

SCHEDULES

SCHEDULE 10

Section 41(1) and (3).

LOCAL PLANS AND UNITARY DEVELOPMENT PLANS

PART I

SECTIONS 11 TO 15B OF THE TOWN AND COUNTRY PLANNING ACT 1971 (C.78), AS SUBSTITUTED

“ARRANGEMENT OF SECTIONS

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Local plans

11 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 or 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

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- (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) The proposals in a local plan shall be in general conformity with the structure plan.
- (5) 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; and a local plan prepared for such 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 the survey made by the county planning authority under section 6 of this Act, examine the matters mentioned in subsections (1) and (3) of that section 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 Local Government, Planning and Land Act 1980 relating to land in their area which has been designated under that Schedule as an enterprise zone.

11A 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 thereafter keep under review and from time to time amend the local plan scheme.

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- (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 11B.

11B Power of Secretary of State to direct making of local plan, &c

- (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.

12 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 12A applies (short procedure for certain alterations, &c.).
- (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;and they shall consider any representations made to them within the prescribed period.
- (3) They shall consult the county planning authority or, as the case may be, the district planning authority with respect to their proposals, shall afford that authority a reasonable opportunity to express their views and shall take those views into consideration.
- (4) 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 15 (certificate of conformity with structure plan)—

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- (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.
- (5) Each copy of the documents made available for inspection shall be accompanied by a statement of the time within which objections may be made.

12A Publicity and consultation: short procedure for certain alterations, &c

- (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 12, 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 15 (certificate of conformity with structure plan) 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 representation or objections may be made.
- (4) They shall then take such steps as may be prescribed for the purpose of—
- (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;
- and they shall consider any representations made to them within the prescribed period.

12B 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 12 shall be accompanied by a statement—
- (a) of the steps which the authority have taken to comply with subsection (2) 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 12A shall be accompanied by a statement of the steps which the authority are taking to comply with subsection (4) 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 12A, proceeding instead in accordance with section 12, or
 - (b) in any case, taking such further steps as he may specify,

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and satisfying him that they have done so.

- (4) A local planning authority who are given directions by the Secretary of State shall—
- (a) forthwith withdraw the copies of the documents made available for inspection as required by section 12(4) or 12A(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.

13 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;
 - (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 Local Government Act 1972 (power to summon and examine witnesses) apply to an inquiry held under this section.
- (6) The Tribunals and Inquiries Act 1971 applies to a local inquiry or other hearing under this section as it applies to a statutory inquiry held by the Secretary of State, with the substitution in section 12(1) (statement of reasons for decision) for the references to a decision taken by the Secretary of State of references to a decision taken by a local authority.

14 Adoption of proposals

- (1) After the expiry of the period afforded 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 the following provisions of this section and to section 14A (calling in of proposals by Secretary of State), 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

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

14A 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) In that event—
 - (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 13 ; 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 14(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.

14B Approval of proposals by Secretary of State

- (1) The Secretary of State may after considering proposals submitted to him under section 14A 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 to him.
- (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,

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- (b) afford to 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 afford 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 is under no obligation to do so, or to afford an opportunity for the making of representations or objections, or to cause a local inquiry or other hearing to be held, except as provided by subsection (3).

15 Conformity between plans: certificate of conformity

- (1) 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 12(4) or 12A(2) (deposit of documents for inspection, &c.) unless a certificate that the proposals conform generally to the structure plan has been issued in accordance with this section.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) On determining a question so referred to or reserved for him, the Secretary of State—
 - (a) if he is of 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.

15A Conformity between plans: 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, he may, on the application of a local planning authority proposing to make, alter, repeal or replace a local plan, direct that it shall be assumed for that purpose 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.
- (2) A direction ceases to have effect if the Secretary of State rejects the proposals for the alteration or replacement of the structure plan.

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- (3) Before giving 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.
- (4) 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 to the new plan, as the case may be.
- (5) Within the period of one month from the date on which they receive notice of the Secretary of State's approval of the proposals, the county planning authority 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.

15B Conformity between plans: local plan prevails

- (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 15A(5) as a plan which does not conform to the structure plan as altered or replaced, subsection (1) above 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.”

PART II

UNITARY DEVELOPMENT PLANS

1 Part I of Schedule 1 to the Local Government Act 1985 (unitary development plans) is amended as follows.

2 After paragraph 6 insert—

“Direction to reconsider proposals

- 6A (1) After a copy of a unitary development plan has been sent to the Secretary of State and before it is adopted by the local planning authority, the Secretary of State may, if it appears to him that the plan is unsatisfactory, direct the authority to consider modifying the proposals in such respects as are indicated in the direction.
- (2) An authority to whom a direction is given shall not adopt the plan unless they satisfy the Secretary of State that they have made the modifications necessary to conform with the direction or the direction is withdrawn.”.
- 3 In paragraph 10(2) (provisions applicable to making of unitary development plan also apply to alteration or replacement of plan), at the beginning insert " Subject to paragraph 10A below, "

4 After paragraph 10 insert—

“Short procedure for certain alterations

- 10A (1) Where a local planning authority propose to alter or replace a unitary development plan and it appears to them that the issues involved are not of sufficient importance to warrant the full procedure set out in paragraph 3(1) and (2), they may instead proceed as follows.
- (2) They shall prepare the relevant documents, that is, the proposed alterations or replacement plan, and shall make a copy of them available for inspection at their office and at such other places as may be prescribed and send a copy to the Secretary of State.
- (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—
- (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;
- and they shall consider any representations made to them within the prescribed period.
- (5) The documents sent by the local planning authority to the Secretary of State under sub-paragraph (2) above shall be accompanied by a statement of the steps which the authority are taking to comply with sub-paragraph (4) above.
- (6) If, on considering the statement submitted with and the matters contained in the documents sent to him under sub-paragraph (2) above 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 twenty-one days of the receipt of the statement, direct the authority not to take further steps for the adoption of their proposals without—
- (a) proceeding in accordance with paragraph 3(1) and (2) above, or
 - (b) taking such further action as he may specify,
- and satisfying him that they have done so.
- (7) A local planning authority who are given directions by the Secretary of State under sub-paragraph (6) above shall—
- (a) forthwith withdraw the copies of documents made available for inspection as required by sub-paragraph (2) above ; and
 - (b) notify any person by whom objections to the proposals have been made to the authority that Secretary of State has given such directions as aforesaid.
- (8) Where a local planning authority proceed in accordance with this paragraph, the references in paragraphs 4(2)(a) and (4) and 7(1) to copies made available or sent to the Secretary of State under paragraph 3(2)

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shall be construed as references to copies made available or sent to the Secretary of State under sub-paragraph (2) of this paragraph.”.