

SCHEDULE 9

regulation 8(n)

Local enquiries

PART 1

General

Interpretation

1.—(1) In this Schedule—

“adoption” and related expressions mean an agreement made under section 38 of the Highways Act 1980(1);

“bond” means an indemnity or guarantee which is sought by a local authority as to the financial security of a developer of land;

“bond waiver” means an agreement that a local authority will not seek a bond from a developer of land;

“breach of condition notice” means a notice served under section 187A of the Town and Country Planning Act 1990(2);

“building preservation notice” means a notice served under section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990(3);

“building regulations approvals” means—

(a) plans passed under section 16 of the Building Act 1984(4); or

(b) a certificate given under regulation 21(6) of the Building Regulations 2000(5) (regularisation certificates);

“building regulations completion certificate” means a certificate given under regulation 17(1) of the Building Regulations 2000(6);

“building regulations” has the same meaning as in section 122 of the Building Act 1984;

“certificate of lawfulness of existing use or development” means a certificate issued under section 191(4) of the Town and Country Planning Act 1990(7);

“certificate of lawfulness of proposed use or development” means a certificate issued under section 191(2) of the Town and Country Planning Act 1990(8);

“compulsory purchase order with a direction for minimum compensation” means an order confirmed or made under section 50(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990(9);

“conservation area” means either or both of the following—

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- (1) Amended by section 22(1) of the New Roads and Street Works Act 1991 (c. 22).
 - (2) Inserted by section 2 of the Planning and Compensation Act 1991 (c. 34).
 - (3) Amended by section 20(4) of and paragraph 25(2) of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19).
 - (4) There are amendments to section 16 which are not relevant to these Regulations.
 - (5) S.I.2000/2531. Under this provision, an applicant may apply to a local authority for a regularisation certificate in respect of unauthorised building work.
 - (6) Regulation 17 is to be amended by article 53(1) of and paragraph 6 of Schedule 3 to the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541).
 - (7) Substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34).
 - (8) Substituted by section 10(1) of the Planning and Compensation Act 1991.
 - (9) Amended by section 109(1), paragraph 345 of Schedule 8 to and Schedule 10 to the Courts Act 2003 (c. 39).

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(a) an area designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990; or

(b) an area so designated before 31st August 1974 by other means;

“contaminated land notice” means a notice given under section 78B(3) of the Environmental Protection Act 1990**(10)**;

“cycle track” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988**(11)**) with or without a right of way on foot;

“development plan” must be construed in accordance with section 38 of the Planning and Compulsory Purchase Act 2004**(12)**;

“direction restricting permitted development” means a direction given under article 4 of the Town and Country Planning (General Permitted Development) Order 1995**(13)**;

“drainage agreement” means an agreement made under section 22(2) of the Building Act 1984;

“enforcement notice” means a notice issued under section 172 of the Town and Country Planning Act 1990**(14)**;

“footpath” means a highway over which the public have a right of way on foot only, not being a footway;

“footway” means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only;

“frontager” means the owner or occupier of premises that abut a road, footway or footpath;

“highway maintainable at public expense” means a highway which by virtue of section 36 of the Highways Act 1980**(15)** or of any other enactment is a highway which for the purposes of that Act is a highway maintainable at the public expense;

“improvement” means the doing of any act under powers conferred by Part 5 of the Highways Act 1980 and includes the erection, maintenance, alteration and removal of traffic signs, and the freeing of a highway or road-ferry from tolls;

“land required for public purposes” means land to which paragraphs 5 and 6 of Schedule 13 to the Town and Country Planning Act 1990 relate**(16)**;

“land to be acquired for road works” means land to be acquired by a public authority under any of sections 239 to 246 of the Highways Act 1980**(17)**;

“listed building enforcement notice” means a notice issued under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990**(18)**;

(10) Inserted by section 57 of the Environment Act 1995.

(11) 1988 c. 52.

(12) 2004 c. 5.

(13) S.I. 1995/418. Article 4 was amended by article 2(c) of the Town and Country Planning (General Permitted Development) (Amendment) Order 1996.

(14) Substituted by section 5 of the Planning and Compensation Act 1991.

(15) 1980 c. 66. Section 36 was amended by section 4(1) of and paragraph 47 of Schedule 2 to the Housing (Consequential Provisions) Act 1985 (c. 71), sections 64 and 68 of and Part 1 of Schedule 2 to the Transport and Works Act 1992 (c. 42), section 4 of and paragraph 45(3) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and section 57 of and Part 1 of Schedule 6 to the Countryside and Rights of Way Act 2000 (c. 37). There are further amendments to section 36 which are not relevant to these Regulations.

(16) Paragraph 5 was amended by sections 32 and paragraph 56 of Schedule 7 to the Planning and Compensation Act 1991. Both paragraphs 5 and 6 were amended by section 118(1) of and paragraphs 1 and 18 of Schedule 6 to the Planning and Compulsory Purchase Act 2004.

(17) Section 245A was inserted by section 13 of the Traffic Management Act 2004 (c. 18). At the time these Regulations are made, the amendment is not yet in force in relation to Wales.

(18) Amended by sections 25 and 84 of and Schedule 3 to the Planning and Compensation Act 1991.

“listed building repairs notice” means a notice served under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990;

“mini-roundabout” means a roundabout consisting of a level or raised circular marking of a diameter of four metres or less;

“order requiring discontinuance of use or alteration or removal of buildings or works” means an order made under section 102 of the Town and Country Planning Act 1990(19);

“order revoking or modifying planning permission” means an order made under section 97 of the Town and Country Planning Act 1990(20);

“planning agreement” means an agreement made under section 106 of the Town and Country Planning Act 1990, as existing at any time before the enactment of the Planning and Compulsory Purchase Act 2004(21);

“planning contravention notice” means a notice served under section 171C of the Town and Country Planning Act 1990(22);

“planning contribution” means a contribution to be made pursuant to any regulations made under sections 46 to 48 of the Planning and Compulsory Purchase Act 2004(23);

“remediation notice” means a notice served under section 78E of the Environmental Protection Act 1990(24);

“railway” means a system of transport employing parallel rails which—

- (a) provide support and guidance for vehicles carried on flanged wheels; and
 - (b) form a track which either is of a gauge of at least 350 millimetres or crosses a carriageway (whether or not on the same level),
- but does not include a tramway;

“road hump” means an artificial hump in or on the surface of the highway which is designed to control the speed of vehicles, and references to a road hump include references to any other works (including signs or lighting) required in connection with such a hump;

“special road” means a highway, or a proposed highway, which is a special road in accordance with section 16 of the Highways Act 1980;

“stop notice” means a notice served under section 183 of the Town and Country Planning Act 1990(25);

“traffic calming works”, in relation to a highway, means works affecting the movement of vehicular or other traffic for the purpose of—

- (a) promoting safety (including avoiding or reducing, or reducing the likelihood of, danger connected with terrorism within the meaning of section 1 of the Terrorism Act 2000(26)); or
- (b) preserving or improving the environment through which the highway runs;

“tramway” means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which—

(19) Amended by sections 21 and 32, paragraph 6 of Schedule 1 to and paragraph 21 of Schedule 7 to the Planning and Compensation Act 1991.

(20) Amended by sections 21 and 84 of, paragraph 4 of Schedule 1 to, and Schedule 19 to the Planning and Compensation Act 1991.

(21) At the time these Regulations are made, section 106 is yet to be repealed by sections 118(1) and 120, paragraphs 1 and 5 of Schedule 6 to and Schedule 9 to the Planning and Compulsory Purchase Act 2004.

(22) Inserted by section 1 of the Planning and Compensation Act 1991 and amended by article 5(a) of the Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956) and article 5(a) of Town and Country Planning (Electronic Communications) (Wales) (No 1) Order 2004 (S.I. 2004/3156).

(23) At the time these Regulations are made no regulations have yet been made under these provisions.

(24) Inserted by section 57 of the Environment Act 1995 and amended by sections 86 and 105 of the Water Act 2003.

(25) Substituted by section 9(1) of the Planning and Compensation Act 1991.

(26) 2000 (c. 1).

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- (a) provide support and guidance for vehicles carried on flanged wheels; and
- (b) are laid wholly or mainly along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment);

“tree preservation order” means an order made under section 198 of the Town and Country Planning Act 1990⁽²⁷⁾; and

“trunk road” means a highway, or a proposed highway, which is a trunk road by virtue of section 10(1) or section 19 of the Highways Act 1980 or by virtue of an order or direction under section 10 of that Act⁽²⁸⁾ or under any other enactment.

(2) In paragraph 8 “private sewer”, “drain” and “disposal main” have the same meaning as in paragraph 1(1) of Schedule 10.

Enquiries

2.—(1) The search report required by regulation 8(n) must contain the enquiries set out in Part 2 of this Schedule.

(2) Those enquiries must relate to the property.

(3) The enquiries in paragraphs 6 to 18 relate only to matters which are not entered on the appropriate local land charges register.

PART 2

Enquiries

Planning and building decisions and pending applications

3. What applications for any of the following relating to the property have been given, approved or rejected or are pending a decision—

- (a) a planning permission;
- (b) a listed building consent;
- (c) a conservation area consent;
- (d) a certificate of lawfulness of existing use or development;
- (e) a certificate of lawfulness of proposed use or development;
- (f) building regulations approvals; and
- (g) a building regulations completion certificate?

Planning designations and proposals

4. What designations of land use for the property or the area, and what specific proposals for the property, are contained in any existing or proposed development plan?

Roads

5. Which of the roads, footways and footpaths on which the property is or will be situated are—

(27) Amended by sections 31, 32 and 84, paragraph 20 of Schedule 6 to, paragraph 34 of Schedules 7 and 19 to the Planning and Compensation Act 1991. Also amended by section 42(3) of the Planning and Compulsory Purchase Act 2004.

(28) Section 10 was amended by section 22(2) of the New Roads and Street Works Act 1991 (c. 22) and section 19 was amended by section 21(1) of that Act.

- (a) highways maintainable at public expense;
- (b) subject to adoption and supported by a bond or bond waiver;
- (c) to be made up by a local authority who will reclaim the cost from the frontagers; or
- (d) to be adopted by a local authority without reclaiming the cost from the frontagers?

Land required for public purposes

6. Is the property included in land required for public purposes?

Land to be acquired for road works

7. Is the property included in land to be acquired for road works?

Drainage agreements and consents

8. Do either of the following exist in relation to the property—
- (a) an agreement to drain buildings in combination into an existing sewer by means of a private sewer; or
 - (b) an agreement or consent for a building, or extension to a building on the property to be built over, or in the vicinity of a drain, sewer or disposal main?

Nearby road schemes

9. Is the property (or will it be) within 200 metres of any of the following—
- (a) the centre line of a new trunk road or special road specified in any order, draft order or scheme;
 - (b) the centre line of a proposed alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway;
 - (c) the outer limits of construction works for a proposed alteration or improvement to an existing road, involving—
 - (i) construction of a roundabout (other than a mini-roundabout); or
 - (ii) widening by construction of one or more additional traffic lanes;
 - (d) the outer limits of—
 - (i) construction of a new road to be built by a local authority;
 - (ii) an approved alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway; or
 - (iii) construction of a roundabout (other than a mini-roundabout) or widening by construction of one or more additional traffic lanes;
 - (e) the centre line of the proposed route of a new road under proposals published for public consultation; or
 - (f) the outer limits of—
 - (i) construction of a possible alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway;
 - (ii) construction of a roundabout (other than a mini-roundabout); or

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- (iii) widening by construction of one or more additional traffic lanes, under proposals published for public consultation?

Nearby railway schemes

10. Is the property (or will it be) within 200 metres of the centre line of a proposed railway, tramway, light railway or monorail?

Traffic schemes

11. Has a local authority approved but not yet implemented any of the following for roads, footways and footpaths which abut the boundaries of the property—

- (a) permanent stopping up or diversion;
- (b) waiting or loading restrictions;
- (c) one way driving;
- (d) prohibition of driving;
- (e) pedestrianisation;
- (f) vehicle width or weight restriction;
- (g) traffic calming works including road humps;
- (h) residents parking controls;
- (i) minor road widening or improvement;
- (j) pedestrian crossings;
- (k) cycle tracks; or
- (l) bridge building?

Outstanding notices

12. Do any statutory notices which relate to the following matters exist in relation to the property other than those revealed in a response to any other enquiry in this Schedule—

- (a) building works;
- (b) environment;
- (c) health and safety;
- (d) housing;
- (e) highways; or
- (f) public health?

Contravention of building regulations

13. Has a local authority authorised in relation to the property any proceedings for the contravention of any provision contained in building regulations?

Notices, orders, directions and proceedings under Planning Acts

14. Do any of the following subsist in relation to the property, or has a local authority decided to issue, serve, make or commence any of the following—

- (a) an enforcement notice;
- (b) a stop notice;

- (c) a listed building enforcement notice;
- (d) a breach of condition notice;
- (e) a planning contravention notice;
- (f) another notice relating to breach of planning control;
- (g) a listed building repairs notice;
- (h) in the case of a listed building deliberately allowed to fall into disrepair, a compulsory purchase order with a direction for minimum compensation;
- (i) a building preservation notice;
- (j) a direction restricting permitted development;
- (k) an order revoking or modifying planning permission;
- (l) an order requiring discontinuance of use or alteration or removal of buildings or works;
- (m) a tree preservation order; or
- (n) proceedings to enforce a planning agreement or planning contribution?

Conservation areas

15. Do the following apply in relation to the property—

- (a) a decision to make the area a conservation area before 31st August 1974; or
- (b) an unimplemented decision to designate the area a conservation area?

Compulsory purchase

16. Has any enforceable order or decision been made to compulsorily purchase or acquire the property?

Contaminated land

17. Do any of the following apply (including any relating to land adjacent to or adjoining the property which has been identified as contaminated land because it is in such a condition that harm or pollution of controlled waters might be caused on the property)—

- (a) a contaminated land notice;
- (b) in relation to a register maintained under section 78R of the Environmental Protection Act 1990⁽²⁹⁾—
 - (i) a decision to make an entry; or
 - (ii) an entry; or
- (c) consultation with the owner or occupier of the property conducted under section 78G(3) of the Environmental Protection Act 1990⁽³⁰⁾ before the service of a remediation notice?

Radon gas

18. Do records indicate that the property is in a “Radon Affected Area” as identified by the Health Protection Agency⁽³¹⁾?

⁽²⁹⁾ 1990 c. 43. Section 78R was inserted by section 57 of the Environment Act 1995.

⁽³⁰⁾ Section 78G was inserted by section 57 of the Environment Act 1995.

⁽³¹⁾ A body established under section 1 of the Health Protection Agency Act 2004 (c. 17).

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