

## SCHEDULE 2

Regulation 32

### Habitats

#### Neighbourhood development plans

1. In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act<sup>(1)</sup>—

The making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010<sup>(2)</sup>) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007<sup>(3)</sup>) (either alone or in combination with other plans or projects).

#### Amendments to the Conservation of Habitats and Species Regulations 2010

2. The Conservation of Habitats and Species Regulations 2010 are amended in accordance with the following paragraphs.

3. After regulation 78 (local development orders) insert—

#### *“Neighbourhood development orders*

##### Neighbourhood development orders

78A. A neighbourhood development order may not grant planning permission for development which—

- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects); and
- (b) is not directly connected with or necessary to the management of the site.”.

4. After regulation 102 (assessment of implications) insert the following—

#### **“Assessment of implications for European site: neighbourhood development plans**

102A.—(1) A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.

(2) In this regulation, “qualifying body” means a parish council, or an organisation or body designated as a neighbourhood forum, authorised for the purposes of a neighbourhood development plan to act in relation to a neighbourhood area as a result of section 61F of the TCPA 1990, as applied by section 38C of the 2004 Planning Act<sup>(4)</sup>.

(3) Where the competent authority decide to revoke or modify a neighbourhood development plan after it has been made, they must for that purpose make an appropriate

(1) Schedule 4B was inserted by section 116 of, and Schedule 10 to, the Localism Act 2011 (c.20). Paragraph 8 of Schedule 4B applies to neighbourhood development plans by virtue of section 38A(3) of the Planning and Compulsory Purchase Act 2004 (c.5) (Section 38A was inserted by paragraph 7 of Schedule 9 to the Localism Act 2011)

(2) S.I. 2010/490, to which there are amendments not relevant to these regulations. “European site” is defined in regulations 3(1) and 8.

(3) S.I. 2007/1842, to which there are amendments not relevant to these regulations. “European offshore marine site” is defined in regulation 15.

(4) Section 38C was inserted by paragraph 7 of Schedule 9 to the Localism Act 2011.

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

assessment of the implications for any European site likely to be significantly affected in view of that site’s conservation objectives; and regulation 102 and this regulation apply with the appropriate modifications in relation to such a revocation or modification.”.

5. In regulation 107 (interpretation of Chapter 8)—

(a) in paragraph (1)—

- (i) in the definition of “land use plan”, at the end of sub-paragraph (f) delete “or” and at the end of sub-paragraph (g) add—

“or

(h) a neighbourhood development plan as defined in section 38A (neighbourhood development plans) of the 2004 Planning Act<sup>(5)</sup>”; and

- (ii) in the definition of “plan-making authority”, at the end of sub-paragraph (d) delete “or”, at the end of sub-paragraph (e) for “and” substitute “or”, and after sub-paragraph (e) add—

“(f) the local planning authority when exercising powers under Schedule 4B to the TCPA 1990 (as applied by section 38A(3) of the 2004 Planning Act); and”; and

(b) in paragraph (2), at the end of sub-paragraph (l) delete “or” and at the end of sub-paragraph (m) add—

“; or

- (n) the holding of a referendum in accordance with paragraph 12(4) of Schedule 4B to the TCPA 1990 (as applied by section 38A(3) of the 2004 Planning Act).”.

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(5) Section 38A was inserted by paragraph 7 of Schedule 9 to the Localism Act 2011.