

## SCHEDULES

### SCHEDULE 1

Section 1

#### PLANNING APPLICATIONS MADE TO SECRETARY OF STATE: FURTHER AMENDMENTS

##### *Town and Country Planning Act 1990 (c. 8)*

- 1 The Town and Country Planning Act 1990 is amended as follows.
- 2 (1) In section 2A (Mayor of London: applications of strategic importance) after subsection (1A) insert—
  - “(1B) Where this section applies to an application for planning permission made to the Secretary of State under section 62A, the Mayor of London may direct—
    - (a) that the application is to be treated as having been made to the local planning authority (and not to the Secretary of State under section 62A), and
    - (b) that the Mayor of London is to be the local planning authority for the purposes of determining the application.”
- (2) In consequence—
  - (a) in section 2A(2) after “(1)” insert “or (1B)”, and
  - (b) in section 2C(1) after “to whom the original application was made” insert “or to whom the original application would have been made had it not been made to the Secretary of State under section 62A”.
- 3 In section 58(1)(b) (planning permission may be granted on application to local planning authority) after “on application to the authority” insert “(or, in the cases provided in this Part, on application to the Secretary of State)”.
- 4 In section 59(2)(b) (development order may provide for planning permission to be granted on application to local planning authority) after “on application to the authority” insert “(or, in the cases provided in the following provisions, on application to the Secretary of State)”.
- 5 After section 76B insert—

##### **“76C Provisions applying to applications made under section 62A**

- (1) Sections 62(3) and (4), 65(5), 70 to 70C, 72(1) and (5) and 73A apply, with any necessary modifications, to an application for planning permission made to the Secretary of State under section 62A as they apply to an application for planning permission which is to be determined by the local planning authority.
- (2) Any requirements imposed by a development order by virtue of section 62, 65 or 71 or paragraph 8(6) of Schedule 1 may be applied by a development order, with or without modifications, to an application for planning permission made to the Secretary of State under section 62A.

- (3) Where an application is made to the Secretary of State under section 62A(3) instead of to the authority to whom it would otherwise have been made, a development order may apply, with or without modifications, to the application any enactment that relates to applications of that kind when made to that authority.

#### **76D Deciding applications made under section 62A**

- (1) An application made to the Secretary of State under section 62A (“a direct application”) is to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State, subject to section 76E.
- (2) Where a person has been appointed under subsection (1) or this subsection to determine a direct application then, at any time before the person has determined the application, the Secretary of State may—
- (a) revoke the person’s appointment; and
  - (b) appoint another person to determine the application instead.
- (3) A person appointed under this section to determine an application for planning permission made to the Secretary of State under section 62A has the same powers and duties that the Secretary of State has under section 76C.
- (4) Where a direct application is determined by a person appointed under this section, the person’s decision is to be treated as that of the Secretary of State.
- (5) Except as provided by Part 12, the validity of that decision is not to be questioned in any proceedings whatsoever.
- (6) It is not a ground of application to the High Court under section 288 that a direct application ought to have been determined by the Secretary of State and not by a person appointed under this section unless the applicant challenges the person’s power to determine the direct application before the person’s decision on the direct application is given.
- (7) Where any enactment (other than this section and section 319A)—
- (a) refers (or is to be read as referring) to the Secretary of State in a context relating to or capable of relating to an application made under section 62A (otherwise than by referring to the application having been made to the Secretary of State), or
  - (b) refers (or is to be read as referring) to anything (other than the making of the application) done or authorised or required to be done by, to or before the Secretary of State in connection with any such application,

then, so far as the context permits, the enactment is to be read, in relation to an application determined or to be determined by a person appointed under this section, as if the reference to the Secretary of State were or included a reference to that person.

**76E Applications under section 62A: determination by Secretary of State**

- (1) The Secretary of State may direct that an application made to the Secretary of State under section 62A (“a direct application”) is to be determined by the Secretary of State instead of by a person appointed under section 76D.
- (2) Where a direction is given under subsection (1), the Secretary of State must serve a copy of the direction on—
  - (a) the person, if any, appointed under section 76D to determine the application concerned,
  - (b) the applicant, and
  - (c) the local planning authority.
- (3) Where a direct application is to be determined by the Secretary of State in consequence of a direction under subsection (1)—
  - (a) in determining the application, the Secretary of State may take into account any report made to the Secretary of State by any person previously appointed to determine the application, and
  - (b) subject to that, the provisions of the planning Acts which are relevant to the application apply to it as if section 76D had never applied to it.
- (4) The Secretary of State may by a further direction revoke a direction under subsection (1) at any time before the determination of the direct application concerned.
- (5) Where a direction is given under subsection (4), the Secretary of State must serve a copy of the direction on—
  - (a) the person, if any, previously appointed under section 76D to determine the application concerned,
  - (b) the applicant, and
  - (c) the local planning authority.
- (6) Where a direction is given under subsection (4) in relation to a direct application—
  - (a) anything done by or on behalf of the Secretary of State in connection with the application which might have been done by a person appointed under section 76D to determine the application is, unless the person appointed under section 76D to determine the application directs otherwise, to be treated as having been done by that person, and
  - (b) subject to that, section 76D applies to the application as if no direction under subsection (1) had been given in relation to the application.”

6 In section 70A(2) (power to decline to determine planning application where Secretary of State has refused similar application in previous two years) after “has refused a similar application” insert “made to the Secretary of State under section 62A or”.

7 In section 70B(3) (power to decline to determine planning application where Secretary of State currently considering similar application) after “in pursuance of section” insert “62A,”.

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

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- 8 In section 78(2) (right to appeal where local planning authority has taken none of the listed steps in relation to an application) after “made such an application” insert “to the local planning authority”.
- 9 In section 284(3) (actions which may be questioned in legal proceedings only so far as provided by Part 12 of the 1990 Act) before paragraph (za) insert—  
“(ya) any decision on an application made to the Secretary of State under section 62A;”.
- 10 In section 303 (fees for planning applications etc) as substituted by section 199 of the Planning Act 2008, after subsection (1) insert—  
“(1A) The Secretary of State may by regulations make provision for the payment of a fee to the Secretary of State in respect of—  
(a) any application made to the Secretary of State under section 62A;  
(b) the giving of advice about applying under section 62A for any permission, approval or consent or for anything else for which an application may be made under that section.”
- 11 In section 319A(7) (proceedings for which Secretary of State must determine the procedure) before paragraph (a) insert—  
“(za) an application made to the Secretary of State under section 62A;”.

*Planning and Compulsory Purchase Act 2004 (c. 5)*

- 12 In section 59(2) of the Planning and Compulsory Purchase Act 2004 (correctable errors: meaning of “inspector”) after “to determine appeals instead of the Secretary of State” insert “or appointed under section 76D of the principal Act to determine applications instead of the Secretary of State”.