

SCHEDULES

SCHEDULE 1

Article 9

Transitional provisions relation to planning functions exercised by borough planning authorities prior to the commencement date

Transitional provisions in connection with planning functions

1.—(1) Subject to paragraphs 2 to 9 of this Schedule, this paragraph applies as respects any functions which are transferred to the LLDC by virtue of this Order and in respect of which a borough planning authority ceases to be the local planning authority responsible for exercising those functions.

(2) Anything which before the commencement date was in the process of being done by, to or in relation to the borough planning authority in connection with any of the functions mentioned in paragraph (1) may be continued after that date by, to or in relation to the LLDC and, if continued, shall be treated as having been done by, to or in relation to the LLDC.

(3) Nothing in paragraph (2) requires the LLDC to continue with any step mentioned in that paragraph.

Transitional arrangements: planning applications

2.—(1) This paragraph applies as respects any application for planning permission or for a consent, approval or determination under the 1990 Act, or the Listed Buildings Act, or under any order or regulation made or having effect under those Acts which—

- (a) relates in whole or in part to land in the development area;
- (b) was made before the commencement date to a borough planning authority; and
- (c) has not been determined by that date.

(2) The borough planning authority must transmit any application referred to in paragraph (1) to the LLDC for determination.

(3) Where the borough planning authority transmits an application to the LLDC for determination, the borough planning authority shall notify the applicant that the LLDC is to be the local planning authority for the application.

(4) Where the borough planning authority transmits an application to the LLDC for determination, the application shall be accompanied by a copy of any representations received by the borough planning authority concerning the application.

(5) Where any planning document has been, or is in the process of being, issued by the borough planning authority in relation to an application before the day on which it is transmitted to the LLDC, no further planning document shall be required to be issued by the LLDC solely because the application has been transmitted.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Transitional provision: planning appeals

3. Where an appeal is made to the Secretary of State under section 78(1) of the 1990 Act or section 20 of the Listed Buildings Act(2) in respect of a decision or determination made in relation to land in the development area by a borough planning authority, that borough planning authority shall—

- (a) continue to be the local planning authority for the purposes of the appeal; and
- (b) notify the LLDC of the appeal and transmit to the Secretary of State any representation received from the LLDC.

Transitional provision: compensation in connection with planning functions

4.—(1) Where a right to compensation arises under section 107, 108, 115, 186, 203 or 204 (3) of the 1990 Act, section 28 or 29 of the Listed Buildings Act or regulation 24 of the Tree Preservation Regulations in consequence of action taken in relation to land within the development area by a borough planning authority, the liability to pay compensation shall rest with the borough planning authority.

(2) Where—

- (a) the Secretary of State makes a determination—
 - (i) of an appeal against action taken by a borough planning authority as is mentioned in paragraph (1); or
 - (ii) on a reference made to the Secretary of State by such an authority; and
- (b) that determination gives rise to a right to compensation,

that borough planning authority shall be liable to pay compensation.

(3) Where, on or after the commencement date, the Secretary of State makes an order or serves a notice, as the case may be, under section 100, 104, 185 or 202 of, or paragraph 11 of Schedule 9 to, the 1990 Act(4) in respect of a matter arising before that date, which relates to land within the development area, the borough planning authority which was the local planning authority in relation to that land when the matter arose shall be liable to pay any compensation arising from the order or notice.

Transitional provision: section 106 planning obligations

5. Where before the commencement date a planning obligation entered into by agreement or otherwise under section 106 of the 1990 Act(5) in relation to land in the development area which identifies a borough planning authority as the local planning authority by whom the obligation is enforceable shall be enforceable by the LLDC.

(1) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c.34) (“the 1991 Act”), section 43(2) of the 2004 Act, sections 196 and 197 of, and paragraphs 1 and 3 of Schedule 10 and paragraphs 1 and 2 of Schedule 11 to, the Planning Act 2008 (c.29) (“the 2008 Act”) and by sections 121 and 123, and paragraphs 1 and 11 of Schedule 12 to, the 2011 Act.

(2) Section 20 was amended by sections 43(4)(a) and 43(4)(b) of the 2004 Act and prospectively amended, by a date to be appointed, by section 196(4) of, and paragraphs 15 and 17 of Schedule 10 to, the 2008 Act.

(3) Section 107 was amended by sections 21 and 31 of, and paragraph 8 of Schedule 1 to and paragraph 13 of Schedule 6 to, the 1991 Act; section 108 was amended by section 13(4) of that Act, sections 40 and 118 of the 2004 Act, section 189 of the 2008 Act and section 121 of, and Schedule 12 to the 2011 Act; sections 203 and 204 were repealed by sections 192 and 238 of, and Schedule 13 to, the 2008 Act. Regulation 26 of the Tree Preservation Regulations makes transitional provision in respect of these sections.

(4) Section 100 was amended by section 21 of, and paragraph 5 of Schedule 1 to, the 1991 Act and section 202 was amended by sections 192 and 238 of, and paragraphs 7 and 10 of Schedule 8 to, and Schedule 13 to the 2008 Act.

(5) Section 106 was substituted by section 12 of the 1991 Act, section 33 of the Greater London Authority Act 2007 (c.24) (“the 2007 Act”) and section 174 of the 2008 Act.

Transitional provision: development plan documents and supplementary planning documents

6.—(1) Any development plan document or supplementary planning document (“the document”) adopted or made by a borough planning authority under section 23 of the 2004 Act⁽⁶⁾ before the commencement date shall have effect on and after that date as if it had been adopted—

- (a) in relation to such of the development area as corresponds to the area, or part of the area, to which that document relates, by the LLDC; and
- (b) in relation to such of its area outside the development area as corresponds to the area, or part of the area, to which the document relates, by the borough planning authority.

(2) Nothing in paragraph (1) affects any power of the LLDC or the borough planning authority to request that a development plan document to which paragraph (1) relates is revoked.

(3) Where before the commencement date a borough planning authority has taken or started any step in relation to the preparation of a development plan document or supplementary planning document (“the draft document”) pursuant to sections 19, 20 or 26 of the 2004 Act⁽⁷⁾ or under any order or regulation made or having effect under that Act, paragraph (4) shall apply.

(4) Any step mentioned in paragraph (3) shall be treated on and after the commencement date as a step taken or started—

- (a) in relation to such of the development area as corresponds to the area, or part of the area, to which the draft document relates, by the LLDC; and
- (b) in relation to such of its area outside of the development area as corresponds to the area, or part of the area, to which the draft document relates, by the borough planning authority.

(5) Where paragraph 4(a) applies to a draft document the borough planning authority must send a copy of any representations received concerning the draft document to the LLDC.

(6) Where any planning document has been, or is in the process of being, issued by the borough planning authority in relation to a draft document referred to in paragraph (3) before the commencement date, no further planning document shall be required to be issued by the LLDC solely as a result of the transfer of functions to the LLDC by this Order.

(7) Where a draft document referred to in paragraph (3) which is a development plan document has been submitted for examination under section 20 of the 2004 Act⁽⁸⁾ before the commencement date and the person appointed to carry out that examination has not at that date made their recommendations—

- (a) nothing in this Order shall prevent that person from deciding that the document complies with the matters set out in section 20(5) of that Act; and
- (b) that person must send their recommendations when made to both the LLDC and the borough planning authority.

Transitional provision: local development orders

7.—(1) Any local development order adopted by a borough planning authority under section 61A of the 1990 Act⁽⁹⁾ before the commencement date shall have effect on and after that date as if it had been made—

⁽⁶⁾ Section 23 was amended by section 112 of the 2011 Act.

⁽⁷⁾ Section 19 was amended by section 7 of the Sustainable Communities Act 2007 (c.23), sections 180 and 182 of the 2008 Act, and section 85 of, and paragraphs 12 and 14 of Schedule 5 to, the Local Democracy, Economic Development and Construction Act 2009 (c.20).

⁽⁸⁾ Section 20 has been amended by sections 110 and 112 of the 2011 Act.

⁽⁹⁾ Section 61A was inserted by section 40 of the 2004 Act, and amended by sections 188 and 238 of, and Schedule 13 to, the 2008 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) in relation to such of the development area as corresponds to the area, or part of the area, to which that local development order relates, by the LLDC; and
 - (b) in relation to such of its area outside of the development area as corresponds to the area, or part of the area, to which that local development order relates, by the borough planning authority.
- (2) Nothing in paragraph (1) affects any power of the Secretary of State, the LLDC or the borough planning authorities to revoke a document to which paragraph (1) relates.
- (3) Where before the commencement date a borough planning authority has taken or started any step in relation to the preparation of a local development order (“the draft order”) pursuant to article 34(1)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2010⁽¹⁰⁾, paragraph (4) shall apply.
- (4) Any step mentioned in paragraph (3) shall be treated on and after the commencement date as a step taken—
- (a) in relation to such of the development area as corresponds to the area, or part of the area, to which the draft order relates, by the LLDC; and
 - (b) in relation to such of its area outside of the development area as corresponds to the area, or part of the area, to which the draft order relates, by the borough planning authority.
- (5) Where paragraph 4(a) applies to a draft order the borough planning authority must send a copy of any representations received concerning that draft order to the LLDC.
- (6) Where any planning document has been, or is in the process of being, issued by the borough planning authority in relation to the draft order referred to in paragraph (3) before the commencement date, no further planning document shall be required to be issued by the LLDC solely as a result of the transfer of functions to the LLDC by this Order.

Transitional provision: neighbourhood planning

- 8.—(1) This paragraph applies as respects any area application, neighbourhood forum application, neighbourhood development plan proposal or order proposal which—
- (a) relates in whole or in part to land in the development area;
 - (b) was made before the commencement date to a borough planning authority; and
 - (c) has not been determined by that date.
- (2) The application or proposal referred to in paragraph (1) shall be treated as if it had been made—
- (a) in relation to such of the development area as corresponds to the area, or part of the area, to which that document relates, to the LLDC; and
 - (b) in relation to such of its area outside of the development area as corresponds to the area, or part of the area, to which the document relates, to the borough planning authority.
- (3) The borough planning authority must transmit any application or proposal referred to in paragraph (1) to the LLDC for determination.
- 9.—(1) Any step taken or started before the commencement date by a borough planning authority in relation to an area application, neighbourhood forum application, neighbourhood development plan proposal or order proposal transmitted to the LLDC under paragraph 8(3) shall be treated on and after that date as a step taken or started—
- (a) in relation to the development area, or part of the development area, as corresponds to the area, or part of the area, to which that document relates, by the LLDC; and

⁽¹⁰⁾ S.I. 2010/2184, amended by S.I. 2011/1824 and S.I. 2012/636.

(b) in relation to such of its area outside of the development area as corresponds to the area, or part of the area, to which the document relates, by the borough planning authority.

(2) Where the borough planning authority transmits an area application, neighbourhood forum application, neighbourhood development plan proposal or order proposal to the LLDC for determination under paragraph 8(3), the application shall be accompanied by a copy of any representations received by the borough planning authority concerning the application or proposal.

(3) Where any planning document has been, or is in the process of being, issued by the borough planning authority in relation to an area application, neighbourhood forum application, neighbourhood development plan proposal or order proposal before the day on which it is transmitted to the LLDC under paragraph 8(3), no further planning document shall be required to be issued by the LLDC solely because the application or proposal has been transmitted.

(4) Where a neighbourhood development plan proposal or order proposal transmitted to the LLDC under paragraph 8(3) has been submitted for examination under paragraph 7 of Schedule 4B to the 1990 Act (as applied, with modifications, by section 38A of the 2004 Act⁽¹¹⁾) before the commencement date and the person appointed to carry out that examination has not at that date made their recommendations—

- (a) nothing in this Order shall prevent that person from deciding that the document meets the requirements set out in paragraph 8 of that Schedule; and
- (b) that person must send their recommendations to both the LLDC and the borough planning authority.

⁽¹¹⁾ Section 38A was inserted into the 2004 Act by section 116 of, and paragraph 7 of Part 2 of Schedule 9 to, the 2011 Act.