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*Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, Paragraph 17. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 4

#### DEVELOPMENT PLANS

##### PART I

###### STREAMLINING OF DEVELOPMENT PLAN SYSTEM

###### *Structure and local plans*

- 17 For sections 32 to 41 (provisions with respect to the alteration and replacement of structure plans and the making, alteration and replacement of local plans and related provisions) there is substituted—

**“32 Alteration and replacement of structure plans.**

- (1) A local planning authority may at any time prepare proposals—
  - (a) for alterations to the structure plan for their area; or
  - (b) for its replacement.
- (2) If the Secretary of State directs them to do so, the authority shall prepare, within such time as he may direct, proposals for—
  - (a) such alterations to the structure plan as he directs; or
  - (b) its replacement.
- (3) An authority shall not, without the consent of the Secretary of State, prepare proposals in respect of a structure plan if the plan or any part of it has been approved by the Secretary of State under section 35A.
- (4) Proposals for the alteration of a structure plan may relate to the whole or part of the area to which the plan relates.
- (5) Proposals prepared under this section shall be accompanied by an explanatory memorandum.
- (6) The explanatory memorandum shall state—
  - (a) the reasons which in the opinion of the authority justify each of their proposals;
  - (b) any information on which the proposals are based;
  - (c) the relationship of the proposals to general policies for the development and use of land in neighbouring areas which may be expected to affect the area to which the proposals relate,and may contain such illustrative material as the authority think appropriate.

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- (7) Proposals for the alteration or replacement of a structure plan shall not become operative unless they are—
- (a) adopted by the authority (under section 35); or
  - (b) approved by the Secretary of State (under section 35A).

### **33 Public participation.**

- (1) When preparing proposals for the alteration or replacement of a structure plan for their area and before finally determining their contents the local planning authority shall—
- (a) comply with—
    - (i) any requirements imposed by regulations made under section 53; and
    - (ii) any particular direction given to them by the Secretary of State with respect to a matter falling within any of paragraphs (a) to (c) or (e) of subsection (2) of that section; and
  - (b) consider any representations made in accordance with those regulations.
- (2) Where the authority have prepared proposals for the alteration or replacement of a structure plan they shall—
- (a) make copies of the proposals and the explanatory memorandum available for inspection at such places as may be prescribed by those regulations;
  - (b) send a copy of the proposals and the explanatory memorandum to the Secretary of State; and
  - (c) comply with any requirements imposed by those regulations.
- (3) Each copy made available for inspection or sent under subsection (2) shall be accompanied by a statement of the prescribed period within which objections may be made to the authority.
- (4) In this section “the prescribed period” means such period as may be prescribed by or determined in accordance with regulations made under section 53 and in this Chapter “objections made in accordance with the regulations” means objections made—
- (a) in accordance with regulations made under that section; and
  - (b) within the prescribed period.
- (5) The persons who may make objections in accordance with the regulations include, in particular, the Secretary of State.
- (6) The proposals shall not be adopted by the authority under section 35 until—
- (a) after they have considered any objections made in accordance with the regulations; or
  - (b) if no such objections are made, after the expiry of the prescribed period.

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

- (1) Proposals for the alteration or replacement of a structure plan may be withdrawn by the local planning authority at any time before they have adopted them or the Secretary of State has approved them.
- (2) On the withdrawal of such proposals, the authority shall—
  - (a) withdraw the copies made available for inspection in accordance with section 33(2); and
  - (b) give notice that the proposals have been withdrawn to every person who has made an objection to them.

### **35 Adoption of proposals.**

- (1) Subject to subsection (3) and sections 35A and 35B, the local planning authority may by resolution adopt proposals for the alteration or replacement of a structure plan, either as originally prepared or as modified so as to take account of—
  - (a) any objections to the proposals; or
  - (b) any other considerations which appear to them to be material.
- (2) If it appears to the Secretary of State that the proposals are unsatisfactory he may, at any time before the local planning authority have adopted the proposals, direct the authority to modify the proposals in such respects as are indicated in the direction.
- (3) An authority to whom such a direction is given shall not adopt the proposals unless—
  - (a) they satisfy the Secretary of State that they have made the modifications necessary to conform with the direction; or
  - (b) the direction is withdrawn.
- (4) Subject to the following provisions of this Chapter and to section 287, proposals for the alteration or replacement of a structure plan shall become operative on the date on which they are adopted.

### **35A 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
  - (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.

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- (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.

### **35B 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.
- (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.

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- (7) An examination in public shall constitute a statutory inquiry for the purposes of section 1(1)(c) of the <sup>M1</sup>Tribunals and Inquiries Act 1971 but shall not constitute such an inquiry for any other purpose of that Act.

### **35C 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.

### *Local plans*

### **36 Local plans.**

- (1) The local planning authority shall, within such period (if any) as the Secretary of State may direct, prepare for their area a plan to be known as a local plan.
- (2) A local plan shall contain a written statement formulating the authority's detailed policies for the development and use of land in their area.
- (3) The policies shall include policies in respect of—
- (a) the conservation of the natural beauty and amenity of the land;
  - (b) the improvement of the physical environment; and
  - (c) the management of traffic.
- (4) A local plan shall be in general conformity with the structure plan.
- (5) A local plan shall not contain—

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- (a) any policies in respect of the winning and working of minerals or the depositing of mineral waste, unless it is a plan for a National Park;
  - (b) any policies in respect of the depositing of refuse or waste materials other than mineral waste, unless it is a plan for a National Park or for an area where such depositing is not a county matter for the purposes of Schedule 1.
- (6) A local plan shall also contain—
- (a) a map illustrating each of the detailed policies; and
  - (b) such diagrams, illustrations or other descriptive or explanatory matter in respect of the policies as may be prescribed,
- and may contain such descriptive or explanatory matter as the authority think appropriate.
- (7) A local plan may designate any part of the authority’s area as an action area, that is to say, an area which they have selected for the commencement during a prescribed period of comprehensive treatment by development, redevelopment or improvement (or partly by one and partly by another method).
- (8) If an area is so designated the plan shall contain a description of the treatment proposed by the authority.
- (9) In formulating their detailed policies, the authority shall have regard to—
- (a) such information and other considerations as the Secretary of State may prescribe or, in a particular case, direct; and
  - (b) the provisions of any scheme under paragraph 3 of Schedule 32 to the <sup>M2</sup>Local Government, Planning and Land Act 1980 relating to land in their area which has been designated under that Schedule as an enterprise zone.
- (10) Subject to the following provisions of this Chapter and section 287, a local plan shall become operative on the date on which it is adopted.
- (11) For the purposes of this section “policies” includes proposals.

### **37 Minerals local plans.**

- (1) A mineral planning authority for an area other than a National Park shall, within such period (if any) as the Secretary of State may direct, prepare for their area a plan to be known as a minerals local plan.
- (2) A minerals local plan shall contain a written statement formulating the authority’s detailed policies for their area in respect of development consisting of the winning and working of minerals or involving the depositing of mineral waste.
- (3) The local planning authority for a National Park shall, within such period (if any) as the Secretary of State may direct—
  - (a) prepare for their area a plan to be known as a minerals local plan; or
  - (b) include in their local plan their detailed policies in respect of development consisting of the winning and working of minerals or involving the depositing of mineral waste.

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- (4) In formulating the policies in a minerals local plan, the authority shall have regard to such information and other considerations as the Secretary of State may prescribe or, in a particular case, direct.
- (5) Subsections (4), (6), (10) and (11) of section 36 apply with respect to minerals local plans as they apply with respect to local plans.
- (6) The following provisions of this Chapter apply with respect to minerals local plans as they apply with respect to local plans, but as if references to a local planning authority were, in relation to an area other than a National Park, references to a mineral planning authority.

### **38 Waste policies.**

- (1) In this section —
  - “waste policies” means detailed policies in respect of development which involves the depositing of refuse or waste materials other than mineral waste; and
  - “waste local plan” means a plan containing waste policies.
- (2) A local planning authority other than an excluded authority shall, within such period (if any) as the Secretary of State may direct—
  - (a) prepare a waste local plan for their area; or
  - (b) include their waste policies in their minerals local plan.
- (3) A local planning authority are an excluded authority for the purposes of subsection (2) if they are an authority—
  - (a) for a National Park;
  - (b) for an area where waste policies are not a county matter for the purposes of Schedule 1.
- (4) A local planning authority for a National Park shall within such period (if any) as the Secretary of State may direct—
  - (a) prepare a waste local plan for their area; or
  - (b) include their waste policies in—
    - (i) their minerals local plan; or
    - (ii) their local plan.
- (5) In formulating their waste policies, the authority shall have regard to such information and other considerations as the Secretary of State may prescribe or, in a particular case, direct.
- (6) Subsections (4), (6), (10) and (11) of section 36 apply with respect to waste local plans as they apply with respect to local plans.
- (7) The following provisions of this Chapter apply with respect to waste local plans as they apply with respect to local plans, but as if references to a local planning authority were references to the authority who are entitled to prepare a waste local plan.

### **39 Alteration and replacement of local plans.**

- (1) A local planning authority may at any time prepare proposals—

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- (a) for alterations to the local plan for their area; or
  - (b) for its replacement.
- (2) A local planning authority shall—
- (a) consider whether they need to prepare such proposals, if they have been supplied with a statement under section 35C that the local plan is not in general conformity with the structure plan; and
  - (b) prepare such proposals, if they are directed to do so by the Secretary of State, within such period (if any) as he may direct.
- (3) An authority shall not, without the consent of the Secretary of State, prepare such proposals if the plan or any part of it has been approved by the Secretary of State.
- (4) Proposals for the alteration of a local plan may relate to the whole or part of the area to which the plan relates.
- (5) Subject to the following provisions of this Chapter and section 287, proposals for the alteration or replacement of a local plan shall become operative on the date on which they are adopted.

#### **40 Public participation.**

- (1) When preparing a local plan for their area or proposals for its alteration or replacement and before finally determining the contents of the plan or the proposals the local planning authority shall—
- (a) comply with—
    - (i) any requirements imposed by regulations made under section 53; and
    - (ii) any particular direction given to them by the Secretary of State with respect to a matter falling within any of paragraphs (a) to (c) or (e) of subsection (2) of that section; and
  - (b) consider any representations made in accordance with those regulations.
- (2) Subject to section 46(1), where the authority have prepared a local plan or proposals for its alteration or replacement they shall—
- (a) make copies of the relevant documents available for inspection at such places as may be prescribed by those regulations;
  - (b) send a copy of the relevant documents to the Secretary of State; and
  - (c) comply with any requirements imposed by those regulations.
- (3) In subsection (2) “the relevant documents” means—
- (a) the plan or the proposals; and
  - (b) any statement supplied under section 46(2).
- (4) Each copy made available for inspection or sent under subsection (2) shall be accompanied by a statement of the prescribed period within which objections may be made to the authority.
- (5) In this section “the prescribed period” means such period as may be prescribed by or determined in accordance with regulations made under



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section 53 and in this Chapter “objections made in accordance with the regulations” means objections made—

- (a) in accordance with regulations made under that section; and
  - (b) within the prescribed period.
- (6) The persons who may make objections in accordance with the regulations include, in particular, the Secretary of State.
- (7) A local plan or proposals for its alteration or replacement shall not be adopted by the authority under section 43 until—
- (a) after they have considered any objections made in accordance with the regulations; or
  - (b) if no such objections are made, after the expiry of the prescribed period.”

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**Commencement Information**

- II** Sch. 4 para. 17 wholly in force: Sch. 4 para. 17 in force for certain purposes at 25.11.1991, see s. 84(2) (3) and S.I. 1991/2728, art. 2; Sch. 4 para. 17 in force at 10.2.1992 so far as not already in force by S.I. 1991/2905, art. 4
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**Marginal Citations**

- M1** 1971 c. 62.  
**M2** 1980 c. 65.

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