
STATUTORY INSTRUMENTS

2016 No. 873

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016

Amendment of the 2012 Regulations

2.—(1) The 2012 Regulations are amended as follows.

(2) After regulation 5 insert—

“Designation of the whole of the area of a parish council

5A.—(1) This regulation applies where—

- (a) a local planning authority receive an area application from a parish council;
- (b) the area specified in the application consists of the whole of the parish council’s area; and
- (c) if any part of the specified area is part of a neighbourhood area, none of that neighbourhood area extends outside the parish council’s area.

(2) The local planning authority must exercise their powers under section 61G of the 1990 Act to designate the specified area as a neighbourhood area.

(3) Where this regulation applies, regulations 6 and 6A do not apply.”

(3) In regulation 6, in paragraph (c) omit the words from “—(i)” to “cases,”.

(4) In regulation 6A—

- (a) omit paragraph (2)(b);
- (b) after paragraph (2) insert—

“(3) Where the application has not been determined by the date prescribed in paragraph (2), the local planning authority must exercise their powers under section 61G of the 1990 Act so as to secure that the whole of the area specified in the application is designated as a neighbourhood area unless on that date—

- (a) some or all of the specified area has been designated as a neighbourhood area; or
- (b) some or all of the specified area is specified in another area application and that other area application has not been determined.”

(5) After regulation 9 insert—

“Prescribed date for determination of a neighbourhood forum application

9A.—(1) Where a local planning authority receive a neighbourhood forum application, which they do not decline to consider under regulation 11, the authority must determine the application by the date prescribed in paragraph (2).

(2) The date prescribed in this paragraph is—

- (a) in a case where the neighbourhood area to which the application relates falls within the areas of two or more local planning authorities, the date which is the last day of

the period of 20 weeks beginning with the day immediately following that on which the application is first publicised in accordance with regulation 9;

- (b) in all other cases, the date which is the last day of the period of 13 weeks beginning with the day immediately following that on which the application is first publicised in accordance with regulation 9.

(3) The date prescribed in paragraph (2) does not apply where, on that date, the authority are considering another neighbourhood forum application and that other application relates to an area which consists of or includes some or all of the neighbourhood area to which the application mentioned in paragraph (1) relates.”.

- (6) After regulation 17 insert—

“Decision on examiner’s recommendations

17A.—(1) This regulation applies where an examiner has made a report under paragraph 10 of Schedule 4B to the 1990 Act (applied by section 38A(3) of the 2004 Act) in relation to a plan proposal.

(2) The persons prescribed for the purposes of paragraph 13(1) of that Schedule are—

- (a) the qualifying body;
- (b) any person whose representation was submitted to the examiner of the plan proposal in accordance with regulation 17(d); and
- (c) any consultation body which is referred to in the consultation statement mentioned in regulation 15.

(3) Representations invited under paragraph 13(1) must be submitted on or before the date which is the last day of the period of 6 weeks beginning with the day immediately following that on which the local planning authority first invited representations.

(4) On or after the date prescribed in paragraph (5) the local planning authority must decide what action to take in response to each recommendation made by the report mentioned in paragraph (1).

(5) The date prescribed in this paragraph is—

- (a) where the local planning authority and the qualifying body agree a date, that date;
- (b) where sub-paragraph (a) does not apply but paragraph 13 of Schedule 4B to the 1990 Act (applied by section 38A(3) of the 2004 Act) applies—
- (i) where the authority refer the issue to independent examination, the date which is the last day of the period of 5 weeks beginning with the day immediately following that on which they receive the report of the examiner on that issue;
- (ii) where the authority do not refer the issue to independent examination, the date which is the last day of the period of 5 weeks beginning with the day immediately following the date prescribed in paragraph (3);
- (c) in all other cases, the date which is the last day of the period of 5 weeks beginning with the day immediately following that on which the local planning authority receive the report mentioned in paragraph (1).”.

- (7) After regulation 18 insert—

“Prescribed date for making a neighbourhood development plan

18A.—(1) The date prescribed for the purposes of section 38A(4)(b) of the 2004 Act is the date which is the last day of the period of 8 weeks beginning with the day immediately following that on which the last applicable referendum is held.

(2) Paragraph (1) does not apply where proceedings for questioning anything relating to an applicable referendum are brought in accordance with section 61N(3) of the 1990 Act (applied by section 38C(2)(d) of the 2004 Act) before the neighbourhood development plan is made.”.

(8) After regulation 24 insert—

“Decision on examiner’s recommendations

24A.—(1) This regulation applies where an examiner has made a report under paragraph 10 of Schedule 4B to the 1990 Act in relation to an order proposal.

(2) The persons prescribed for the purposes of paragraph 13(1) of that Schedule are—

- (a) the qualifying body;
- (b) any person whose representation was submitted to the examiner of the order proposal in accordance with regulation 24(f); and
- (c) any consultation body which is referred to in the consultation statement mentioned in regulation 22.

(3) Representations invited under paragraph 13(1) must be submitted on or before the date which is the last day of the period of 6 weeks beginning with the day immediately following that on which the local planning authority first invited representations.

(4) The local planning authority must decide what action to take in response to each recommendation made by the report mentioned in paragraph (1) by the date prescribed in paragraph (5).

(5) The date prescribed in this paragraph is—

- (a) where the local planning authority and the qualifying body agree a date, that date;
- (b) where sub-paragraph (a) does not apply but paragraph 13 of Schedule 4B to the 1990 Act applies—
 - (i) where the authority refer the issue to independent examination, the date which is the last day of the period of 5 weeks beginning with the day immediately following that on which they receive the report of the examiner on that issue;
 - (ii) where the authority do not refer the issue to independent examination, the date which is the last day of the period of 5 weeks beginning with the day immediately following the date prescribed in paragraph (3);
- (c) in all other cases, the date which is the last day of the period of 5 weeks beginning with the day immediately following that on which the local planning authority receive the report mentioned in paragraph (1).”.

(9) After Regulation 25—

“Prescribed date for making a neighbourhood development order

25A.—(1) The date prescribed for the purposes of section 61E(4)(b) of the 1990 Act is the date which is the last day of the period of 8 weeks beginning with the day immediately following that on which the last applicable referendum is held.

(2) Paragraph (1) does not apply where proceedings for questioning anything relating to an applicable referendum are brought in accordance with section 61N(3) of the 1990 Act before the neighbourhood development order is made.”.

(10) After regulation 31 insert—

“PART 8A

Intervention by the Secretary of State

Requests to intervene and dealing with requests

31A.—(1) This regulation applies where a qualifying body requests the Secretary of State to intervene—

- (a) in relation to an order proposal, under paragraph 13B of Schedule 4B to the 1990 Act; or
- (b) in relation to a plan proposal, under that paragraph as applied by section 38A(3) of the 2004 Act.

(2) The request must be in writing and give reasons for the request.

(3) In a case where sub-paragraph (1)(b) or (c) of paragraph 13B of Schedule 4B to the 1990 Act applies, the request must be submitted to the Secretary of State by the date prescribed in paragraph (4).

(4) The date prescribed in this paragraph is the last day of the period of 6 weeks beginning with the day immediately following that on which the local planning authority first publish their decision in accordance with regulation 18(2) (in the case of a plan proposal) or 25(2) (in the case of an order proposal).

(5) The Secretary of State may appoint an inspector⁽¹⁾ to make any decision falling to be made by the Secretary of State under paragraph 13B of Schedule 4B to the 1990 Act in relation to the proposal.

(6) The Secretary of State or the inspector may direct the authority to refrain from taking any action that is specified in the direction that the authority would otherwise be required or entitled to take under paragraph 12 or 13 of that Schedule in relation to the proposal.

Information provided to the Secretary of State

31B. Where a qualifying body makes a request in accordance with regulation 31A in relation to an order proposal or a plan proposal, the local planning authority must send to the Secretary of State or the inspector appointed under paragraph (5) of that regulation—

- (a) the report made by the examiner of the proposal under paragraph 10 of Schedule 4B to the 1990 Act;
- (b) in a case where sub-paragraph (1)(b) or (c) of paragraph 13B applies, the decision statement published in accordance with regulation 18(2) (in the case of a plan proposal) or 25(2) (in the case of an order proposal);
- (c) in the case of a plan proposal, each of the documents referred to in regulation 17;
- (d) in the case of an order proposal, each of the documents referred to in regulation 24;
- (e) any representations received by the authority in response to an invitation under paragraph 13(1) of Schedule 4B to the 1990 Act;
- (f) any other document held by the local planning authority that the authority consider to be relevant to the consideration of the request by the Secretary of State or the inspector; and
- (g) any other document held by the local planning authority that is requested by the Secretary of State or the inspector.

(1) An inspector is a person appointed by the Secretary of State for that purpose: see paragraph 13C(c) of Schedule 4B to the 1990 Act, inserted by section 141(1) of the Housing and Planning Act 2016 (c. 22).

Notification where Secretary of State proposes to differ from examiner

31C. The persons prescribed for the purposes of sub-paragraph (4)(a) of paragraph 13B of Schedule 4B to the 1990 Act are—

- (a) the qualifying body; and
- (b) in the case of a plan proposal,
 - (i) any person whose representation was submitted to the examiner of the proposal in accordance with regulation 17(d); and
 - (ii) any consultation body which is referred to in the consultation statement mentioned in regulation 15;
- (c) in the case of an order proposal,
 - (i) any person whose representation was submitted to the examiner of the proposal in accordance with regulation 24(f); and
 - (ii) any consultation body which is referred to in the consultation statement mentioned in regulation 22.

Publication of directions

31D.—(1) This regulation applies where the Secretary of State or the inspector appointed under paragraph (5) of regulation 31A gives a direction under sub-paragraph (2) or (3) of paragraph 13B of Schedule 4B to the 1990 Act.

(2) The direction must be accompanied by a statement setting out the reasons of the Secretary of State or the inspector for making the direction.

(3) As soon as possible after receiving the direction, the local planning authority must—

- (a) publish—
 - (i) the direction and the reasons; and
 - (ii) the report made by the examiner under paragraph 10 of Schedule 4B to the 1990 Act (if that report has not been published in accordance with regulation 18(2)(c) (in the case of a plan proposal) or 25(2)(c) (in the case of an order proposal)),

on their website and in such other manner as they consider is likely to bring the direction and, as the case may be, the report to the attention of people who live, work or carry on business in the neighbourhood area; and

- (b) send a copy of the direction and reasons to the qualifying body.”.