

Status: Point in time view as at 17/03/2017.

Changes to legislation: Town and Country Planning Act 1990, Cross Heading: Determination of appeals by Secretary of State is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 6

DETERMINATION OF CERTAIN APPEALS BY PERSON APPOINTED BY SECRETARY OF STATE

Modifications etc. (not altering text)

- C1 Sch. 6 excluded (27.5.1997) by 1997 c. 8, ss. 70(4), 278(2), **Sch. 7 para. 7** (with s. 64)
- C1 Sch. 6 applied (E.) (6.4.2012) by [The Town and Country Planning \(Tree Preservation\)\(England\) Regulations 2012 \(S.I. 2012/605\)](#), regs. 1(1), **19(5)**

Determination of appeals by Secretary of State

- 3 (1) The Secretary of State may, if he thinks fit, direct that an appeal which would otherwise fall to be determined by an appointed person shall instead be determined by the Secretary of State.
- (2) Such a direction shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the appellant, the local planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under [^{F1}any provision of a development order made by virtue of] section 71(2)(a).
- (3) Where in consequence of such a direction an appeal falls to be determined by the Secretary of State, the provisions of this Act which are relevant to the appeal shall, subject to the following provisions of this paragraph, apply to the appeal as if this Schedule had never applied to it.
- (4) The Secretary of State shall give the appellant, the local planning authority and any person who has made any such representations as mentioned in sub-paragraph (2) an opportunity of appearing before and being heard by a person appointed by the Secretary of State for that purpose if—
- (a) the reasons for the direction raise matters with respect to which any of those persons have not made representations; or
 - (b) in the case of the appellant or the local planning authority, either of them was not asked in pursuance of paragraph 2(2) whether they wished to appear before and be heard by the appointed person, or expressed no wish in answer to that question, or expressed a wish to appear and be heard, but was not given an opportunity of doing so.
- [^{F2}(5) Sub-paragraph (4) does not apply—
- (a) in the case of an appeal to which section 319A applies; or
 - (b) in the case of an appeal under section 78 if the appeal is referred to a Planning Inquiry Commission under section 101.]

[^{F3}(5ZA) Sub-paragraph (4) does not apply in the case of an appeal to which section 319B applies.]

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- [^{F4}(5A) In the case of an appeal to which section 319A applies, the Secretary of State must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.]
- [^{F5}(5B) In the case of an appeal to which section 319B applies, the Welsh Ministers must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.]
- (6) Except as provided by sub-paragraph (4) [^{F6}or (5A)] [^{F7}or (5B)], the Secretary of State need not give any person an opportunity of appearing before and being heard by a person appointed for the purpose, or of making fresh representations or making or withdrawing any representations already made.
- (7) In determining the appeal the Secretary of State may take into account any report made to him by any person previously appointed to determine it.

Textual Amendments

- F1** Words in Sch. 6 para. 3(2) inserted (17.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 54\(4\)](#); S.I. 1992/1491, art. 2, [Sch. 1](#)
- F2** Sch. 6 para. 3(5)(5A) substituted (6.4.2009 for certain purposes and otherwise prosp.) for Sch. 6 para. 3(5) by [Planning Act 2008 \(c. 29\)](#), ss. 196, 241, [Sch. 10 para. 14\(4\)](#) (with s. 226); S.I. 2009/400, [art. 3](#)
- F3** Sch. 6 para. 3(5ZA) inserted (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014 \(S.I. 2014/2773\)](#), art. 1(2), [Sch. 1 para. 13\(3\)\(a\)](#)
- F4** Sch. 6 para. 3(5)(5A) substituted (6.4.2009 for certain purposes and otherwise prosp.) for Sch. 6 para. 3(5) by [Planning Act 2008 \(c. 29\)](#), ss. 196, 241, [Sch. 10 para. 14\(4\)](#) (with s. 226); S.I. 2009/400, [art. 3](#)
- F5** Sch. 6 para. 3(5B) inserted (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014 \(S.I. 2014/2773\)](#), art. 1(2), [Sch. 1 para. 13\(3\)\(b\)](#)
- F6** Words in Sch. 6 para. 3(6) inserted (6.4.2009 for certain purposes and otherwise prosp.) by [Planning Act 2008 \(c. 29\)](#), ss. 196, 241, [Sch. 10 para. 14\(5\)](#) (with s. 226); S.I. 2009/400, [art. 3](#)
- F7** Words in Sch. 6 para. 3(6) inserted (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014 \(S.I. 2014/2773\)](#), art. 1(2), [Sch. 1 para. 13\(3\)\(c\)](#)

- 4 (1) The Secretary of State may by a further direction revoke a direction under paragraph 3 at any time before the determination of the appeal.
- (2) Such a further direction shall state the reasons for which it is given and shall be served on the person, if any, previously appointed to determine the appeal, the appellant, the local planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under [^{F8}any provision of a development order made by virtue of] section 71(2)(a).
- (3) Where such a further direction has been given, the provisions of this Schedule relevant to the appeal shall apply, subject to sub-paragraph (4), as if no direction under paragraph 3 had been given.
- (4) Anything done by or on behalf of the Secretary of State in connection with the appeal which might have been done by the appointed person (including any arrangements made for the holding of a hearing or local inquiry) shall, unless that person directs otherwise, be treated as having been done by him.

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Textual Amendments

F8 Words in Sch. 6 para. 4(2) inserted (17.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 54\(4\)](#); S.I. 1992/1491, art. 2, [Sch. 1](#)

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