

2004 No. 2205

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (Transitional Arrangements) (England) Regulations 2004

Made - - - - - 26th August 2004
Laid before Parliament 7th September 2004
Coming into force - - 28th September 2004

The First Secretary of State, in exercise of the powers conferred upon him by paragraphs 17(1) and (2) and 18 of Schedule 8 to the Planning and Compulsory Purchase Act 2004^(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Transitional Arrangements) (England) Regulations 2004 and shall come into force on 28th September 2004.

(2) These Regulations apply in relation to England only.

Interpretation

2. In these Regulations—

“the 2004 Act” means the Planning and Compulsory Purchase Act 2004;

“the 1999 Regulations” mean the Town and Country Planning (Development Plan) (England) Regulations 1999^(b);

“Chapter 1” means Chapter 1 of Part 2 of the Town and Country Planning Act 1990^(c);

“Chapter 2” means Chapter 2 of Part 2 of the Town and Country Planning Act 1990; and

“Schedule 8” means Schedule 8 to the 2004 Act.

Structure plans

3. Subject to the amendments set out in the Schedule to these Regulations, the 1999 Regulations shall continue to apply to proposals to which paragraph 2 of Schedule 8 applies.

Unitary development plans

4.—(1) The 1999 Regulations shall continue to apply as regards proposals in relation to which the provisions of Chapter 1 continue to have effect by virtue of paragraph 4 of Schedule 8.

(2) Subject to the amendments set out in the Schedule to these Regulations, the 1999 Regulations shall continue to apply as regards proposals in relation to which the provisions of Chapter 1 continue to have effect by virtue of paragraph 5 of Schedule 8.

(a) 2004 c. 5.

(b) S.I. 1999/3280, amended by section 73(2) of the Countryside and Rights of Way Act 2000 (c. 37).

(c) 1990 c. 8.

Local plans

5.—(1) The 1999 Regulations shall continue to apply as regards proposals in relation to which the provisions of Chapter 2 continue to have effect by virtue of paragraph 9 of Schedule 8.

(2) Subject to the amendments set out in the Schedule to these Regulations, the 1999 Regulations shall continue to apply as regards proposals in relation to which the provisions of Chapter 2 continue to have effect by virtue of paragraph 10 of Schedule 8.

Local development documents prepared before commencement

6.—(1) Subject to paragraph (2), any step taken or purportedly taken for the purposes of Part 2 of the 2004 Act before the date on which these Regulations come into force shall be treated, on and after that date, as having been taken after that date.

(2) Subject to paragraph (3), the local planning authority by which the step was taken or purportedly taken must—

(a) prepare—

(i) as described in regulation 17(1) of the Town and Country Planning (Local Development) (England) Regulations 2004(a), a statement about the participation of the public in the preparation of a local development document (referred to in those Regulations as a supplementary planning document); and

(ii) as described in regulation 18(4)(b) of those Regulations, a statement about representations made on a supplementary planning document;

(b) make the statements mentioned in sub-paragraph (a) available for inspection and arrange for their publication, as described in such other provisions of regulations 17 to 19 of those Regulations as they relate to supplementary planning documents;

(c) prepare—

(i) as described in regulation 28(1)(c) of those Regulations, a statement about pre-submission consultation matters required for the preparation of a local development document (referred to in those Regulations as a development plan document); and

(ii) as described in regulation 28(1)(d) of those Regulations, a statement about representations made on proposals for a development plan document;

(d) take, as regards the statements referred to in sub-paragraph (c), such other steps as are required by regulation 28 of those Regulations to be taken as regards development plan documents.

(3) Nothing in paragraph (2) requires the authority to satisfy the requirements of section 19(1) of the 2004 Act.

Signed by authority of the First Secretary of State

26th August 2004

Nick Raynsford
Minister of State
Office of the Deputy Prime Minister

(a) 2004 S.I. 2004/2204.

SCHEDULE

Regulations 3, 4(2) and 5(2)

Amendment to the Town and Country Planning (Development Plan) (England) Regulations 1999

1. In regulation 2(1) (interpretation), insert in the appropriate places—
““the 2004 Act” means the Planning and Compulsory Purchase Act 2004;”, and
““RSS” has the same meaning as in Part 1 of the 2004 Act;””.
- 2.—(1) Subject to sub-paragraph (2), omit regulation 24 (deposit of revised proposals).
(2) Sub-paragraph (1) does not apply if—
 - (a) before the coming into force of these Regulations a local planning authority have complied with regulation 24(2), and
 - (b) on the coming into force of these Regulations the period referred to in regulation 24(8)(a) has not ended.
3. After regulation 24 (deposit of revised proposals) insert—

“Further deposit of proposals

24A.—(1) This regulation applies where a local planning authority have complied with any of paragraphs 5(2)(b), 5(3), 10(2)(b) and 10(3) of Schedule 8 to the 2004 Act.

- (2) The local planning authority may revise—
 - (a) the plan or proposals; or
 - (b) where the authority have complied with regulation 24, the revised plan or revised proposals.
- (3) The local planning authority shall—
 - (a) make the plan or proposals available for inspection at those places at which the plan or proposals were made available under regulation 22(1)(a);
 - (b) give notice by advertisement of the following matters—
 - (i) the title of the plan or proposals;
 - (ii) the fact that the plan or proposals were made available under regulation 22 or, as the case may be, that the revised plan or revised proposals were made available under regulation 24 and, in either case, the date on which they were first made available;
 - (iii) if it be the case, that the plan or proposals have been revised under paragraph (2), that fact;
 - (iv) that copies of the plan or proposals are available for inspection and the places and times at which they can be inspected;
 - (v) the period set out in paragraph (9) and the address to which, and, where appropriate, the person to whom, representations on the plan or proposals must be made;
 - (vi) that any such representations may be accompanied by a request to be notified at a specified address of the adoption of the plan or proposals; and
 - (vii) where paragraph (4) applies, that if no objections are received during the period for receipt of representations, the authority intend to adopt the plan or proposals 28 days after the expiry of that period; and
 - (c) notify in writing—
 - (i) the persons referred to in paragraph (5); and
 - (ii) such other persons as the authority think fit, of the matters referred to in paragraph (3)(b)(i), (ii), (iv) and (v) and, if applicable, those referred to in paragraph (3)(b)(iii) and (vii).
- (4) This paragraph applies if—
 - (a) at the time the local planning authority comply with this regulation—
 - (i) no objections in accordance with these Regulations have been made in respect of the plan or proposals, or
 - (ii) if such objections have been made, they have been withdrawn; or
 - (b) the local planning authority comply with paragraph (2) and those parts of it in respect of which objections have been made and not subsequently withdrawn no longer form part of the plan or proposals.
- (5) The persons referred to in paragraph (3)(c) are any person who, in accordance with these Regulations, has objected to, or made a representation in respect of the plan or proposals (whether or not that person has subsequently withdrawn that objection or representation).

- (6) The plan or proposals made available under paragraph (3)(a) shall—
 - (a) comprise the full text of the plan or proposals; and
 - (b) in the case of a plan or proposal revised under paragraph (2), indicate clearly the revisions that have been made.
 - (7) Where revisions have been made under paragraph (2), the plan or proposals made available—
 - (a) shall be accompanied by a list of the revisions made;
 - (b) need not contain a revised version of the map required by section 12(4)(b) or 36(6)(a) provided—
 - (i) the plan or proposals contain that map, and
 - (ii) such diagrams and maps as are necessary to indicate the revisions are annexed to that map.
 - (8) The authority shall send—
 - (a) four copies of the documents made available for inspection to the Secretary of State; and
 - (b) one copy of those documents to—
 - (i) each of the bodies listed in regulation 10(1)(c) to (f), and
 - (ii) any other local authority any part of whose area is covered by the plan or proposals.
 - (9) An objection or representation is made in accordance with this regulation if it is made—
 - (a) within six weeks beginning with the date on which the local planning authority complies with paragraph (3)(b),
 - (b) in writing and sent to the address, and, where appropriate, the person, specified under paragraph (3)(b)(v).
 - (10) In addition to the requirement to consider objections imposed by section 13(6) or 40(7) (as the case may be) the local planning authority shall also consider any representations made in accordance with this regulation.
 - (11) A representation—
 - (a) that matters relating to the development and use of land not included in the plan or proposals ought to have been so included; or
 - (b) made by the Secretary of State that the plan or proposals should be modified to accord with current national policies or policies in an RSS;
 shall, if it is made in accordance with this regulation, be treated as an objection made to the plan or proposals in accordance with these Regulations for the purpose of regulations 26 and 28 and sections 16 and 42.”.
4. Omit regulation 25 (withdrawal of proposals).
5. In regulation 26—
- (a) at the beginning of paragraph (2) insert “Where, by virtue of paragraph 4 or 9 of Schedule 8 to the 2004 Act, Chapter 1 or Chapter 2 of Part 2 of this Act continue to have effect in relation to proposals,”;
 - (b) after paragraph (2) insert—
 - “(2A) Where paragraphs 5 or 10 of Schedule 8 to the 2004 Act apply to proposals, on the date specified in paragraph (2B) the local planning authority shall make the report of the person holding an inquiry or other hearing to which this regulation applies available for inspection at those places at which the proposals were made available under regulation 22(1)(a).
 - (2B) The date referred to in paragraph (2A) is—
 - (a) the date the authority adopt the plan or proposals, or
 - (b) if—
 - (i) the Secretary of State issues a direction under section 17(1), 18(1), 43(4) or 44(1) (as the case may be), and
 - (ii) that direction is issued after the local planning authority have received the report of the person holding the inquiry or other hearing,
- as soon as practicable after that direction is issued.”.

6. Omit regulation 27 (consideration of proposals following a local inquiry or other hearing) except in so far as that regulation is applied by regulation 28(2) (consideration of objections without a local inquiry or hearing).

7. Omit regulation 29 (modification of proposals) except in so far as that regulation is applied by regulation 28(2).

8. For regulation 30 substitute—

“Notice of intention to adopt

30. Where the authority have given notice of their intention to adopt in accordance with regulation 24A(3)(b)(vii) or in Form 9 or Form 10, a plan or proposals to which regulation 22 applies shall not be adopted by the authority until the period specified by the authority in that notice has expired.”

9. In regulation 31 (adoption)—

(a) for paragraph (1) substitute—

“(1) Where a local planning authority adopt a plan or proposals to which regulation 22 refers they shall—

(a) give notice by advertisement of the following matters—

(i) the title of the plan or proposals;

(ii) that the plan or proposals have been adopted and the date of adoption;

(iii) if the Secretary of State issued a direction under sections 17(1) or 43(4) of the 1990 Act that—

(aa) the Secretary of State withdrew that direction, or

(bb) he was satisfied that the necessary modifications to the plan or proposals had been made to comply with that direction;

(iv) that copies of the adopted plan or proposals and, where relevant, copies of the Secretary of State’s notification of the matters specified in paragraph (iii)(aa) or (bb) are available for inspection and the places and times at which they can be inspected;

(v) that copies of the adopted plan can be obtained on request and on payment of a reasonable charge;

(vi) that any person aggrieved by the adopted plan or proposals may make an application to the High Court under section 287 of the 1990 Act and—

(aa) the grounds on which such an application may be made,

(bb) the time within which such an application must be made;

(b) notify any person who has asked to be notified of the adoption of the plan or proposals of the matters specified in sub-paragraph (a)(i), (ii) and (iv) to (vi) and, if applicable, in sub-paragraph (a)(iii); and

(c) publish the plan, the plan as altered, or the replacement plan as the case may be on their website.”; and

(b) in paragraph (3) for “four copies” substitute “one copy”.

10.—(1) Subject to paragraph (2), in regulation 33 (direction to modify proposals) for paragraph (1) substitute—

“(1) Where the Secretary of State directs a local planning authority to modify their proposals under section 17(1), 35(2) or 43(4), the authority shall make a copy of the direction available for inspection at each place at which the plan or proposals were made available for inspection under regulation 22(1)(a).”

(2) Paragraph (1) does not apply to a plan or proposals to which regulation 28 applies.

11. In regulation 35 (called-in proposals)—

(a) for paragraph (1)(b) substitute—

“(b) give notice by advertisement of the following matters—

(i) the title of the statutory plan proposals;

(ii) the name of the local planning authority;

(iii) that the proposals have been submitted to the Secretary of State for his approval and the date when this occurred;

(iv) that the Secretary of State proposes to modify the proposals;

(v) that copies of the proposals and lists of the proposed modifications are available for inspection and the places and times at which they can be inspected;

(vi) the period within which and the address to which representations on the proposed modifications must be made;

(vii) that any representations made may be accompanied by a request to be notified at a specified address of the approval or rejection of the statutory plan proposals;”

- (b) for paragraph (7)(a) substitute—
- “(a) give notice by advertisement of the following matters—
- (i) the title of the statutory plan proposals;
 - (ii) the name of the local planning authority;
 - (iii) that the statutory plan proposals have been submitted to the Secretary of State for his approval and the date when this occurred;
 - (iv) whether the Secretary of State has approved or rejected the proposals and, if he has approved the proposals, whether he has done so in whole or in part and with or without modifications or reservations;
 - (v) that copies of the Secretary of State’s letter notifying his decision are available for inspection and the places and times at which they can be inspected;
 - (vi) if the Secretary of State has approved any part of the proposals—
 - (aa) that any person aggrieved by the approved proposals may make an application to the High Court under section 287 of the 1990 Act,
 - (bb) the grounds on which such an application may be made, and
 - (cc) the time within which such an application must be made;”

12. After regulation 45 insert—

“Electronic communications

46.—(1) Where any provision of these Regulations—

- (a) requires a person to send a document, a copy of a document or any notice to another person, or
- (b) requires a person to notify another person of any matter; and
- (c) that other person has an address for the purposes of electronic communications, the document, copy, notice or notification may be sent or made by way of electronic communications.

(2) Where any provision of these Regulations enables a person to make representations on any matter or document, those representations may be made—

- (a) in writing, or
- (b) by way of electronic communications.

(3) Where—

- (a) electronic communications are used as mentioned in paragraph (1) or (2), and
- (b) the communication is received by the recipient outside their office hours,

it shall be taken to have been received on the next working day, and in this subsection ‘working day’ means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.”

13. In the Schedule to the 1999 Regulations, omit Forms 7, 11, 12 and 13.

14. In the Schedule to the 1999 Regulations, for Form 10 substitute the following form—

“FORM 10

Regulation 29

NOTICE OF INTENTION TO ADOPT AND OF PROPOSED MODIFICATIONS TO A UNITARY DEVELOPMENT PLAN, LOCAL PLAN, MINERALS LOCAL PLAN OR WASTE LOCAL PLAN, OR PROPOSALS FOR THE ALTERATION OR REPLACEMENT OF SUCH A PLAN

Town and Country Planning Act 1990

Notice of intention to adopt and of proposed modifications to [proposals for the [alteration] [replacement] of] a [Unitary Development Plan] [Local Plan] [Minerals Local Plan] [Waste Local Plan]

(Title of plan)

[The [local inquiry] [hearing] into [this plan] [these proposals] has been held and the report of the person holding the [inquiry] [hearing] has been considered by (1).] [(1) has considered the objections and representations made to [this plan] [these proposals].]

(1) propose to make [further] modifications to [this plan] [these proposals].

A list of the proposed modifications (other than modifications which the authority are satisfied will not materially affect the content of the [plan] [proposals]), with the authority’s reasons for proposing them, are available for inspection at (2) on (3). Also available for inspection are:

copies of the [plan] [proposals];

[a direction from the Secretary of State directing the authority to modify the [plan] [proposals];]

[the report of the person who held the [local inquiry] [hearing] and the authority's statement of reasons and decisions in the light of the report;]

[the authority's statement of reasons and decisions as respects objections to the [plan] [proposals].]

[The authority do not intend to accept all of the recommendations in the report. A list of the recommendations which the authority do not intend to accept is available for inspection with the above documents.]

Objections to, and representations in respect of, the proposed modifications [and the intention not to modify the [plan] [proposals] in accordance with certain of the recommendations in the report] should be sent in writing to (4) before (5). Objections and representations should specify the matters to which they relate and the grounds on which they are made. They may be accompanied by a request to be notified at a specified address of the withdrawal, adoption, approval or rejection of the [plan] [proposals].

Notice of Intention to Adopt Proposals

If no objections are received during the period given for making objections [and the Secretary of State is satisfied that the modifications proposed conform with his direction or the direction is withdrawn], (1) intend to adopt the [plan] [proposals] on the expiry of that period.

Notes

- a) Omit any expression within square brackets which is inappropriate.
- b) The first sentence of the first paragraph and the third indent of the third paragraph apply where there has been no inquiry or hearing.
- c) Insert at:
 - (1) the name of the local planning authority;
 - (2) the address of the local planning authority's principal office and any other place at which the documents are available for inspection;
 - (3) the days on which, and the hours between which, the documents are available for inspection;
 - (4) the name or title of the officer to whom objections and representations should be sent and the address to which they are to be sent;
 - (5) the date (six weeks from the date on which the notice is first published in a local newspaper) by which objections and representations should be received."

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2 of the Planning and Compulsory Purchase Act 2004 (“the Act”) changes the local development planning system in England. These Regulations are made under Schedule 8 to the Act and make transitional arrangements that will apply as the changes are brought into effect.

The development plans to which the transitional arrangements apply are structure plans, unitary development plans and local plans. The Regulations set out the circumstances in which the Town and Country Planning (Development Plan) (England) Regulations 1999 (“the 1999 Regulations”) will continue to apply to development plans that are being prepared when the new development planning system comes into force.

The detail of the transitional arrangements is set out in the amendments to the 1999 Regulations that are set out in the Schedule to these Regulations.

The Regulations also contain provisions that have the effect of treating things done before the commencement of Part 2 of the Act as if they had been done after that Part had come into force.

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