under section 161: information

- (1) Regulations under section 161 may make provision—
 - (a) requiring responsible planning authorities to disclose information to designated persons;
 - (b) requiring designated persons to disclose information to responsible planning authorities or to other designated persons;
 - (c) restricting the uses to which information disclosed by virtue of paragraph (a) or (b) may be put;
 - (d) restricting further disclosure of such information.
- (2) The regulations may make provision for designated persons or responsible planning authorities to be required to provide information to the Secretary of State.