

Ministry of Housing,
Communities &
Local Government

National Planning Policy Framework

December 2024

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This version of the National Planning Policy Framework was amended on 7 February 2025 to correct cross-references from footnotes 7 and 8, and amend the end of the first sentence of paragraph 155 to make its intent clear. For the avoidance of doubt the amendment to paragraph 155 is not intended to constitute a change to the policy set out in the Framework as published on 12 December 2024.

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1. Introduction

1. The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied[1]. It provides a framework within which locally-prepared plans can provide for housing and other development in a sustainable manner. Preparing and maintaining up-to-date plans should be seen as a priority in meeting this objective.

2. Planning law requires that applications for planning permission be determined in accordance with the development plan[2], unless material considerations indicate otherwise[3]. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

3. The Framework should be read as a whole (including its footnotes and annexes). General references to planning policies in the Framework should be applied in a way that is appropriate to the type of plan being produced, taking into account policy on plan-making in chapter 3.

4. The Framework should be read in conjunction with the Government's planning policy for traveller sites, and its planning policy for waste. When preparing plans or making decisions on applications for these types of development, regard should also be had to the policies in this Framework, where relevant.

5. The Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework). National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications.

6. Other statements of government policy may be material when preparing plans or deciding applications, such as relevant Written Ministerial Statements and endorsed recommendations of the National Infrastructure Commission.

[1] This document replaces the previous version of the National Planning Policy Framework published in December 2023.
[2] This includes local and neighbourhood plans that have been brought into force and any spatial development strategies produced by combined authorities or elected Mayors (see Glossary).
[3] Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

2. Achieving sustainable development

7. The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs[4]. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection[5].

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

   a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

   b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

   c) **an environmental objective** – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

9. These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

10. So that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11).

[4] Resolution 42/187 of the United Nations General Assembly.
[5] Transforming our World: the 2030 Agenda for Sustainable Development.

The presumption in favour of sustainable development

11. Plans and decisions should apply a presumption in favour of sustainable development.

For **plan-making** this means that:

a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;

b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas[6], unless:

   i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area[7]; or

   ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For **decision-taking** this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date[8], granting permission unless:

   i. the application of policies in this Framework that protect areas or assets of particular importance[7] provides a strong reason for refusing the development proposed; or

   ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination[9].

[6] As established through statements of common ground (see paragraph 28).

[7] The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 194) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change.

[8] This includes, for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. See also paragraph 232.

[9] The policies referred to are those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12.

12. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

13. The application of the presumption has implications for the way communities engage in neighbourhood planning. Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.

14. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

    a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and

    b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70).

3. Plan-making

15. The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for meeting housing needs and addressing other economic, social and environmental priorities; and a platform for local people to shape their surroundings.

16. Plans should:

a) be prepared with the objective of contributing to the achievement of sustainable development[10];

b) be prepared positively, in a way that is aspirational but deliverable;

c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;

d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;

e) be accessible through the use of digital tools to assist public involvement and policy presentation; and

f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).

The plan-making framework

17. The development plan must include strategic policies to address each local planning authority's priorities for the development and use of land in its area[11]. These strategic policies can be produced in different ways, depending on the issues and opportunities facing each area. They can be contained in:

a) joint or individual local plans, produced by authorities working together or independently (and which may also contain non-strategic policies); and/or

b) a spatial development strategy produced by an elected Mayor or combined authority, where plan-making powers have been conferred.

18. Policies to address non-strategic matters should be included in local plans that contain both strategic and non-strategic policies, and/or in local or neighbourhood plans that contain just non-strategic policies.

19. The development plan for an area comprises the combination of strategic and non-strategic policies which are in force at a particular time.

[10] This is a legal requirement of local planning authorities exercising their plan-making functions (section 39(2) of the Planning and Compulsory Purchase Act 2004).
[11] Section 19(1B-1E) of the Planning and Compulsory Purchase Act 2004.

Strategic policies

20. Strategic policies should set out an overall strategy for the pattern, scale and design quality of places and make sufficient provision[12] for:

    a) homes (including affordable housing), employment, retail, leisure and other commercial development;

    b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);

    c) community facilities (such as health, education and cultural infrastructure); and

    d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.

21. Plans should make explicit which policies are strategic policies[13]. These should be limited to those necessary to address the strategic priorities of the area (and any relevant cross-boundary issues), to provide a clear starting point for any non-strategic policies that are needed. Strategic policies should not extend to detailed matters that are more appropriately dealt with through neighbourhood plans or other non-strategic policies.

22. Strategic policies should look ahead over a minimum 15 year period from adoption[14], to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure. Where larger scale developments such as new settlements or significant extensions to existing villages and towns form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take into account the likely timescale for delivery[15].

23. Broad locations for development should be indicated on a key diagram, and land-use designations and allocations identified on a policies map. Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area (except insofar as these needs can be demonstrated to be met more appropriately through other mechanisms, such as brownfield registers or non- strategic policies)[16].

[12] In line with the presumption in favour of sustainable development.
[13] Where a single local plan is prepared the non-strategic policies should be clearly distinguished from the strategic policies.
[14] Except in relation to town centre development, as set out in chapter 7.
[15] Transitional arrangements are set out in Annex 1.
[16] For spatial development strategies, allocations, land use designations and a policies map are needed only where the power to make allocations has been conferred.

Maintaining effective cooperation

24. Effective strategic planning across local planning authority boundaries will play a vital and increasing role in how sustainable growth is delivered, by addressing key spatial issues including meeting housing needs, delivering strategic infrastructure and building economic and climate resilience. Local planning authorities and county councils (in two-tier areas) continue to be under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.

25. Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans. They should also engage with their local communities and relevant bodies including Local Nature Partnerships, the Marine Management Organisation, county councils, infrastructure providers, elected Mayors and combined authorities (in cases where Mayors or combined authorities do not have plan-making powers).

26. Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.

27. Once the matters which require collaboration have been identified, strategic policy-making authorities should make sure that their plan policies align as fully as possible with those of other bodies where a strategic relationship exists on these matters, and take into account the relevant investment plans of infrastructure providers, unless there is a clear justification to the contrary. In particular their plans should ensure that:

    a) a consistent approach is taken to planning the delivery of major infrastructure, such as major transport services/projects, utilities, waste, minerals, environmental improvement and resilience; and strategic health, education and other social infrastructure (such as hospitals, neighbourhood health facilities, universities, schools, major sports facilities and criminal justice accommodation);

    b) unmet development needs from neighbouring areas are provided for in accordance with paragraph 11b; and

    c) any allocation or designation which cuts across the boundary of plan areas, or has significant implications for neighbouring areas, is appropriately managed by all relevant authorities.

28. In order to demonstrate effective and on-going joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning practice guidance, and be made publicly available throughout the plan-making process to provide transparency. Plans come forward at different times, and there may be a degree of uncertainty about the future direction of relevant development plans or the plans of infrastructure providers. In such

circumstances strategic policy-making authorities and Inspectors will need to come to an informed decision on the basis of available information, rather than waiting for a full set of evidence from other authorities.

Non-strategic policies

29. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

30. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies[17].

31. Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.

Preparing and reviewing plans

32. The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.

33. Local plans and spatial development strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant legal requirements[18]. This should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains). Significant adverse impacts on these objectives should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where significant adverse impacts are unavoidable, suitable mitigation measures should be proposed (or, where this is not possible, compensatory measures should be considered).

34. Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary[19]. Reviews should be completed no later than five years

[17] Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.
[18] The reference to relevant legal requirements refers to Strategic Environmental Assessment. Neighbourhood plans may require Strategic Environmental Assessment, but only where there are potentially significant environmental effects.
[19] Reviews at least every five years are a legal requirement for all local plans (Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012).

from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future.

Development contributions

35. Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.

Examining plans

36. Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are 'sound' if they are:

    a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs[20]; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

    b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

    c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

    d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

37. These tests of soundness will be applied to non-strategic policies[21] in a proportionate way, taking into account the extent to which they are consistent with relevant strategic policies for the area.

38. Neighbourhood plans must meet certain 'basic conditions' and other legal requirements[22] before they can come into force. These are tested through an independent examination before the neighbourhood plan may proceed to referendum.

[20] Where this relates to housing, such needs should be assessed using a clear and justified method, as set out in paragraph 62 of this Framework
[21] Where these are contained in a local plan.
[22] As set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

4. Decision-making

39. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Pre-application engagement and front-loading

40. Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.

41. Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications.

42. The more issues that can be resolved at pre-application stage, including the need to deliver improvements in infrastructure and affordable housing, the greater the benefits. For their role in the planning system to be effective and positive, statutory planning consultees will need to take the same early, pro-active approach, and provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs.

43. The participation of other consenting bodies in pre-application discussions should enable early consideration of all the fundamental issues relating to whether a particular development will be acceptable in principle, even where other consents relating to how a development is built or operated are needed at a later stage. Wherever possible, parallel processing of other consents should be encouraged to help speed up the process and resolve any issues as early as possible.

44. The right information is crucial to good decision-making, particularly where formal assessments are required (such as Environmental Impact Assessment, Habitats Regulations assessment and flood risk assessment). To avoid delay, applicants should discuss what information is needed with the local planning authority and expert bodies as early as possible.

45. Local planning authorities should publish a list of their information requirements for applications for planning permission. These requirements should be kept to the minimum needed to make decisions, and should be reviewed at least every two

years. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.

46. Local planning authorities should consult the appropriate bodies when considering applications for the siting of, or changes to, major hazard sites, installations or pipelines, or for development around them.

47. Applicants and local planning authorities should consider the potential for voluntary planning performance agreements, where this might achieve a faster and more effective application process. Planning performance agreements are likely to be needed for applications that are particularly large or complex to determine.

Determining applications

48. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

49. Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)[23].

50. However, in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

[23] During the transitional period for emerging plans, consistency should be tested against the version of the Framework as applicable, as set out in Annex 1.

51. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

Tailoring planning controls to local circumstances

52. Local planning authorities are encouraged to use Local Development Orders to set the planning framework for particular areas or categories of development where the impacts would be acceptable, and in particular where this would promote economic, social or environmental gains for the area.

53. Communities can use Neighbourhood Development Orders and Community Right to Build Orders to grant planning permission. These require the support of the local community through a referendum. Local planning authorities should take a proactive and positive approach to such proposals, working collaboratively with community organisations to resolve any issues before draft orders are submitted for examination.

54. The use of Article 4 directions to remove national permitted development rights should:

a) where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)

b) in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)

c) in all cases, be based on robust evidence, and apply to the smallest geographical area possible.

55. Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

Planning conditions and obligations

56. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

57. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early

is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification[24].

58. Planning obligations must only be sought where they meet all of the following tests[25]:

a) necessary to make the development acceptable in planning terms;

b) directly related to the development; and

c) fairly and reasonably related in scale and kind to the development.

59. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning practice guidance, including standardised inputs, and should be made publicly available.

Enforcement

60. Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

[24] Sections 100ZA(4-6) of the Town and Country Planning Act 1990 will require the applicant's written agreement to the terms of a pre-commencement condition, unless prescribed circumstances apply.
[25] Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

5. Delivering a sufficient supply of homes

61. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community.

62. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning practice guidance. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

63. Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing (including Social Rent); families with children; looked after children[26];older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers[27]; people who rent their homes and people wishing to commission or build their own homes[28].

64. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing[29] required (including the minimum proportion of Social Rent homes required), and expect it to be met on-site unless:

    a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and

    b) the agreed approach contributes to the objective of creating mixed and balanced communities.

65. Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of

[26] Evidence of need for looked after children can be found in the relevant local authority's Children's Social Care Sufficiency Strategy.
[27] Planning Policy for Traveller Sites sets out how travellers' housing needs should be assessed for those covered by the definition in Annex 1 of that document.
[28] Under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of that Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.
[29] Applying the definition in Annex 2 to this Framework.

brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount[30].

66. Where major development involving the provision of housing is proposed, planning policies and decisions should expect that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures[31].

67. As part of the 'Golden Rules' for Green Belt development set out in paragraphs 156-157 of this Framework, a specific affordable housing requirement (or requirements) should be set for major development involving the provision of housing, either on land which is proposed to be released from the Green Belt or which may be permitted on land within the Green Belt. This requirement should:

    a) be set at a higher level than that which would otherwise apply to land which is not within or proposed to be released from the Green Belt; and

    b) require at least 50% of the housing to be affordable, unless this would make the development of these sites unviable (when tested in accordance with national planning practice guidance on viability).

68. The affordable housing requirement for land within or released from the Green Belt may be set as a single rate or be set at differential rates, subject to the criteria above.

69. Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment. Within this overall requirement, strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations[32]. Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan examination, unless there has been a significant change in circumstances that affects the requirement.

70. Where it is not possible to provide a requirement figure for a neighbourhood area[33], the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors

[30] Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned, or to major development on land within or released from the Green Belt, for which the 'Golden Rules' requirements set out in paragraphs 156-157 of this Framework should apply.
[31] The requirement to deliver a minimum of 25% of affordable housing as First Homes, as set out in 'Affordable Homes Update' Written Ministerial Statement dated 24 May 2021, no longer applies. Delivery of First Homes can, however, continue where local planning authorities judge that they meet local need.
[32] Except where a Mayoral, combined authority or high-level joint plan is being prepared as a framework for strategic policies at the individual local authority level; in which case it may be most appropriate for the local authority plans to provide the requirement figure.
[33] Because a neighbourhood area is designated at a late stage in the strategic policy-making process, or after strategic policies have been adopted; or in instances where strategic policies for housing are out of date.

such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority.

71. Mixed tenure sites can provide a range of benefits, including creating diverse communities and supporting timely build out rates, and local planning authorities should support their development through their policies and decisions (although this should not preclude schemes that are mainly, or entirely, for Social Rent or other affordable housing tenures from being supported). Mixed tenure sites can include a mixture of ownership and rental tenures, including Social Rent, other rented affordable housing and build to rent, as well as housing designed for specific groups such as older people's housing and student accommodation, and plots sold for custom or self-build.

Identifying land for homes

72. Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. Planning policies should identify a supply of:

    a) specific, deliverable sites for five years following the intended date of adoption[34]; and

    b) specific, developable sites or broad locations for growth, for the subsequent years 6-10 and, where possible, for years 11-15 of the remaining plan period.

73. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:

    a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved;

    b) seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom-build housing;

    c) use tools such as area-wide design assessments, permission in principle and Local Development Orders to help bring small and medium sized sites forward;

    d) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes; and

[34] With an appropriate buffer, as set out in paragraph 78a or 78b. The additional buffer set out at paragraph 78c does not apply for the purposes of plan-making. See Glossary for definitions of deliverable and developable.

e) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

74. Neighbourhood planning groups should also give particular consideration to the opportunities for allocating small and medium-sized sites (of a size consistent with paragraph 73a) suitable for housing in their area.

75. Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

76. Local planning authorities should support the development of exception sites for community-led development[35] (as defined in Annex 2) on sites that would not otherwise be suitable as rural exception sites. These sites should be on land which is not already allocated for housing and should:

a) comprise community-led development that includes one or more types of affordable housing as defined in Annex 2 of this Framework. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding; and

b) be adjacent to existing settlements, proportionate in size to them[36], not compromise the protection given to areas or assets of particular importance in this Framework[37], and comply with any local design policies and standards.

77. The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes). Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way. In doing so, they should:

a) consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains;

b) ensure that their size and location will support a sustainable community, with sufficient access to services and employment opportunities within the

[35] This exception site policy does not replace the First Homes exception site policy set out in the Affordable Homes Update Written Ministerial Statement, dated 24 May 2021, which remains extant policy.
[36] Community-led development exception sites should not be larger than one hectare in size or exceed 5% of the size of the existing settlement, unless specific provision to exceed these limits is made in the development plan.
[37] i.e. the areas referred to in footnote 7.

development itself (without expecting an unrealistic level of self-containment), or in larger towns to which there is good access;

c) set clear expectations for the quality of the places to be created and how this can be maintained (such as by following Garden City principles); and ensure that appropriate tools such as masterplans and design guides or codes are used to secure a variety of well-designed homes to meet the needs of different groups in the community;

d) make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites, and identify opportunities for supporting rapid implementation (such as through joint ventures or locally-led development corporations)[38]; and

e) consider whether it is appropriate to establish Green Belt around or adjoining new developments of significant size.

Maintaining supply and delivery

78. Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies[38], or against their local housing need where the strategic policies are more than five years old[39]. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

a) 5% to ensure choice and competition in the market for land; or

b) 20% where there has been significant under delivery[40] of housing over the previous three years, to improve the prospect of achieving the planned supply; or

c) From 1 July 2026, for the purposes of decision-making only, 20% where a local planning authority has a housing requirement adopted in the last five years examined against a previous version of this Framework[41], and whose annual average housing requirement[42] is 80% or less of the most up to date local housing need figure calculated using the standard method set out in national planning practice guidance.

[38] The delivery of large scale developments may need to extend beyond an individual plan period, and the associated infrastructure requirements may not be capable of being identified fully at the outset. Anticipated rates of delivery and infrastructure requirements should, therefore, be kept under review and reflected as policies are updated.
[39] Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning practice guidance.
[40] This will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement.
[41] Or the housing requirement is more than five years old and the relevant strategic policies have been reviewed and found not to require updating.
[42] Defined as the total housing requirement, divided by the number of years in the plan period. For joint local plans, the percentage should be applied in aggregate across the joint local plan area.

79. To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below the local planning authority's housing requirement over the previous three years, the following policy consequences should apply:

a) where delivery falls below 95% of the requirement over the previous three years, the authority should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years;

b) where delivery falls below 85% of the requirement over the previous three years, the authority should include a buffer of 20% to their identified supply of specific deliverable sites as set out in paragraph 78 of this framework, in addition to the requirement for an action plan;

c) where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8 of this Framework, in addition to the requirements for an action plan and 20% buffer.

80. The Housing Delivery Test consequences set out above will apply the day following the annual publication of the Housing Delivery Test results, at which point they supersede previously published results. Until new Housing Delivery Test results are published, the previously published result should be used.

81. To help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability. For major development involving the provision of housing, local planning authorities should also assess why any earlier grant of planning permission for a similar development on the same site did not start.

Rural housing

82. In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, including proposals for community-led development for housing. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.

83. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

84. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

c) the development would re-use redundant or disused buildings and enhance its immediate setting;

d) the development would involve the subdivision of an existing residential building; or

e) the design is of exceptional quality, in that it:

i. is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and

ii. would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

6. Building a strong, competitive economy

85. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

86. Planning policies should:

a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to the national industrial strategy[43] and any relevant Local Industrial Strategies and other local policies for economic development and regeneration;

b) set criteria, and identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;

c) pay particular regard to facilitating development to meet the needs of a modern economy, including by identifying suitable locations for uses such as laboratories, gigafactories, data centres, digital infrastructure, freight and logistics;

d) seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment; and

e) be flexible enough to accommodate needs not anticipated in the plan, and allow for new and flexible working practices and spaces to enable a rapid response to changes in economic circumstances.

87. Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for:

a) clusters or networks of knowledge and data-driven, creative or high technology industries; and for new, expanded or upgraded facilities and infrastructure that are needed to support the growth of these industries (including data centres and grid connections);

b) storage and distribution operations at a variety of scales and in suitably accessible locations that allow for the efficient and reliable handling of goods, especially where this is needed to support the supply chain, transport innovation and decarbonisation; and

c) the expansion or modernisation of other industries of local, regional or national importance to support economic growth and resilience.

[43] *Invest 2035: The UK's Modern Industrial Strategy* identifies priority sectors for growth and support as: advanced manufacturing; clean energy industries; creative industries; defence industries; digital and technology businesses; financial services; life sciences; and professional and business services.

Supporting a prosperous rural economy

88. Planning policies and decisions should enable:

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings;

b) the development and diversification of agricultural and other land-based rural businesses;

c) sustainable rural tourism and leisure developments which respect the character of the countryside; and

d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

89. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

7. Ensuring the vitality of town centres

90. Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:

a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;

b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;

c) retain and enhance existing markets and, where appropriate, re-introduce or create new ones;

d) allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;

e) where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre; and

f) recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.

91. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

92. When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

93. This sequential approach should not be applied to applications for small scale rural offices or other small scale rural development.

94. When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m^2 of gross floorspace). This should include assessment of:

a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

95. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 94 it should be refused.

8. Promoting healthy and safe communities

96. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas; and

c) enable and support healthy lives, through both promoting good health and preventing ill-health, especially where this would address identified local health and well-being needs and reduce health inequalities between the most and least deprived communities – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

97. Local planning authorities should refuse applications for hot food takeaways and fast food outlets:

a) within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre; or

b) in locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social-behaviour.

98. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and

e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

99. Planning policies and decisions should consider the social, economic and environmental benefits of estate regeneration. Local planning authorities should use their planning powers to help deliver estate regeneration to a high standard.

100. It is important that a sufficient choice of early years, school and post-16 places are available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

a) give great weight to the need to create, expand or alter early years, schools and post-16 facilities through the preparation of plans and decisions on applications; and

b) work with early years, school and post-16 promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

101. To ensure faster delivery of other public service infrastructure such as health, blue light, library, adult education, university and criminal justice facilities, local planning authorities should also work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted. Significant weight should be placed on the importance of new, expanded or upgraded public service infrastructure when considering proposals for development.

102. Planning policies and decisions should promote public safety and take into account wider security and defence requirements by:

a) anticipating and addressing possible malicious threats and other hazards (whether natural or man-made), especially in locations where large numbers of people are expected to congregate[44]. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security. The safety of children and other vulnerable users in proximity to open water, railways and other potential hazards should be considered in planning and assessing proposals for development; and

b) recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adversely by the impact of other development proposed in the area.

[44] This includes transport hubs, night-time economy venues, cinemas and theatres, sports stadia and arenas, shopping centres, health and education establishments, places of worship, hotels and restaurants, visitor attractions and commercial centres.

Open space and recreation

103. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

104. Existing open space, sports and recreational buildings and land, including playing fields and formal play spaces, should not be built on unless:

a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

105. Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

106. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.

107. The Local Green Space designation should only be used where the green space is:

a) in reasonably close proximity to the community it serves;

b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and

c) local in character and is not an extensive tract of land.

108. Policies and decisions for managing development within a Local Green Space should be consistent with national policy for Green Belts set out in chapter 13 of this Framework[45].

[45] Excluding provisions relating to grey belt and previously developed land set out in chapter 13.

9. Promoting sustainable transport

109. Transport issues should be considered from the earliest stages of plan-making and development proposals, using a vision-led approach to identify transport solutions that deliver well-designed, sustainable and popular places. This should involve:

a) making transport considerations an important part of early engagement with local communities;

b) ensuring patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places;

c) understanding and addressing the potential impacts of development on transport networks;

d) realising opportunities from existing or proposed transport infrastructure, and changing transport technology and usage – for example in relation to the scale, location or density of development that can be accommodated;

e) identifying and pursuing opportunities to promote walking, cycling and public transport use; and

f) identifying, assessing and taking into account the environmental impacts of traffic and transport infrastructure – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains.

110. The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

111. Planning policies should:

a) support an appropriate mix of uses across an area, and within larger scale sites, to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities;

b) be prepared with the active involvement of local highways authorities, other transport infrastructure providers and operators and neighbouring councils, so that strategies and investments for supporting sustainable transport and development patterns are aligned;

c) identify and protect, where there is robust evidence, sites and routes which could be critical in developing infrastructure to widen transport choice and realise opportunities for large scale development;

d) provide for attractive and well-designed walking and cycling networks with supporting facilities such as secure cycle parking (drawing on Local Cycling and Walking Infrastructure Plans);

e) provide for any large scale transport facilities that need to be located in the area[46], and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy. In doing so they should take into account whether such development is likely to be a nationally significant infrastructure project and any relevant national policy statements; and

f) recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the General Aviation Strategy[47].

112. If setting local parking standards for residential and non-residential development, policies should take into account:

a) the accessibility of the development;

b) the type, mix and use of development;

c) the availability of and opportunities for public transport;

d) local car ownership levels; and

e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

113. Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.

114. Planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Proposals for new or expanded distribution centres should make provision for sufficient lorry parking to cater for their anticipated use.

[46] Policies for large scale facilities should, where necessary, be developed through collaboration between strategic policy-making authorities and other relevant bodies. Examples of such facilities include ports, airports, interchanges for rail freight, public transport projects and roadside services. The primary function of roadside services should be to support the safety and welfare of the road user (and most such proposals are unlikely to be nationally significant infrastructure projects).

[47] Department for Transport (2015) *General Aviation Strategy.*

Considering development proposals

115. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location;

b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code[48]; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.

116. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

117. Within this context, applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

118. All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a vision-led transport statement or transport assessment so that the likely impacts of the proposal can be assessed and monitored.

[48] Policies and decisions should not make use of or reflect the former Design Bulletin 32, which was withdrawn in 2007.

10. Supporting high quality communications

119. Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution).

120. The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.

121. Local planning authorities should not impose a ban on new electronic communications development in certain areas, impose blanket Article 4 directions over a wide area or a wide range of electronic communications development, or insist on minimum distances between new electronic communications development and existing development. They should ensure that:

    a) they have evidence to demonstrate that electronic communications infrastructure is not expected to cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest; and

    b) they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.

122. Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:

    a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and

    b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or

c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.

123. Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.

11. Making effective use of land

124. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land[49].

125. Planning policies and decisions should:

a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;

b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;

c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;

d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure)[50]; and

e) support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions – including mansard roofs – where the development would be consistent with the prevailing form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers. A condition of simultaneous development should not be imposed on an application for multiple upward extensions unless there is an exceptional justification.

126. Local planning authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers or held in public ownership, using the full range of powers available to them. This should include identifying opportunities to facilitate land assembly, supported where necessary by

[49] Except where this would conflict with other policies in this Framework, including causing harm to designated sites of importance for biodiversity.
[50] As part of this approach, plans and decisions should support efforts to identify and bring back into residential use empty homes and other buildings, supported by the use of compulsory purchase powers where appropriate.

compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes.

127. Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and

b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

128. Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and

b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

Achieving appropriate densities

129. Planning policies and decisions should support development that makes efficient use of land, taking into account:

a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;

b) local market conditions and viability;

c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;

d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and

e) the importance of securing well-designed, attractive and healthy places.

130. Area-based character assessments, design guides and codes and masterplans can be used to help ensure that land is used efficiently while also creating beautiful and sustainable places. Where there is an existing or anticipated shortage of land for

meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In these circumstances:

a) plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible. This will be tested robustly at examination, and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate;

b) the use of minimum density standards should also be considered for other parts of the plan area. It may be appropriate to set out a range of densities that reflect the accessibility and potential of different areas, rather than one broad density range; and

c) local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

12. Achieving well-designed places

131. The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

132. Plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development, both through their own plans and by engaging in the production of design policy, guidance and codes by local planning authorities and developers.

133. To provide maximum clarity about design expectations at an early stage, all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences. Design guides and codes provide a local framework for creating beautiful and distinctive places with a consistent and high quality standard of design. Their geographic coverage, level of detail and degree of prescription should be tailored to the circumstances and scale of change in each place, and should allow a suitable degree of variety.

134. Design guides and codes can be prepared at an area-wide, neighbourhood or site-specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents. Landowners and developers may contribute to these exercises, but may also choose to prepare design codes in support of a planning application for sites they wish to develop. Whoever prepares them, all guides and codes should be based on effective community engagement and reflect local aspirations for the development of their area, taking into account the guidance contained in the National Design Guide and the National Model Design Code. These national documents should be used to guide decisions on applications in the absence of locally produced design guides or design codes.

135. Planning policies and decisions should ensure that developments:

    a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

    b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users[51]; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

136. Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined[52], that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.

137. Design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should, where applicable, provide sufficient information to demonstrate how their proposals will meet the design expectations set out in local and national policy, and should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.

138. Local planning authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development. The National Model Design Code is the primary basis for the preparation and use of local design codes. For assessing proposals there is a range of tools including workshops to engage the local community, design advice and review arrangements, and assessment frameworks such as Building for a Healthy Life[53]. These are of most benefit if used as early as possible in the evolution of

[51] Planning policies for housing should make use of the Government's optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties. Policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified.
[52] Unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate.
[53] Birkbeck D and Kruczkowski S et al (2020) *Building for a Healthy Life.*

schemes, and are particularly important for significant projects such as large scale housing and mixed use developments. In assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels.

139. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design[54], taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

140. Local planning authorities should ensure that relevant planning conditions refer to clear and accurate plans and drawings which provide visual clarity about the design of the development, and are clear about the approved use of materials where appropriate. This will provide greater certainty for those implementing the planning permission on how to comply with the permission and a clearer basis for local planning authorities to identify breaches of planning control. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

141. The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

[54] Contained in the National Design Guide and National Model Design Code.

13. Protecting Green Belt land

142. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

143. Green Belt serves five purposes:

a) to check the unrestricted sprawl of large built-up areas;

b) to prevent neighbouring towns merging into one another;

c) to assist in safeguarding the countryside from encroachment;

d) to preserve the setting and special character of historic towns; and

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

144. The general extent of Green Belts across the country is already established. New Green Belts should only be established in exceptional circumstances, for example when planning for larger scale development such as new settlements or major urban extensions. Any proposals for new Green Belts should be set out in strategic policies, which should:

a) demonstrate why normal planning and development management policies would not be adequate;

b) set out whether any major changes in circumstances have made the adoption of this exceptional measure necessary;

c) show what the consequences of the proposal would be for sustainable development;

d) demonstrate the necessity for the Green Belt and its consistency with strategic policies for adjoining areas; and

e) show how the Green Belt would meet the other objectives of the Framework.

145. Once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the preparation or updating of plans. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans.

146. Exceptional circumstances in this context include, but are not limited to, instances where an authority cannot meet its identified need for homes, commercial or other development through other means. If that is the case, authorities should review Green Belt boundaries in accordance with the policies in this Framework and

propose alterations to meet these needs in full, unless the review provides clear evidence that doing so would fundamentally undermine the purposes (taken together) of the remaining Green Belt, when considered across the area of the plan.

147. Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph and whether the strategy:

a) makes as much use as possible of suitable brownfield sites and underutilised land;

b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and

c) has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.

148. Where it is necessary to release Green Belt land for development, plans should give priority to previously developed land, then consider grey belt which is not previously developed, and then other Green Belt locations. However, when drawing up or reviewing Green Belt boundaries, the need to promote sustainable patterns of development should determine whether a site's location is appropriate with particular reference to paragraphs 110 and 115 of this Framework. Strategic policy-making authorities should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary.

149. When defining Green Belt boundaries, plans should:

a) ensure consistency with the development plan's strategy for meeting identified requirements for sustainable development;

b) not include land which it is unnecessary to keep permanently open;

c) where necessary, identify areas of safeguarded land between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;

d) make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development;

e) be able to demonstrate that Green Belt boundaries will not need to be altered at the end of the plan period; and

f) define boundaries clearly, using physical features that are readily recognisable and likely to be permanent.

150. If it is necessary to restrict development in a village primarily because of the important contribution which the open character of the village makes to the openness of the Green Belt, the village should be included in the Green Belt. If, however, the character of the village needs to be protected for other reasons, other means should be used, such as conservation area or normal development management policies, and the village should be excluded from the Green Belt.

151. Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land. Where Green Belt land is released for development through plan preparation or review, the 'Golden Rules' in paragraph 156 below should apply.

152. The National Forest and Community Forests offer valuable opportunities for improving the environment around towns and cities, by upgrading the landscape and providing for recreation and wildlife. The National Forest Strategy and an approved Community Forest Plan may be a material consideration in preparing development plans and in deciding planning applications. Any development proposals within the National Forest and Community Forests in the Green Belt should be subject to the normal policies for controlling development in Green Belts.

Proposals affecting the Green Belt

153. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness[55]. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

154. Development in the Green Belt is inappropriate unless one of the following exceptions applies:

a) buildings for agriculture and forestry;

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

[55] Other than in the case of development on previously developed land or grey belt land, where development is not inappropriate.

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.

h) Other forms of development provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

   i. mineral extraction;

   ii. engineering operations;

   iii. local transport infrastructure which can demonstrate a requirement for a Green Belt location;

   iv. the re-use of buildings provided that the buildings are of permanent and substantial construction;

   v. material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and

   vi. development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

155. The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:

a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;

b. There is a demonstrable unmet need for the type of development proposed[56];

c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework[57]; and

[56] Which, in the case of applications involving the provision of housing, means the lack of a five year supply of deliverable housing sites, including the relevant buffer where applicable, or where the Housing Delivery Tests was below 75% of the housing requirement over the previous three years; and in the case of traveller sites means the lack of a five year supply of deliverable traveller sites assessed in line with Planning Policy for Traveller sites.

[57] In the case of development involving the provision of traveller sites, particular reference should be made to Planning Policy for Traveller Sites paragraph 13.

d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below.

156. Where major development involving the provision of housing is proposed on land released from the Green Belt through plan preparation or review[58], or on sites in the Green Belt subject to a planning application[59], the following contributions ('Golden Rules') should be made:

a. affordable housing which reflects either: (i) development plan policies produced in accordance with paragraphs 67-68 of this Framework; or (ii) until such policies are in place, the policy set out in paragraph 157 below;

b. necessary improvements to local or national infrastructure; and

c. the provision of new, or improvements to existing, green spaces that are accessible to the public. New residents should be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces.

157. Before development plan policies for affordable housing are updated in line with paragraphs 67-68 of this Framework, the affordable housing contribution required to satisfy the Golden Rules is 15 percentage points above the highest existing affordable housing requirement which would otherwise apply to the development, subject to a cap of 50%[60]. In the absence of a pre-existing requirement for affordable housing, a 50% affordable housing contribution should apply by default. The use of site-specific viability assessment for land within or released from the Green Belt should be subject to the approach set out in national planning practice guidance on viability.

158. A development which complies with the Golden Rules should be given significant weight in favour of the grant of permission.

159. The improvements to green spaces required as part of the Golden Rules should contribute positively to the landscape setting of the development, support nature recovery and meet local standards for green space provision where these exist in the development plan. Where no locally specific standards exist, development proposals should meet national standards relevant to the development (these include Natural England standards on accessible green space and urban greening factor and Green Flag criteria). Where land has been identified as having particular potential for habitat creation or nature recovery within Local Nature Recovery Strategies, proposals should contribute towards these outcomes.

[58] The Golden Rules do not apply to: (i) developments brought forward on land released from the Green Belt through plans that were adopted prior to the publication of this Framework; and (ii) developments that were granted planning permission on Green Belt land prior to the publication of this Framework.
[59] Including where there are variations made to existing permissions (where the existing permission involved development that was subject to the Golden Rules).
[60] The 50% cap does not apply to rural exception sites or community-led development exception sites, or if the local planning authority has a relevant existing policy which would apply to the development which is above 50%.

160. When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

14. Meeting the challenge of climate change, flooding and coastal change

161. The planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Planning for climate change

162. Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating and drought from rising temperatures[61]. Policies should support appropriate measures to ensure the future health and resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.

163. The need to mitigate and adapt to climate change should also be considered in preparing and assessing planning applications, taking into account the full range of potential climate change impacts.

164. New development should be planned for in ways that:

a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through incorporating green infrastructure and sustainable drainage systems; and

b) help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings in plans should reflect the Government's policy for national technical standards.

165. To help increase the use and supply of renewable and low carbon energy and heat, plans should:

a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts);

[61] In line with the objectives and provisions of the Climate Change Act 2008.

b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and

c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

166. In determining planning applications, local planning authorities should expect new development to:

a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

167. Local planning authorities should also give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). Where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 of this Framework.

168. When determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future;

b) recognise that small-scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions;

c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site.

169. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

Planning and flood risk

170. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where

development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

171. Strategic policies should be informed by a strategic flood risk assessment, and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.

172. All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

a) applying the sequential test and then, if necessary, the exception test as set out below;

b) safeguarding land from development that is required, or likely to be required, for current or future flood management;

c) using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding, (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management); and

d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.

173. A sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding, by following the steps set out below.

174. Within this context the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test.

175. The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).

176. Applications for some minor development and changes of use[62] should also not be subject to the sequential test, nor the exception test set out below, but should still meet the requirements for site-specific flood risk assessments set out in footnote 63.

[62] This includes householder development, small non-residential extensions (with a footprint of less than 250m^2) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park

177. Having applied the sequential test, if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.

178. The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:

a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

179. Both elements of the exception test should be satisfied for development to be allocated or permitted.

180. Where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again. However, the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account.

181. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment[63]. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;

c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

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home site, where the sequential and exception tests should be applied as appropriate.

[63] A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.

d) any residual risk can be safely managed; and

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

182. Applications which could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff, and which are proportionate to the nature and scale of the proposal. These should provide multifunctional benefits wherever possible, through facilitating improvements in water quality and biodiversity, as well as benefits for amenity. Sustainable drainage systems provided as part of proposals for major development should:

a) take account of advice from the Lead Local Flood Authority;

b) have appropriate proposed minimum operational standards; and

c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.

Coastal change

183. In coastal areas, planning policies and decisions should take account of the UK Marine Policy Statement and marine plans. Integrated Coastal Zone Management should be pursued across local authority and land/sea boundaries, to ensure effective alignment of the terrestrial and marine planning regimes.

184. Plans should reduce risk from coastal change by avoiding inappropriate development in vulnerable areas and not exacerbating the impacts of physical changes to the coast. They should identify as a Coastal Change Management Area any area likely to be affected by physical changes to the coast, and:

a) be clear as to what development will be appropriate in such areas and in what circumstances; and

b) make provision for development and infrastructure that needs to be relocated away from Coastal Change Management Areas.

185. Development in a Coastal Change Management Area will be appropriate only where it is demonstrated that:

a) it will be safe over its planned lifetime and not have an unacceptable impact on coastal change;

b) the character of the coast including designations is not compromised;

c) the development provides wider sustainability benefits; and

d) the development does not hinder the creation and maintenance of a continuous signed and managed route around the coast[64].

[64] As required by the Marine and Coastal Access Act 2009.

186. Local planning authorities should limit the planned lifetime of development in a Coastal Change Management Area through temporary permission and restoration conditions, where this is necessary to reduce a potentially unacceptable level of future risk to people and the development.

15. Conserving and enhancing the natural environment

187. Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

188. Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework[65]; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.

189. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks

[65] Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

and the Broads[66]. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

190. When considering applications for development within National Parks, the Broads and National Landscapes, permission should be refused for major development[67] other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;

b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and

c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

191. Within areas defined as Heritage Coast (and that do not already fall within one of the designated areas mentioned in paragraph 189), planning policies and decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character.

Habitats and biodiversity

192. To protect and enhance biodiversity and geodiversity, plans should:

a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity[68]; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation[69]; and

b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

[66] *English National Parks and the Broads: UK Government Vision and Circular 2010* provides further guidance and information about their statutory purposes, management and other matters.
[67] For the purposes of paragraphs 190 and 191, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
[68] Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system.
[69] Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them.

193. When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons[70] and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

194. The following should be given the same protection as habitats sites:

a) potential Special Protection Areas and possible Special Areas of Conservation;

b) listed or proposed Ramsar sites[71]; and

c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

195. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

[70] For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.

[71] Potential Special Protection Areas, possible Special Areas of Conservation and proposed Ramsar sites are sites on which Government has initiated public consultation on the scientific case for designation as a Special Protection Area, candidate Special Area of Conservation or Ramsar site.

Ground conditions and pollution

196. Planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

197. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

198. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life[72];

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

199. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

[72] See Explanatory Note to the *Noise Policy Statement for England* (Department for Environment, Food & Rural Affairs, 2010).

200. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

201. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

16. Conserving and enhancing the historic environment

202. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value[73]. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations[74].

203. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

d) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;

e) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;

f) the desirability of new development making a positive contribution to local character and distinctiveness; and

g) opportunities to draw on the contribution made by the historic environment to the character of a place.

204. When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.

205. Local planning authorities should maintain or have access to a historic environment record. This should contain up-to-date evidence about the historic environment in their area and be used to:

a) assess the significance of heritage assets and the contribution they make to their environment; and

b) predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.

206. Local planning authorities should make information about the historic environment, gathered as part of policy-making or development management, publicly accessible.

[73] Some World Heritage Sites are inscribed by UNESCO to be of natural significance rather than cultural significance; and in some cases they are inscribed for both their natural and cultural significance.
[74] The policies set out in this chapter relate, as applicable, to the heritage-related consent regimes for which local planning authorities are responsible under the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as to plan-making and decision-making.

Proposals affecting heritage assets

207. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

208. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

209. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

210. In determining applications, local planning authorities should take account of:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.

211. In considering any applications to remove or alter a historic statue, plaque, memorial or monument (whether listed or not), local planning authorities should have regard to the importance of their retention in situ and, where appropriate, of explaining their historic and social context rather than removal.

Considering potential impacts

212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

213. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional[75].

214. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

a) the nature of the heritage asset prevents all reasonable uses of the site; and

b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and

c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and

d) the harm or loss is outweighed by the benefit of bringing the site back into use.

215. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

216. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

217. Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

218. Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible[76]. However, the ability to

[75] Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.
[76] Copies of evidence should be deposited with the relevant historic environment record, and any archives with a local museum or other public depository.

record evidence of our past should not be a factor in deciding whether such loss should be permitted.

219. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

220. Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 214 or less than substantial harm under paragraph 215, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.

221. Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

17. Facilitating the sustainable use of minerals

222. It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

223. Planning policies should:

a) provide for the extraction of mineral resources of local and national importance, but not identify new sites or extensions to existing sites for peat extraction;

b) so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously;

c) safeguard mineral resources by defining Mineral Safeguarding Areas and Mineral Consultation Areas[77]; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);

d) set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place;

e) safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material;

f) set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality;

g) when developing noise limits, recognise that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction; and

h) ensure that worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place.

224. When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy[78]. In considering proposals for mineral extraction, minerals planning authorities should:

[77] Primarily in two tier areas as stated in Annex 2: Glossary
[78] Except in relation to the extraction of coal, where the policy at paragraph 230 of this Framework applies.

a) as far as is practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, National Landscapes and World Heritage Sites, scheduled monuments and conservation areas;

b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;

c) ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source[79], and establish appropriate noise limits for extraction in proximity to noise sensitive properties;

d) not grant planning permission for peat extraction from new or extended sites;

e) provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances;

f) consider how to meet any demand for the extraction of building stone needed for the repair of heritage assets, taking account of the need to protect designated sites; and

g) recognise the small-scale nature and impact of building and roofing stone quarries, and the need for a flexible approach to the duration of planning permissions reflecting the intermittent or low rate of working at many sites.

225. Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.

Maintaining supply

226. Minerals planning authorities should plan for a steady and adequate supply of aggregates by:

a) preparing an annual Local Aggregate Assessment, either individually or jointly, to forecast future demand, based on a rolling average of 10 years' sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources);

b) participating in the operation of an Aggregate Working Party and taking the advice of that party into account when preparing their Local Aggregate Assessment;

c) making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans, taking account of the advice of the Aggregate Working Parties and the National Aggregate Co-ordinating Group as appropriate.

[79] National planning practice guidance on minerals sets out how these policies should be implemented.

Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;

d) taking account of any published National and Sub National Guidelines on future provision which should be used as a guideline when planning for the future demand for and supply of aggregates;

e) using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply, and to indicate the additional provision that needs to be made for new aggregate extraction and alternative supplies in mineral plans;

f) maintaining landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised[80];

g) ensuring that large landbanks bound up in very few sites do not stifle competition; and

h) calculating and maintaining separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market.

227. Minerals planning authorities should plan for a steady and adequate supply of industrial minerals by:

a) co-operating with neighbouring and more distant authorities to ensure an adequate provision of industrial minerals to support their likely use in industrial and manufacturing processes;

b) encouraging safeguarding or stockpiling so that important minerals remain available for use;

c) maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment[81]; and

d) taking account of the need for provision of brick clay from a number of different sources to enable appropriate blends to be made.

Oil, gas and coal exploration and extraction

228. Minerals planning authorities should:

a) when planning for on-shore oil and gas development, clearly distinguish between, and plan positively for, the three phases of development (exploration,

[80] Longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites.
[81] These reserves should be at least 10 years for individual silica sand sites; at least 15 years for cement primary (chalk and limestone) and secondary (clay and shale) materials to maintain an existing plant, and for silica sand sites where significant new capital is required; and at least 25 years for brick clay, and for cement primary and secondary materials to support a new kiln.

appraisal and production), whilst ensuring appropriate monitoring and site restoration is provided for;

b) encourage underground gas and carbon storage and associated infrastructure if local geological circumstances indicate its feasibility;

c) indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable;

d) encourage the capture and use of methane from coal mines in active and abandoned coalfield areas; and

e) provide for coal producers to extract separately, and if necessary stockpile, fireclay so that it remains available for use.

229. When determining planning applications, minerals planning authorities should ensure that the integrity and safety of underground storage facilities are appropriate, taking into account the maintenance of gas pressure, prevention of leakage of gas and the avoidance of pollution.

230. Planning permission should not be granted for the extraction of coal unless:

a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or

b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).

Annex 1: Implementation

For the purposes of decision-making

231. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this Framework has made.

232. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). Where a local planning authority can demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78) and where the Housing Delivery Test indicates that the delivery of housing is more than 75% of the housing requirement over the previous three years, policies should not be regarded as out-of-date on the basis that the most up to date local housing need figure (calculated using the standard method set out in planning practice guidance) is greater than the housing requirement set out in adopted strategic policies, for a period of five years from the date of the plan's adoption.

233. Where a local planning authority has confirmed its housing land supply position for a year through a published Annual Position Statement that has been examined by the Planning Inspectorate against the previous version of this Framework, this position will stand until the Annual Position Statement expires.

For the purposes of plan-making

234. For the purpose of preparing local plans, the policies in this version of the Framework will apply from 12 March 2025 other than where one or more of the following apply:

a. the plan has reached Regulation 19[82] (pre-submission stage) on or before 12 March 2025, and its draft housing requirement meets at least 80% of local housing need[83];

b. the plan has been submitted for examination under Regulation 22[84] on or before 12 March 2025;

[82] Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. In this context "reached Regulation 19" refers to when Regulation 19 has been complied with (i.e. when the planning authority has made a copy of each of the proposed submission documents and a statement of the representations procedure available, and the statements required in Regulation 19(b) have been sent to consultation bodies).
[83] Calculated using the standard method in national planning practice guidance, published on 12 December 2024.
[84] Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

c. the plan includes policies to deliver the level of housing and other development set out in a preceding local plan (such as a joint local plan containing strategic policies) adopted since 12 March 2020;

d. the local plan is for an area where there is an operative Spatial Development Strategy and the local plan has reached Regulation 19 (pre-submission stage) on or before 12 March 2025; or

e. the plan deals only with minerals and/or waste matters and has reached Regulation 19 on or before 12 March 2025; or has been submitted for examination under Regulation 22 on or before 12 March 2025.

235. Where paragraph 234a, b, c, d or e apply, the plan will be examined under the relevant previous version of the Framework.

236. Where paragraph 234b applies, if the housing requirement in the plan to be adopted meets less than 80% of local housing need[85] the local planning authority will be expected to begin work on a new plan, under the revised plan-making system provided for under the Levelling Up and Regeneration Act 2023 (as soon as the relevant provisions are brought into force in 2025), in order to address the shortfall in housing need[86].

237. Those local plans that reach Regulation 19 (pre-submission stage) on or before 12 March 2025 and whose draft housing requirement[87] meets less than 80% of local housing need[85] should proceed to examination within a maximum of 18 months from 12 December 2024, or 24 months of that date if the plan has to return to the Regulation 18 stage[88].

238. For Spatial Development Strategies, the policies in this Framework will apply to strategies that reach consultation[89] under section 335(2) of the Greater London Authority Act 1999 after 12 March 2025. Strategies that reach this stage on or before this date will be examined under the relevant previous version of the Framework.

239. For neighbourhood plans, the policies in this Framework will apply for the purpose of preparing neighbourhood plans from 12 March 2025 unless a neighbourhood plan proposal has been submitted to the local planning authority under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) on or before the 12 March 2025.

240. For the purposes of the policy on larger-scale development in paragraph 22, this applies only to plans that had not reached Regulation 19 of the Town and Country

[85] Calculated using the standard method in national planning practice guidance, published on 12 December 2024.
[86] This paragraph does not apply in relation to local plans for areas where there is an operative Spatial Development Strategy (SDS) which provides the housing requirement for relevant local areas. In these circumstances the SDS will continue to provide the housing requirement for the relevant emerging local plans.
[87] Set out in the most recent Regulation 19 (pre-submission stage) consultation.
[88] This paragraph does not apply in relation to local plans for areas where there is an operative Spatial Development Strategy (SDS) which provides the housing requirement for relevant local areas. In these circumstances the SDS will continue to provide the housing requirement for the relevant emerging local plans.
[89] In this context “reaching consultation” refers to when parts (a) to (c) of section 335(2) have been complied with (i.e. when a draft Spatial Development Strategy has been prepared and copies have been made available at any prescribed places and sent to the prescribed bodies and persons).

Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage at the point the version of this Framework was published on 20 July 2021 (for Spatial Development Strategies this would refer to consultation under section 335(2) of the Greater London Authority Act 1999).

241. The policies in the original National Planning Policy Framework published in March 2012 will continue to apply for the purpose of examining plans, where those plans were submitted on or before 24 January 2019.

242. Where plans or strategies are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan or strategy produced for the area concerned.

243. The Government will continue to explore with individual areas the potential for planning freedoms and flexibilities, for example where this would facilitate an increase in the amount of housing that can be delivered.

Annex 2: Glossary

Affordable housing: housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions[90]:

a) **Social Rent**: meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent; (b) the landlord is a registered provider; and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision.

b) **Other affordable housing for rent:** meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

c) **Discounted market sales housing:** is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.

d) **Other affordable routes to home ownership:** is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.

Air quality management areas: Areas designated by local authorities because they are not likely to achieve national air quality objectives by the relevant deadlines.

Ancient or veteran tree: A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.

[90] This definition should be read in conjunction with relevant policy contained in the Affordable Homes Update Written Ministerial Statement published on 24 May 2021. As noted in footnote 31, however, the 25% minimum delivery requirement for First Homes no longer applies.

Ancient woodland: An area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites (PAWS).

Archaeological interest: There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.

Article 4 direction: A direction made under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 which withdraws permitted development rights granted by that Order.

Best and most versatile agricultural land: Land in grades 1, 2 and 3a of the Agricultural Land Classification.

Brownfield land: See Previously developed land.

Brownfield land registers: Registers of previously developed land that local planning authorities consider to be appropriate for residential development, having regard to criteria in the Town and Country Planning (Brownfield Land Registers) Regulations 2017. Local planning authorities will be able to trigger a grant of permission in principle for residential development on suitable sites in their registers where they follow the required procedures.

Build to Rent: Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.

Climate change adaptation: Adjustments made to natural or human systems in response to the actual or anticipated impacts of climate change, to mitigate harm or exploit beneficial opportunities.

Climate change mitigation: Action to reduce the impact of human activity on the climate system, primarily through reducing greenhouse gas emissions.

Coastal change management area: An area identified in plans as likely to be affected by physical change to the shoreline through erosion, coastal landslip, permanent inundation or coastal accretion.

Community forest: An area identified through the England Community Forest Programme to revitalise countryside and green space in and around major conurbations.

Community Right to Build Order: An Order made by the local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a site-specific development proposal or classes of development.

Community-led development: A development taken forward by, or with, a not-for-profit organisation, that is primarily for the purpose of meeting the needs of its members or the wider local community, rather than being a primarily commercial enterprise. The organisation should be created, managed and democratically controlled by its members, and membership of the organisation should be open to all beneficiaries and prospective beneficiaries of that organisation. It may take any one of various legal forms including a co-

operative society, community benefit society and company limited by guarantee. The organisation should own, manage or steward the development in a manner consistent with its purpose, potentially through a mutually supported arrangement with a Registered Provider of Social Housing. The benefits of the development to the community should be clearly defined and consideration given to how those benefits can be protected over time, including in the event of the organisation being wound up.

Competent person (to prepare site investigation information): A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.

Conservation (for heritage policy): The process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance.

Decentralised energy: Local renewable and local low carbon energy sources.

Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

Design code: A set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area. The graphic and written components of the code should build upon a design vision, such as a masterplan or other design and development framework for a site or area.

Design guide: A document providing guidance on how development can be carried out in accordance with good design practice, often produced by a local authority.

Designated heritage asset: A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation.

Designated rural areas: National Parks, National Landscapes and areas designated as ‘rural’ under Section 157 of the Housing Act 1985.

Developable: To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.

Development plan: Is defined in section 38 of the Planning and Compulsory Purchase Act 2004, and includes adopted local plans, neighbourhood plans that have been made and

published spatial development strategies, together with any regional strategy policies that remain in force. Neighbourhood plans that have been approved at referendum are also part of the development plan, unless the local planning authority decides that the neighbourhood plan should not be made.

Early years: the provision of childcare (including education) for a young child, meaning a child from birth to the September after the child turns 5.

Edge of centre: For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area. For all other main town centre uses, a location within 300 metres of a town centre boundary. For office development, this includes locations outside the town centre but within 500 metres of a public transport interchange. In determining whether a site falls within the definition of edge of centre, account should be taken of local circumstances.

Environmental impact assessment: A procedure to be followed for certain types of project to ensure that decisions are made in full knowledge of any likely significant effects on the environment.

Essential local workers: Public sector employees who provide frontline services in areas including health, education and community safety – such as NHS staff, teachers, police, firefighters and military personnel, social care and childcare workers.

General aviation airfields: Licenced or unlicenced aerodromes with hard or grass runways, often with extensive areas of open land related to aviation activity.

Geodiversity: The range of rocks, minerals, fossils, soils and landforms.

Green infrastructure: A network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity.

Grey belt: For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

Habitats site: Any site which would be included within the definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017 for the purpose of those regulations, including candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation, Special Protection Areas and any relevant Marine Sites.

Heritage asset: A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).

Heritage coast: Areas of undeveloped coastline which are managed to conserve their natural beauty and, where appropriate, to improve accessibility for visitors.

Historic environment: All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.

Historic environment record: Information services that seek to provide access to comprehensive and dynamic resources relating to the historic environment of a defined geographic area for public benefit and use.

Housing Delivery Test: Measures net homes delivered in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England annually.

International, national and locally designated sites of importance for biodiversity: All international sites (Special Areas of Conservation, Special Protection Areas, and Ramsar sites), national sites (Sites of Special Scientific Interest) and locally designated sites including Local Wildlife Sites.

Irreplaceable habitat: Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen.

Local Development Order: An Order made by a local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a specific development proposal or classes of development.

Local Enterprise Partnership: A body, designated by the Secretary of State for Housing, Communities and Local Government, established for the purpose of creating or improving the conditions for economic growth in an area.

Local housing need: The number of homes identified as being needed through the application of the standard method set out in national planning practice guidance.

Local Nature Partnership: A body, designated by the Secretary of State for Environment, Food and Rural Affairs, established for the purpose of protecting and improving the natural environment in an area and the benefits derived from it.

Local planning authority: The public authority whose duty it is to carry out specific planning functions for a particular area. All references to local planning authority include the district council, London borough council, county council, Broads Authority, National Park Authority, the Mayor of London and a development corporation, to the extent appropriate to their responsibilities.

Local plan: A plan for the future development of a local area, drawn up by the local planning authority in consultation with the community, under the Town and Country Planning (Local Planning) (England) Regulations 2012. A local plan can consist of either strategic or non-strategic policies, or a combination of the two.

Main town centre uses: Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).

Major development[91]**:** For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m^2 or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Major hazard sites, installations and pipelines: Sites and infrastructure, including licensed explosive sites and nuclear installations, around which Health and Safety Executive (and Office for Nuclear Regulation) consultation distances to mitigate the consequences to public safety of major accidents may apply.

Mansard roof: A type of roof that is characterised by two slopes, the lower steep and the upper shallow. It is generally regarded as a suitable type of roof extension for buildings which are part of a terrace of at least three buildings and at least two stories tall, with a parapet running the entire length of the front façade (reference: Create Streets, 2021, *Living Tradition*).

Minerals resources of local and national importance: Minerals which are necessary to meet society's needs, including aggregates, brickclay (especially Etruria Marl and fireclay), silica sand (including high grade silica sands), coal derived fly ash in single use deposits, cement raw materials, gypsum, salt, fluorspar, shallow and deep-mined coal, oil and gas (including conventional and unconventional hydrocarbons), tungsten, kaolin, ball clay, potash, polyhalite and local minerals of importance to heritage assets and local distinctiveness.

Mineral Consultation Area: a geographical area based on a Mineral Safeguarding Area, where the district or borough council should consult the Mineral Planning Authority for any proposals for non-minerals development.

Mineral Safeguarding Area: An area designated by minerals planning authorities which covers known deposits of minerals which are desired to be kept safeguarded from unnecessary sterilisation by non-mineral development.

National Landscapes: areas legally designated as areas of outstanding natural beauty under the National Parks and Access to the Countryside Act 1949 and Countryside and Rights of Way Act 2000.

National trails: Long distance routes for walking, cycling and horse riding.

[91] Other than for the specific purposes of paragraphs 190 and 191 in this Framework.

Natural Flood Management: managing flood and coastal erosion risk by protecting, restoring and emulating the natural 'regulating' function of catchments, rivers, floodplains and coasts.

Nature Recovery Network: An expanding, increasingly connected, network of wildlife- rich habitats supporting species recovery, alongside wider benefits such as carbon capture, water quality improvements, natural flood risk management and recreation. It includes the existing network of protected sites and other wildlife rich habitats as well as and landscape or catchment scale recovery areas where there is coordinated action for species and habitats.

Neighbourhood Development Order: An Order made by a local planning authority (under the Town and Country Planning Act 1990) through which parish councils and neighbourhood forums can grant planning permission for a specific development proposal or classes of development.

Neighbourhood plan: A plan prepared by a parish council or neighbourhood forum for a designated neighbourhood area. In law this is described as a neighbourhood development plan in the Planning and Compulsory Purchase Act 2004.

Non-strategic policies: Policies contained in a neighbourhood plan, or those policies in a local plan that are not strategic policies.

Older people: People over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs.

Open space: All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.

Original building: A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

Out of centre: A location which is not in or on the edge of a centre but not necessarily outside the urban area.

Out of town: A location out of centre that is outside the existing urban area.

Outstanding universal value: Cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations. An individual Statement of Outstanding Universal Value is agreed and adopted by the UNESCO World Heritage Committee for each World Heritage Site.

People with disabilities: People have a disability if they have a physical or mental impairment, and that impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. These persons include, but are not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs.

Permission in principle: A form of planning consent which establishes that a site is suitable for a specified amount of housing-led development in principle. Following a grant of permission in principle, the site must receive a grant of technical details consent before development can proceed.

Planning condition: A condition imposed on a grant of planning permission (in accordance with the Town and Country Planning Act 1990) or a condition included in a Local Development Order or Neighbourhood Development Order.

Planning obligation: A legal agreement entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.

Playing field: The whole of a site which encompasses at least one playing pitch as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Post-16: Young people who are over compulsory school age but under 19, or aged 19 or over and for whom an Education, Health and Care (EHC) plan is maintained.

Previously developed land: Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

Primary shopping area: Defined area where retail development is concentrated.

Priority habitats and species: Species and Habitats of Principal Importance included in the England Biodiversity List published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006.

Ramsar sites: Wetlands of international importance, designated under the 1971 Ramsar Convention.

Reasonable future scenarios (for assessing potential highways impacts): a range of realistic transport scenarios tested in agreement with the local planning authority and other relevant bodies (including statutory consultees where appropriate), to assess potential impacts and determine the optimum transport infrastructure required to mitigate any adverse impacts, promote sustainable modes of travel and realise the vision for the site.

Renewable and low carbon energy: Includes energy for heating and cooling as well as generating electricity. Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass and deep geothermal heat. Low carbon

technologies are those that can help reduce emissions (compared to conventional use of fossil fuels).

Rural exception sites: Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding.

Recycled aggregates: aggregates resulting from the processing of inorganic materials previously used in construction, e.g. construction and demolition waste.

Safeguarding zone: An area defined in Circular 01/03: *Safeguarding aerodromes, technical sites and military explosives storage areas*, to which specific safeguarding provisions apply.

Secondary aggregates: aggregates from industrial wastes such as glass (cullet), incinerator bottom ash, coal derived fly ash, railway ballast, fine ceramic waste (pitcher), and scrap tyres; and industrial and minerals by-products, notably waste from china clay, coal and slate extraction and spent foundry sand. These can also include hydraulically bound materials.

Self-build and custom-build housing: Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.

Setting of a heritage asset: The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Significance (for heritage policy): The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance.

Special Areas of Conservation: Areas defined by regulation 3 of the Conservation of Habitats and Species Regulations 2017 which have been given special protection as important conservation sites.

Special Protection Areas: Areas classified under regulation 15 of the Conservation of Habitats and Species Regulations 2017 which have been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds.

Site investigation information: Includes a risk assessment of land potentially affected by contamination, or ground stability and slope stability reports, as appropriate. All

investigations of land potentially affected by contamination should be carried out in accordance with established procedures (such as BS10175 Investigation of Potentially Contaminated Sites – Code of Practice).

Site of Special Scientific Interest: Sites designated by Natural England under the Wildlife and Countryside Act 1981.

Spatial development strategy: A plan containing strategic policies prepared by a Mayor or a combined authority. It includes the London Plan (prepared under provisions in the Greater London Authority Act 1999) and plans prepared by combined authorities that have been given equivalent plan-making functions by an order made under the Local Democracy, Economic Development and Construction Act 2009 (as amended).

Stepping stones: Pockets of habitat that, while not necessarily connected, facilitate the movement of species across otherwise inhospitable landscapes.

Strategic environmental assessment: A procedure (set out in the Environmental Assessment of Plans and Programmes Regulations 2004) which requires the formal environmental assessment of certain plans and programmes which are likely to have significant effects on the environment.

Strategic policies: Policies and site allocations which address strategic priorities in line with the requirements of Section 19 (1B-E) of the Planning and Compulsory Purchase Act 2004.

Strategic policy-making authorities: Those authorities responsible for producing strategic policies (local planning authorities, and elected Mayors or combined authorities, where this power has been conferred). This definition applies whether the authority is in the process of producing strategic policies or not.

Supplementary planning documents: Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

Sustainable Drainage System: A sustainable drainage system controls surface water run off close to where it falls, combining a mixture of built and nature-based techniques to mimic natural drainage as closely as possible, and accounting for the predicted impacts of climate change. The type of system that would be appropriate will vary from small scale interventions such as permeable paving and soakaways that can be used in very small developments to larger integrated schemes in major developments.

Sustainable transport modes: Any efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, ultra low and zero emission vehicles, car sharing and public transport.

Town centre: Area defined on the local authority's policies map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. References to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance. Unless they are identified as centres in the

development plan, existing out-of-centre developments, comprising or including main town centre uses, do not constitute town centres.

Transport assessment: A comprehensive and systematic process that considers and sets out transport issues relating to a proposed development, in the context of the vision for the scheme. It identifies measures required to support alternatives to the car such as walking, cycling and public transport, and to promote accessibility and safety, together with measures that will be needed to deal with the anticipated transport impacts of the development.

Transport statement: A simplified version of a transport assessment where it is agreed the transport issues arising from development proposals are limited and a full transport assessment is not required.

Travel plan: A long-term management strategy for an organisation or site that details how agreed sustainable transport objectives are to be delivered, and which is monitored and regularly reviewed.

Vision-led approach: an approach to transport planning based on setting outcomes for a development based on achieving well-designed, sustainable and popular places, and providing the transport solutions to deliver those outcomes as opposed to predicting future demand to provide capacity (often referred to as ‘predict and provide’).

Wildlife corridor: Areas of habitat connecting wildlife populations.

Windfall sites: Sites not specifically identified in the development plan.

Annex 3: Flood risk vulnerability classification

ESSENTIAL INFRASTRUCTURE

- Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.
- Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including infrastructure for electricity supply including generation, storage and distribution systems; and water treatment works that need to remain operational in times of flood.
- Wind turbines.
- Solar farms

HIGHLY VULNERABLE

- Police and ambulance stations; fire stations and command centres; telecommunications installations required to be operational during flooding.
- Emergency dispersal points.
- Basement dwellings.
- Caravans, mobile homes and park homes intended for permanent residential use.
- Installations requiring hazardous substances consent. (Where there is a demonstrable need to locate such installations for bulk storage of materials with port or other similar facilities, or such installations with energy infrastructure or carbon capture and storage installations, that require coastal or water-side locations, or need to be located in other high flood risk areas, in these instances the facilities should be classified as ‘Essential Infrastructure’.)

MORE VULNERABLE

- Hospitals
- Residential institutions such as residential care homes, children’s homes, social services homes, prisons and hostels.
- Buildings used for dwelling houses, student halls of residence, drinking establishments, nightclubs and hotels.
- Non–residential uses for health services, nurseries and educational establishments.
- Landfill* and sites used for waste management facilities for hazardous waste.
- Sites used for holiday or short-let caravans and camping, subject to a specific warning and evacuation plan.

LESS VULNERABLE

- Police, ambulance and fire stations which are not required to be operational during flooding.

- Buildings used for shops; financial, professional and other services; restaurants, cafes and hot food takeaways; offices; general industry, storage and distribution; non-residential institutions not included in the ‘more vulnerable’ class; and assembly and leisure.
- Land and buildings used for agriculture and forestry.
- Waste treatment (except landfill* and hazardous waste facilities).
- Minerals working and processing (except for sand and gravel working).
- Water treatment works which do not need to remain operational during times of flood.
- Sewage treatment works, if adequate measures to control pollution and manage sewage during flooding events are in place.
- Car parks.

WATER-COMPATIBLE DEVELOPMENT

- Flood control infrastructure.
- Water transmission infrastructure and pumping stations.
- Sewage transmission infrastructure and pumping stations.
- Sand and gravel working.
- Docks, marinas and wharves.
- Navigation facilities.
- Ministry of Defence installations.
- Ship building, repairing and dismantling, dockside fish processing and refrigeration and compatible activities requiring a waterside location.
- Water-based recreation (excluding sleeping accommodation).
- Lifeguard and coastguard stations.
- Amenity open space, nature conservation and biodiversity, outdoor sports and recreation and essential facilities such as changing rooms.
- Essential ancillary sleeping or residential accommodation for staff required by uses in this category, subject to a specific warning and evacuation plan.

* Landfill is as defined in Schedule 10 of the Environmental Permitting (England and Wales) Regulations 2010.



Department for Levelling Up,
Housing & Communities

National Planning Policy Framework

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1. Introduction

1. The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied[1]. It provides a framework within which locally-prepared plans can provide for sufficient housing and other development in a sustainable manner. Preparing and maintaining up-to-date plans should be seen as a priority in meeting this objective.

2. Planning law requires that applications for planning permission be determined in accordance with the development plan[2], unless material considerations indicate otherwise[3]. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

3. The Framework should be read as a whole (including its footnotes and annexes). General references to planning policies in the Framework should be applied in a way that is appropriate to the type of plan being produced, taking into account policy on plan-making in chapter 3.

4. The Framework should be read in conjunction with the Government's planning policy for traveller sites, and its planning policy for waste. When preparing plans or making decisions on applications for these types of development, regard should also be had to the policies in this Framework, where relevant.

5. The Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework). National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications.

6. Other statements of government policy may be material when preparing plans or deciding applications, such as relevant Written Ministerial Statements and endorsed recommendations of the National Infrastructure Commission. This includes the Written Ministerial Statement on Affordable Homes Update (24 May 2021) which contains policy on First Homes.

[1] This document replaces the previous version of the National Planning Policy Framework published in September 2023.
[2] This includes local and neighbourhood plans that have been brought into force and any spatial development strategies produced by combined authorities or elected Mayors (see Glossary).
[3] Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

2. Achieving sustainable development

7. The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs[4]. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection[5].

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

   a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

   b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

   c) **an environmental objective** – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

9. These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

10. So that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11).

[4] Resolution 42/187 of the United Nations General Assembly.
[5] Transforming our World: the 2030 Agenda for Sustainable Development.

The presumption in favour of sustainable development

11. Plans and decisions should apply a presumption in favour of sustainable development.

For **plan-making** this means that:

a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;

b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas[6], unless:

   i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area[7]; or

   ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For **decision-taking** this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date[8], granting permission unless:

   i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed[7]; or

   ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

[6] As established through statements of common ground (see paragraph 27).

[7] The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.

[8] This includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.

12. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

13. The application of the presumption has implications for the way communities engage in neighbourhood planning. Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.

14. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

    a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and

    b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-68).

3. Plan-making

15. The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for meeting housing needs and addressing other economic, social and environmental priorities; and a platform for local people to shape their surroundings.

16. Plans should:

a) be prepared with the objective of contributing to the achievement of sustainable development[9];

b) be prepared positively, in a way that is aspirational but deliverable;

c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;

d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;

e) be accessible through the use of digital tools to assist public involvement and policy presentation; and

f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).

The plan-making framework

17. The development plan must include strategic policies to address each local planning authority's priorities for the development and use of land in its area[10]. These strategic policies can be produced in different ways, depending on the issues and opportunities facing each area. They can be contained in:

a) joint or individual local plans, produced by authorities working together or independently (and which may also contain non-strategic policies); and/or

b) a spatial development strategy produced by an elected Mayor or combined authority, where plan-making powers have been conferred.

18. Policies to address non-strategic matters should be included in local plans that contain both strategic and non-strategic policies, and/or in local or neighbourhood plans that contain just non-strategic policies.

19. The development plan for an area comprises the combination of strategic and non- strategic policies which are in force at a particular time.

[9] This is a legal requirement of local planning authorities exercising their plan-making functions (section 39(2) of the Planning and Compulsory Purchase Act 2004).
[10] Section 19(1B-1E) of the Planning and Compulsory Purchase Act 2004.

Strategic policies

20. Strategic policies should set out an overall strategy for the pattern, scale and design quality of places (to ensure outcomes support beauty and placemaking), and make sufficient provision[11] for:

    a) housing (including affordable housing), employment, retail, leisure and other commercial development;

    b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);

    c) community facilities (such as health, education and cultural infrastructure); and

    d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.

21. Plans should make explicit which policies are strategic policies[12]. These should be limited to those necessary to address the strategic priorities of the area (and any relevant cross-boundary issues), to provide a clear starting point for any non-strategic policies that are needed. Strategic policies should not extend to detailed matters that are more appropriately dealt with through neighbourhood plans or other non-strategic policies.

22. Strategic policies should look ahead over a minimum 15 year period from adoption[13], to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure. Where larger scale developments such as new settlements or significant extensions to existing villages and towns form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take into account the likely timescale for delivery[14].

23. Broad locations for development should be indicated on a key diagram, and land-use designations and allocations identified on a policies map. Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area (except insofar as these needs can be demonstrated to be met more appropriately through other mechanisms, such as brownfield registers or non-strategic policies)[15].

[11] In line with the presumption in favour of sustainable development.
[12] Where a single local plan is prepared the non-strategic policies should be clearly distinguished from the strategic policies.
[13] Except in relation to town centre development, as set out in chapter 7.
[14] Transitional arrangements are set out in Annex 1.
[15] For spatial development strategies, allocations, land use designations and a policies map are needed only where the power to make allocations has been conferred.

Maintaining effective cooperation

24. Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.

25. Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans. They should also engage with their local communities and relevant bodies including Local Enterprise Partnerships, Local Nature Partnerships, the Marine Management Organisation, county councils, infrastructure providers, elected Mayors and combined authorities (in cases where Mayors or combined authorities do not have plan-making powers).

26. Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.

27. In order to demonstrate effective and on-going joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning guidance, and be made publicly available throughout the plan-making process to provide transparency.

Non-strategic policies

28. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies[16].

30. Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.

[16] Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.

Preparing and reviewing plans

31. The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.

32. Local plans and spatial development strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant legal requirements[17]. This should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains). Significant adverse impacts on these objectives should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where significant adverse impacts are unavoidable, suitable mitigation measures should be proposed (or, where this is not possible, compensatory measures should be considered).

33. Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary[18]. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future.

Development contributions

34. Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.

Examining plans

35. Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are ‘sound’ if they are:

[17] The reference to relevant legal requirements refers to Strategic Environmental Assessment. Neighbourhood plans may require Strategic Environmental Assessment, but only where there are potentially significant environmental effects.

[18] Reviews at least every five years are a legal requirement for all local plans (Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012).

a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs[19]; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

36. These tests of soundness will be applied to non-strategic policies[20] in a proportionate way, taking into account the extent to which they are consistent with relevant strategic policies for the area.

37. Neighbourhood plans must meet certain 'basic conditions' and other legal requirements[21] before they can come into force. These are tested through an independent examination before the neighbourhood plan may proceed to referendum.

[19] Where this relates to housing, such needs should be assessed using a clear and justified method, as set out in paragraph 61 of this Framework
[20] Where these are contained in a local plan.
[21] As set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

4. Decision-making

38. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Pre-application engagement and front-loading

39. Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.

40. Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications.

41. The more issues that can be resolved at pre-application stage, including the need to deliver improvements in infrastructure and affordable housing, the greater the benefits. For their role in the planning system to be effective and positive, statutory planning consultees will need to take the same early, pro-active approach, and provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs.

42. The participation of other consenting bodies in pre-application discussions should enable early consideration of all the fundamental issues relating to whether a particular development will be acceptable in principle, even where other consents relating to how a development is built or operated are needed at a later stage. Wherever possible, parallel processing of other consents should be encouraged to help speed up the process and resolve any issues as early as possible.

43. The right information is crucial to good decision-making, particularly where formal assessments are required (such as Environmental Impact Assessment, Habitats Regulations assessment and flood risk assessment). To avoid delay, applicants should discuss what information is needed with the local planning authority and expert bodies as early as possible.

44. Local planning authorities should publish a list of their information requirements for applications for planning permission. These requirements should be kept to the minimum needed to make decisions, and should be reviewed at least every two

years. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.

45. Local planning authorities should consult the appropriate bodies when considering applications for the siting of, or changes to, major hazard sites, installations or pipelines, or for development around them.

46. Applicants and local planning authorities should consider the potential for voluntary planning performance agreements, where this might achieve a faster and more effective application process. Planning performance agreements are likely to be needed for applications that are particularly large or complex to determine.

Determining applications

47. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

48. Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)[22].

49. However, in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

[22] During the transitional period for emerging plans consistency should be tested against the version of the Framework as applicable, as set out in Annex 1.

50. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

Tailoring planning controls to local circumstances

51. Local planning authorities are encouraged to use Local Development Orders to set the planning framework for particular areas or categories of development where the impacts would be acceptable, and in particular where this would promote economic, social or environmental gains for the area.

52. Communities can use Neighbourhood Development Orders and Community Right to Build Orders to grant planning permission. These require the support of the local community through a referendum. Local planning authorities should take a proactive and positive approach to such proposals, working collaboratively with community organisations to resolve any issues before draft orders are submitted for examination.

53. The use of Article 4 directions to remove national permitted development rights should:

a) where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)

b) in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)

c) in all cases, be based on robust evidence, and apply to the smallest geographical area possible.

54. Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

Planning conditions and obligations

55. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

56. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early

is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification[23].

57. Planning obligations must only be sought where they meet all of the following tests[24]:

a) necessary to make the development acceptable in planning terms;

b) directly related to the development; and

c) fairly and reasonably related in scale and kind to the development.

58. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.

Enforcement

59. Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

[23] Sections 100ZA(4-6) of the Town and Country Planning Act 1990 will require the applicant's written agreement to the terms of a pre-commencement condition, unless prescribed circumstances apply.
[24] Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

5. Delivering a sufficient supply of homes

60. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

61. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area (see paragraph 67 below). There may be exceptional circumstances, including relating to the particular demographic characteristics of an area[25] which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for[26].

62. The standard method incorporates an uplift which applies to certain cities and urban centres, as set out in national planning guidance. This uplift should be accommodated within those cities and urban centres themselves except where there are voluntary cross boundary redistribution agreements in place, or where it would conflict with the policies in this Framework[27].

63. Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers[28]; people who rent their homes and people wishing to commission or build their own homes[29].

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[25] Such particular demographic characteristics could, for example, include areas that are islands with no land bridge that have a significant proportion of elderly residents.
[26] Transitional arrangements are set out in Annex 1
[27] In doing so, strategic policies should promote an effective use of land and optimise site densities in accordance with chapter 11. This is to ensure that homes are built in the right places, to prioritise brownfield and other under-utilised urban sites, to utilise existing infrastructure, and to allow people to live near the services they rely on, making travel patterns more sustainable.
[28] Planning Policy for Traveller Sites sets out how travellers' housing needs should be assessed for those covered by the definition in Annex 1 of that document.
[29] Under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.

64. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required[30], and expect it to be met on-site unless:

a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and

b) the agreed approach contributes to the objective of creating mixed and balanced communities.

65. Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount[31].

66. Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership[32], unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:

a) provides solely for Build to Rent homes;

b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);

c) is proposed to be developed by people who wish to build or commission their own homes; or

d) is exclusively for affordable housing, a community-led development exception site or a rural exception site.

67. Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment. Within this overall requirement, strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations[33]. Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan examination, unless there has been a significant change in

[30] Applying the definition in Annex 2 to this Framework.
[31] Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.
[32] As part of the overall affordable housing contribution from the site.
[33] Except where a Mayoral, combined authority or high-level joint plan is being prepared as a framework for strategic policies at the individual local authority level; in which case it may be most appropriate for the local authority plans to provide the requirement figure.

circumstances that affects the requirement.

68. Where it is not possible to provide a requirement figure for a neighbourhood area[34], the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority.

Identifying land for homes

69. Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. Planning policies should identify a supply of:

    a) specific, deliverable sites for five years following the intended date of adoption[35]; and

    b) specific, developable sites or broad locations for growth, for the subsequent years 6-10 and, where possible, for years 11-15 of the remaining plan period.

70. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:

    a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved;

    b) seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom-build housing;

    c) use tools such as area-wide design assessments, permission in principle and Local Development Orders to help bring small and medium sized sites forward;

    d) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes; and

    e) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

[34] Because a neighbourhood area is designated at a late stage in the strategic policy-making process, or after strategic policies have been adopted; or in instances where strategic policies for housing are out of date.
[35] With an appropriate buffer, as set out in paragraph 77. See Glossary for definitions of deliverable and developable.

71. Neighbourhood planning groups should also give particular consideration to the opportunities for allocating small and medium-sized sites (of a size consistent with paragraph 70a) suitable for housing in their area.

72. Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

73. Local planning authorities should support the development of exception sites for community-led development[36] (as defined in Annex 2) on sites that would not otherwise be suitable as rural exception sites. These sites should be on land which is not already allocated for housing and should:

    a) comprise community-led development that includes one or more types of affordable housing as defined in Annex 2 of this Framework. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding; and

    b) be adjacent to existing settlements, proportionate in size to them[37], not compromise the protection given to areas or assets of particular importance in this Framework[38], and comply with any local design policies and standards.

74. The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes). Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way. In doing so, they should:

    a) consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains;

    b) ensure that their size and location will support a sustainable community, with sufficient access to services and employment opportunities within the development itself (without expecting an unrealistic level of self-containment), or in larger towns to which there is good access;

    c) set clear expectations for the quality of the places to be created and how this

[36] This exception site policy does not replace the First Homes exception policy set out in the Affordable Homes Update Written Ministerial Statement, dated 24 May 2021, which remains extant policy.
[37] Community-led development exception sites should not be larger than one hectare in size or exceed 5% of the size of the existing settlement.
[38] i.e. the areas referred to in footnote 7.

can be maintained (such as by following Garden City principles); and ensure that appropriate tools such as masterplans and design guides or codes are used to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community;

d) make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites, and identify opportunities for supporting rapid implementation (such as through joint ventures or locally-led development corporations)[39]; and

e) consider whether it is appropriate to establish Green Belt around or adjoining new developments of significant size.

Maintaining supply and delivery

75. Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies.

76. Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met[40]:

a) their adopted plan is less than five years old; and

b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.

77. In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing[41], or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old[42]. Where there has been significant under delivery of housing over the previous three years[43], the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period).

[39] The delivery of large scale developments may need to extend beyond an individual plan period, and the associated infrastructure requirements may not be capable of being identified fully at the outset. Anticipated rates of delivery and infrastructure requirements should, therefore, be kept under review and reflected as policies are updated.
[40] Transitional provisions relating to the application of this paragraph are set out in footnote 79.
[41] For the avoidance of doubt, a five year supply of deliverable sites for travellers – as defined in Annex 1 to Planning Policy for Traveller Sites – should be assessed separately, in line with the policy in that document.
[42] Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance.
[43] This will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement. For clarity, authorities that are not required to continually demonstrate a 5 year housing land supply should disregard this requirement.

National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.

78. Where the criteria in paragraph 76 are not met, a local planning authority may confirm the existence of a five-year supply of deliverable housing sites (with a 20% buffer if applicable) through an annual position statement which:

a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and

b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.

79. To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below the local planning authority's housing requirement over the previous three years, the following policy consequences should apply:

a) where delivery falls below 95% of the requirement over the previous three years, the authority should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years;

b) where delivery falls below 85% of the requirement over the previous three years, the authority should include a buffer of 20% to their identified supply of specific deliverable sites as set out in paragraph 77 of this framework, in addition to the requirement for an action plan.

c) where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8 of this Framework, in addition to the requirements for an action plan and 20% buffer.

80. The Housing Delivery Test consequences set out above will apply the day following the annual publication of the Housing Delivery Test results, at which point they supersede previously published results. Until new Housing Delivery Test results are published, the previously published result should be used.

81. To help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability. For major development involving the provision of housing, local planning authorities should also assess why any earlier grant of planning permission for a similar development on the same site did not start.

Rural housing

82. In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs,

including proposals for community-led development for housing. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.

83. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

84. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

c) the development would re-use redundant or disused buildings and enhance its immediate setting;

d) the development would involve the subdivision of an existing residential building; or

e) the design is of exceptional quality, in that it:

- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

6. Building a strong, competitive economy

85. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation[44], and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

86. Planning policies should:

a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration;

b) set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;

c) seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment; and

d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.

87. Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.

Supporting a prosperous rural economy

88. Planning policies and decisions should enable:

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings;

b) the development and diversification of agricultural and other land-based rural businesses;

[44] The Government's Industrial Strategy sets out a vision to drive productivity improvements across the UK, identifies a number of Grand Challenges facing all nations, and sets out a delivery programme to make the UK a leader in four of these: artificial intelligence and big data; clean growth; future mobility; and catering for an ageing society. HM Government (2017) *Industrial Strategy: Building a Britain fit for the future.*

c) sustainable rural tourism and leisure developments which respect the character of the countryside; and

d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

89. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

7. Ensuring the vitality of town centres

90. Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:

a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;

b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;

c) retain and enhance existing markets and, where appropriate, re-introduce or create new ones;

d) allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;

e) where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre; and

f) recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.

91. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

92. When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

93. This sequential approach should not be applied to applications for small scale rural offices or other small scale rural development.

94. When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m^2 of gross floorspace). This should include assessment of:

a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

95. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 94, it should be refused.

8. Promoting healthy and safe communities

96. Planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which:

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of beautiful, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas; and

c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

97. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and

e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

98. Planning policies and decisions should consider the social, economic and environmental benefits of estate regeneration. Local planning authorities should use their planning powers to help deliver estate regeneration to a high standard.

99. It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and

b) work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

100. To ensure faster delivery of other public service infrastructure such as further education colleges, hospitals and criminal justice accommodation, local planning authorities should also work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted.

101. Planning policies and decisions should promote public safety and take into account wider security and defence requirements by:

a) anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate[45]. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security; and

b) recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adversely by the impact of other development proposed in the area.

Open space and recreation

102. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

103. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable

[45] This includes transport hubs, night-time economy venues, cinemas and theatres, sports stadia and arenas, shopping centres, health and education establishments, places of worship, hotels and restaurants, visitor attractions and commercial centres.

location; or

c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

104. Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

105. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.

106. The Local Green Space designation should only be used where the green space is:

a) in reasonably close proximity to the community it serves;

b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and

c) local in character and is not an extensive tract of land.

107. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.

9. Promoting sustainable transport

108. Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

a) the potential impacts of development on transport networks can be addressed;

b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;

c) opportunities to promote walking, cycling and public transport use are identified and pursued;

d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and

e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

109. The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

110. Planning policies should:

a) support an appropriate mix of uses across an area, and within larger scale sites, to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities;

b) be prepared with the active involvement of local highways authorities, other transport infrastructure providers and operators and neighbouring councils, so that strategies and investments for supporting sustainable transport and development patterns are aligned;

c) identify and protect, where there is robust evidence, sites and routes which could be critical in developing infrastructure to widen transport choice and realise opportunities for large scale development;

d) provide for attractive and well-designed walking and cycling networks with supporting facilities such as secure cycle parking (drawing on Local Cycling and Walking Infrastructure Plans);

e) provide for any large scale transport facilities that need to be located in the area[46], and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy. In doing so they should take into account whether such development is likely to be a nationally significant infrastructure project and any relevant national policy statements; and

f) recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government's General Aviation Strategy[47].

111. If setting local parking standards for residential and non-residential development, policies should take into account:

a) the accessibility of the development;

b) the type, mix and use of development;

c) the availability of and opportunities for public transport;

d) local car ownership levels; and

e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

112. Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.

113. Planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Proposals for new or expanded distribution centres should make provision for sufficient lorry parking to cater for their anticipated use.

Considering development proposals

114. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

[46] Policies for large scale facilities should, where necessary, be developed through collaboration between strategic policy-making authorities and other relevant bodies. Examples of such facilities include ports, airports, interchanges for rail freight, public transport projects and roadside services. The primary function of roadside services should be to support the safety and welfare of the road user (and most such proposals are unlikely to be nationally significant infrastructure projects).

[47] Department for Transport (2015) *General Aviation Strategy.*

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code[48]; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

115. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

116. Within this context, applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

117. All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

[48] Policies and decisions should not make use of or reflect the former Design Bulletin 32, which was withdrawn in 2007.

10. Supporting high quality communications

118. Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution).

119. The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.

120. Local planning authorities should not impose a ban on new electronic communications development in certain areas, impose blanket Article 4 directions over a wide area or a wide range of electronic communications development, or insist on minimum distances between new electronic communications development and existing development. They should ensure that:

    a) they have evidence to demonstrate that electronic communications infrastructure is not expected to cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest; and

    b) they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.

121. Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:

    a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and

    b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or

c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.

122. Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.

11. Making effective use of land

123. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land[49].

124. Planning policies and decisions should:

a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;

b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;

c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;

d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure)[50]; and

e) support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers. They should also allow mansard roof extensions on suitable properties[51] where their external appearance harmonises with the original building, including extensions to terraces where one or more of the terraced houses already has a mansard. Where there was a tradition of mansard construction locally at the time of the building's construction, the extension should emulate it with respect to external appearance. A condition of simultaneous development should not be imposed on an application for multiple mansard extensions unless there is an exceptional justification.

[49] Except where this would conflict with other policies in this Framework, including causing harm to designated sites of importance for biodiversity.
[50] As part of this approach, plans and decisions should support efforts to identify and bring back into residential use empty homes and other buildings, supported by the use of compulsory purchase powers where appropriate.
[51] See glossary for further details.

125. Local planning authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers or held in public ownership, using the full range of powers available to them. This should include identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes.

126. Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and

b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

127. Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and

b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

Achieving appropriate densities

128. Planning policies and decisions should support development that makes efficient use of land, taking into account:

a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;

b) local market conditions and viability;

c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;

d) the desirability of maintaining an area’s prevailing character and setting

(including residential gardens), or of promoting regeneration and change; and

e) the importance of securing well-designed and beautiful, attractive and healthy places.

129. Area-based character assessments, design guides and codes and masterplans can be used to help ensure that land is used efficiently while also creating beautiful and sustainable places. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In these circumstances:

a) plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible. This will be tested robustly at examination, and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate;

b) the use of minimum density standards should also be considered for other parts of the plan area. It may be appropriate to set out a range of densities that reflect the accessibility and potential of different areas, rather than one broad density range; and

c) local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

130. In applying paragraphs 129a and b above to existing urban areas, significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area. Such circumstances should be evidenced through an authority-wide design code which is adopted or will be adopted as part of the development plan.

12. Achieving well-designed and beautiful places

131. The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

132. Plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development, both through their own plans and by engaging in the production of design policy, guidance and codes by local planning authorities and developers.

133. To provide maximum clarity about design expectations at an early stage, all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences. Design guides and codes provide a local framework for creating beautiful and distinctive places with a consistent and high quality standard of design. Their geographic coverage, level of detail and degree of prescription should be tailored to the circumstances and scale of change in each place, and should allow a suitable degree of variety.

134. Design guides and codes can be prepared at an area-wide, neighbourhood or site-specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents. Landowners and developers may contribute to these exercises, but may also choose to prepare design codes in support of a planning application for sites they wish to develop. Whoever prepares them, all guides and codes should be based on effective community engagement and reflect local aspirations for the development of their area, taking into account the guidance contained in the National Design Guide and the National Model Design Code. These national documents should be used to guide decisions on applications in the absence of locally produced design guides or design codes.

135. Planning policies and decisions should ensure that developments:

    a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

    b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users[52]; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

136. Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined[53], that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.

137. Design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.

138. Local planning authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development. The primary means of doing so should be through the preparation and use of local design codes, in line with the National Model Design Code. For assessing proposals there is a range of tools including workshops to engage the local community, design advice and review arrangements, and assessment frameworks such as Building for a Healthy Life[54]. These are of most benefit if used as early as possible in the evolution of schemes, and are particularly important for significant projects such as large scale housing and mixed use developments. In

[52] Planning policies for housing should make use of the Government's optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties. Policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified.
[53] Unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate.
[54] Birkbeck D and Kruczkowski S et al (2020) *Building for a Healthy Life*

assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels.

139. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design[55], taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

140. Local planning authorities should ensure that relevant planning conditions refer to clear and accurate plans and drawings which provide visual clarity about the design of the development, and are clear about the approved use of materials where appropriate. This will provide greater certainty for those implementing the planning permission on how to comply with the permission and a clearer basis for local planning authorities to identify breaches of planning control. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

141. The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

[55] Contained in the National Design Guide and National Model Design Code.

13. Protecting Green Belt land

142. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

143. Green Belt serves five purposes:

a) to check the unrestricted sprawl of large built-up areas;

b) to prevent neighbouring towns merging into one another;

c) to assist in safeguarding the countryside from encroachment;

d) to preserve the setting and special character of historic towns; and

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

144. The general extent of Green Belts across the country is already established. New Green Belts should only be established in exceptional circumstances, for example when planning for larger scale development such as new settlements or major urban extensions. Any proposals for new Green Belts should be set out in strategic policies, which should:

a) demonstrate why normal planning and development management policies would not be adequate;

b) set out whether any major changes in circumstances have made the adoption of this exceptional measure necessary;

c) show what the consequences of the proposal would be for sustainable development;

d) demonstrate the necessity for the Green Belt and its consistency with strategic policies for adjoining areas; and

e) show how the Green Belt would meet the other objectives of the Framework.

145. Once established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans.

146. Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:

a) makes as much use as possible of suitable brownfield sites and underutilised land;

b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and

c) has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.

147. When drawing up or reviewing Green Belt boundaries, the need to promote sustainable patterns of development should be taken into account. Strategic policy-making authorities should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary. Where it has been concluded that it is necessary to release Green Belt land for development, plans should give first consideration to land which has been previously-developed and/or is well-served by public transport. They should also set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land.

148. When defining Green Belt boundaries, plans should:

a) ensure consistency with the development plan's strategy for meeting identified requirements for sustainable development;

b) not include land which it is unnecessary to keep permanently open;

c) where necessary, identify areas of safeguarded land between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;

d) make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development;

e) be able to demonstrate that Green Belt boundaries will not need to be altered at the end of the plan period; and

f) define boundaries clearly, using physical features that are readily recognisable and likely to be permanent.

149. If it is necessary to restrict development in a village primarily because of the important contribution which the open character of the village makes to the openness of the Green Belt, the village should be included in the Green Belt. If, however, the character of the village needs to be protected for other reasons, other means should be used, such as conservation area or normal development management policies, and the village should be excluded from the Green Belt.

150. Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.

151. The National Forest and Community Forests offer valuable opportunities for improving the environment around towns and cities, by upgrading the landscape and providing for recreation and wildlife. The National Forest Strategy and an approved Community Forest Plan may be a material consideration in preparing development plans and in deciding planning applications. Any development proposals within the National Forest and Community Forests in the Green Belt should be subject to the normal policies for controlling development in Green Belts.

Proposals affecting the Green Belt

152. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

153. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

a) buildings for agriculture and forestry;

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

155. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

a) mineral extraction;

b) engineering operations;

c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;

d) the re-use of buildings provided that the buildings are of permanent and substantial construction;

e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and

f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

156. When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

14. Meeting the challenge of climate change, flooding and coastal change

157. The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Planning for climate change

158. Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures[56]. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.

159. New development should be planned for in ways that:

a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and

b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.

160. To help increase the use and supply of renewable and low carbon energy and heat, plans should:

a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts);

b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and

[56] In line with the objectives and provisions of the Climate Change Act 2008.

c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

161. Local planning authorities should support community-led initiatives for renewable and low carbon energy, including developments outside areas identified in local plans or other strategic policies that are being taken forward through neighbourhood planning.

162. In determining planning applications, local planning authorities should expect new development to:

a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

163. When determining planning applications[57] for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;

b) approve the application if its impacts are (or can be made) acceptable[58]. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and

c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site, and approve the proposal if its impacts are or can be made acceptable.

164. In determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including

[57] Wind energy development involving one or more turbines can also be permitted through Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders. In the case of Local Development Orders, it should be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.
[58] Except for applications for the repowering and life-extension of existing wind turbines, a planning application for wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan or a supplementary planning document; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.

through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). Where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 of this Framework.

Planning and flood risk

165. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

166. Strategic policies should be informed by a strategic flood risk assessment, and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.

167. All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

a) applying the sequential test and then, if necessary, the exception test as set out below;

b) safeguarding land from development that is required, or likely to be required, for current or future flood management;

c) using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding, (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management); and

d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.

168. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

169. If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.

170. The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:

a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

171. Both elements of the exception test should be satisfied for development to be allocated or permitted.

172. Where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again. However, the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account.

173. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment[59]. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;

c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

d) any residual risk can be safely managed; and

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

[59] A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.

174. Applications for some minor development and changes of use[60] should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 59.

175. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

a) take account of advice from the lead local flood authority;

b) have appropriate proposed minimum operational standards;

c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and

d) where possible, provide multifunctional benefits.

Coastal change

176. In coastal areas, planning policies and decisions should take account of the UK Marine Policy Statement and marine plans. Integrated Coastal Zone Management should be pursued across local authority and land/sea boundaries, to ensure effective alignment of the terrestrial and marine planning regimes.

177. Plans should reduce risk from coastal change by avoiding inappropriate development in vulnerable areas and not exacerbating the impacts of physical changes to the coast. They should identify as a Coastal Change Management Area any area likely to be affected by physical changes to the coast, and:

a) be clear as to what development will be appropriate in such areas and in what circumstances; and

b) make provision for development and infrastructure that needs to be relocated away from Coastal Change Management Areas.

178. Development in a Coastal Change Management Area will be appropriate only where it is demonstrated that:

a) it will be safe over its planned lifetime and not have an unacceptable impact on coastal change;

b) the character of the coast including designations is not compromised;

c) the development provides wider sustainability benefits; and

d) the development does not hinder the creation and maintenance of a continuous signed and managed route around the coast[61].

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[60] This includes householder development, small non-residential extensions (with a footprint of less than 250m^2) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site, where the sequential and exception tests should be applied as appropriate.

[61] As required by the Marine and Coastal Access Act 2009.

179. Local planning authorities should limit the planned lifetime of development in a Coastal Change Management Area through temporary permission and restoration conditions, where this is necessary to reduce a potentially unacceptable level of future risk to people and the development.

15. Conserving and enhancing the natural environment

180. Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

181. Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework[62]; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.

182. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks

[62] Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.

and the Broads[63]. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

183. When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development[64] other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;

b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and

c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

184. Within areas defined as Heritage Coast (and that do not already fall within one of the designated areas mentioned in paragraph 182), planning policies and decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character.

Habitats and biodiversity

185. To protect and enhance biodiversity and geodiversity, plans should:

a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity[65]; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation[66]; and

b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

[63] *English National Parks and the Broads: UK Government Vision and Circular 2010* provides further guidance and information about their statutory purposes, management and other matters.
[64] For the purposes of paragraphs 182 and 183, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
[65] Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system.
[66] Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them.

186. When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons[67] and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

187. The following should be given the same protection as habitats sites:

a) potential Special Protection Areas and possible Special Areas of Conservation;

b) listed or proposed Ramsar sites[68]; and

c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

188. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

[67] For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.

[68] Potential Special Protection Areas, possible Special Areas of Conservation and proposed Ramsar sites are sites on which Government has initiated public consultation on the scientific case for designation as a Special Protection Area, candidate Special Area of Conservation or Ramsar site.

Ground conditions and pollution

189. Planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

190. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

191. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life[69];

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

192. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

[69] See Explanatory Note to the *Noise Policy Statement for England* (Department for Environment, Food & Rural Affairs, 2010).

193. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

194. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

16. Conserving and enhancing the historic environment

195. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value[70]. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations[71].

196. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;

b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;

c) the desirability of new development making a positive contribution to local character and distinctiveness; and

d) opportunities to draw on the contribution made by the historic environment to the character of a place.

197. When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.

198. Local planning authorities should maintain or have access to a historic environment record. This should contain up-to-date evidence about the historic environment in their area and be used to:

a) assess the significance of heritage assets and the contribution they make to their environment; and

b) predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.

[70] Some World Heritage Sites are inscribed by UNESCO to be of natural significance rather than cultural significance; and in some cases they are inscribed for both their natural and cultural significance.
[71] The policies set out in this chapter relate, as applicable, to the heritage-related consent regimes for which local planning authorities are responsible under the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as to plan-making and decision-making.

199. Local planning authorities should make information about the historic environment, gathered as part of policy-making or development management, publicly accessible.

Proposals affecting heritage assets

200. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

201. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

202. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

203. In determining applications, local planning authorities should take account of:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.

204. In considering any applications to remove or alter a historic statue, plaque, memorial or monument (whether listed or not), local planning authorities should have regard to the importance of their retention in situ and, where appropriate, of explaining their historic and social context rather than removal.

Considering potential impacts

205. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

206. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional[72].

207. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

a) the nature of the heritage asset prevents all reasonable uses of the site; and

b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and

c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and

d) the harm or loss is outweighed by the benefit of bringing the site back into use.

208. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

209. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

[72] Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

210. Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

211. Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible[73]. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

212. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

213. Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 207 or less than substantial harm under paragraph 208, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.

214. Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

[73] Copies of evidence should be deposited with the relevant historic environment record, and any archives with a local museum or other public depository.

17. Facilitating the sustainable use of minerals

215. It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

216. Planning policies should:

a) provide for the extraction of mineral resources of local and national importance, but not identify new sites or extensions to existing sites for peat extraction;

b) so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously;

c) safeguard mineral resources by defining Mineral Safeguarding Areas and Mineral Consultation Areas[74]; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);

d) set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place;

e) safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material;

f) set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality;

g) when developing noise limits, recognise that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction; and

h) ensure that worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place.

217. When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy[75]. In considering proposals

[74] Primarily in two tier areas as stated in Annex 2: Glossary

[75] Except in relation to the extraction of coal, where the policy at paragraph 223 of this Framework applies.

for mineral extraction, minerals planning authorities should:

a) as far as is practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites, scheduled monuments and conservation areas;

b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;

c) ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source[76], and establish appropriate noise limits for extraction in proximity to noise sensitive properties;

d) not grant planning permission for peat extraction from new or extended sites;

e) provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances;

f) consider how to meet any demand for the extraction of building stone needed for the repair of heritage assets, taking account of the need to protect designated sites; and

g) recognise the small-scale nature and impact of building and roofing stone quarries, and the need for a flexible approach to the duration of planning permissions reflecting the intermittent or low rate of working at many sites.

218. Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.

Maintaining supply

219. Minerals planning authorities should plan for a steady and adequate supply of aggregates by:

a) preparing an annual Local Aggregate Assessment, either individually or jointly, to forecast future demand, based on a rolling average of 10 years' sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources);

b) participating in the operation of an Aggregate Working Party and taking the advice of that party into account when preparing their Local Aggregate Assessment;

c) making provision for the land-won and other elements of their Local Aggregate

[76] National planning guidance on minerals sets out how these policies should be implemented.

Assessment in their mineral plans, taking account of the advice of the Aggregate Working Parties and the National Aggregate Co-ordinating Group as appropriate. Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;

d) taking account of any published National and Sub National Guidelines on future provision which should be used as a guideline when planning for the future demand for and supply of aggregates;

e) using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply, and to indicate the additional provision that needs to be made for new aggregate extraction and alternative supplies in mineral plans;

f) maintaining landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised[77];

g) ensuring that large landbanks bound up in very few sites do not stifle competition; and

h) calculating and maintaining separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market.

220. Minerals planning authorities should plan for a steady and adequate supply of industrial minerals by:

a) co-operating with neighbouring and more distant authorities to ensure an adequate provision of industrial minerals to support their likely use in industrial and manufacturing processes;

b) encouraging safeguarding or stockpiling so that important minerals remain available for use;

c) maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment[78]; and

d) taking account of the need for provision of brick clay from a number of different sources to enable appropriate blends to be made.

[77] Longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites.
[78] These reserves should be at least 10 years for individual silica sand sites; at least 15 years for cement primary (chalk and limestone) and secondary (clay and shale) materials to maintain an existing plant, and for silica sand sites where significant new capital is required; and at least 25 years for brick clay, and for cement primary and secondary materials to support a new kiln.

Oil, gas and coal exploration and extraction

221. Minerals planning authorities should:

a) when planning for on-shore oil and gas development, clearly distinguish between, and plan positively for, the three phases of development (exploration, appraisal and production), whilst ensuring appropriate monitoring and site restoration is provided for;

b) encourage underground gas and carbon storage and associated infrastructure if local geological circumstances indicate its feasibility;

c) indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable;

d) encourage the capture and use of methane from coal mines in active and abandoned coalfield areas; and

e) provide for coal producers to extract separately, and if necessary stockpile, fireclay so that it remains available for use.

222. When determining planning applications, minerals planning authorities should ensure that the integrity and safety of underground storage facilities are appropriate, taking into account the maintenance of gas pressure, prevention of leakage of gas and the avoidance of pollution.

223. Planning permission should not be granted for the extraction of coal unless:

a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or

b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).

Annex 1: Implementation

For the purposes of decision-making

224. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication[79]. Plans may also need to be revised to reflect policy changes which this Framework has made.

225. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

226. From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old[80], instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.

For the purposes of plan-making

227. The policies in the original National Planning Policy Framework published in March 2012 will apply for the purpose of examining plans, where those plans were submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.

228. For the purposes of the policy on larger-scale development in paragraph 22, this applies only to plans that have not reached Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage at the point the previous version of this Framework was published on 20

[79] As an exception to this, the policy contained in paragraph 76 and the related reference in footnote 8 of this Framework should only be taken into account as a material consideration when dealing with applications made on or after the date of publication of this version of the Framework.

[80] Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a four year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance.

July 2021 (for Spatial Development Strategies this would refer to consultation under section 335(2) of the Greater London Authority Act 1999).

229. For the purposes of the policy on renewable and low carbon energy and heat in plans in paragraph 160, this policy does not apply to plans that have reached Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage, or that reach this stage within three months of the date of publication of the previous version of this Framework published on 5 September 2023. For Spatial Development Strategies, paragraph 160 does not apply to strategies that have reached consultation under section 335(2) of the Greater London Authority Act 1999 or that reach this stage within three months of the date of publication of the previous version of this Framework published on 5 September 2023.

230. The policies in this Framework (published on 19 December 2023) will apply for the purpose of examining plans, where those plans reach regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage after 19 March 2024. Plans that reach pre-submission consultation on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements. For Spatial Development Strategies, this Framework applies to strategies that have reached consultation under section 335(2) of the Greater London Authority Act 1999 after 19 March 2024. Strategies that reach this stage on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements. Where plans or strategies are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan or strategy produced for the area concerned.

231. The Government will continue to explore with individual areas the potential for planning freedoms and flexibilities, for example where this would facilitate an increase in the amount of housing that can be delivered.

Annex 2: Glossary

Affordable housing: housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions[81]:

a) **Affordable housing for rent:** meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

b) **Starter homes:** is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.

c) **Discounted market sales housing:** is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.

d) **Other affordable routes to home ownership:** is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.

Air quality management areas: Areas designated by local authorities because they are not likely to achieve national air quality objectives by the relevant deadlines.

Ancient or veteran tree: A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.

[81] This definition should be read in conjunction with relevant policy contained in the Affordable Homes Update Written Ministerial Statement published on 24 May 2021.

Ancient woodland: An area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites (PAWS).

Annual position statement: A document setting out the 5 year housing land supply position on 1st April each year, prepared by the local planning authority in consultation with developers and others who have an impact on delivery.

Archaeological interest: There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.

Article 4 direction: A direction made under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 which withdraws permitted development rights granted by that Order.

Best and most versatile agricultural land: Land in grades 1, 2 and 3a of the Agricultural Land Classification.

Brownfield land: See Previously developed land.

Brownfield land registers: Registers of previously developed land that local planning authorities consider to be appropriate for residential development, having regard to criteria in the Town and Country Planning (Brownfield Land Registers) Regulations 2017. Local planning authorities will be able to trigger a grant of permission in principle for residential development on suitable sites in their registers where they follow the required procedures.

Build to Rent: Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.

Climate change adaptation: Adjustments made to natural or human systems in response to the actual or anticipated impacts of climate change, to mitigate harm or exploit beneficial opportunities.

Climate change mitigation: Action to reduce the impact of human activity on the climate system, primarily through reducing greenhouse gas emissions.

Coastal change management area: An area identified in plans as likely to be affected by physical change to the shoreline through erosion, coastal landslip, permanent inundation or coastal accretion.

Community forest: An area identified through the England Community Forest Programme to revitalise countryside and green space in and around major conurbations.

Community Right to Build Order: An Order made by the local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a site-specific development proposal or classes of development.

Community-led developments: A development instigated and taken forward by a not-for-profit organisation set up and run primarily for the purpose of meeting the housing needs of its members and the wider local community, rather than being a primarily commercial enterprise. The organisation is created, managed and democratically controlled by its members. It may take any one of various legal forms including a community land trust, housing co-operative and community benefit society. Membership of the organisation is open to all beneficiaries and prospective beneficiaries of that organisation. The organisation should own, manage or steward the homes in a manner consistent with its purpose, for example through a mutually supported arrangement with a Registered Provider of Social Housing. The benefits of the development to the specified community should be clearly defined and consideration given to how these benefits can be protected over time, including in the event of the organisation being wound up.

Competent person (to prepare site investigation information): A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.

Conservation (for heritage policy): The process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance.

Decentralised energy: Local renewable and local low carbon energy sources.

Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).
b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

Design code: A set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area. The graphic and written components of the code should build upon a design vision, such as a masterplan or other design and development framework for a site or area.

Design guide: A document providing guidance on how development can be carried out in accordance with good design practice, often produced by a local authority.

Designated heritage asset: A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation.

Designated rural areas: National Parks, Areas of Outstanding Natural Beauty and areas designated as ‘rural’ under Section 157 of the Housing Act 1985.

Developable: To be considered developable, sites should be in a suitable location for

housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.

Development plan: Is defined in section 38 of the Planning and Compulsory Purchase Act 2004, and includes adopted local plans, neighbourhood plans that have been made and published spatial development strategies, together with any regional strategy policies that remain in force. Neighbourhood plans that have been approved at referendum are also part of the development plan, unless the local planning authority decides that the neighbourhood plan should not be made.

Edge of centre: For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area. For all other main town centre uses, a location within 300 metres of a town centre boundary. For office development, this includes locations outside the town centre but within 500 metres of a public transport interchange. In determining whether a site falls within the definition of edge of centre, account should be taken of local circumstances.

Environmental impact assessment: A procedure to be followed for certain types of project to ensure that decisions are made in full knowledge of any likely significant effects on the environment.

Essential local workers: Public sector employees who provide frontline services in areas including health, education and community safety – such as NHS staff, teachers, police, firefighters and military personnel, social care and childcare workers.

General aviation airfields: Licenced or unlicenced aerodromes with hard or grass runways, often with extensive areas of open land related to aviation activity.

Geodiversity: The range of rocks, minerals, fossils, soils and landforms.

Green infrastructure: A network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity.

Habitats site: Any site which would be included within the definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017 for the purpose of those regulations, including candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation, Special Protection Areas and any relevant Marine Sites.

Heritage asset: A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).

Heritage coast: Areas of undeveloped coastline which are managed to conserve their natural beauty and, where appropriate, to improve accessibility for visitors.

Historic environment: All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past

human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.

Historic environment record: Information services that seek to provide access to comprehensive and dynamic resources relating to the historic environment of a defined geographic area for public benefit and use.

Housing Delivery Test: Measures net homes delivered in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England annually.

International, national and locally designated sites of importance for biodiversity: All international sites (Special Areas of Conservation, Special Protection Areas, and Ramsar sites), national sites (Sites of Special Scientific Interest) and locally designated sites including Local Wildlife Sites.

Irreplaceable habitat: Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen.

Local Development Order: An Order made by a local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a specific development proposal or classes of development.

Local Enterprise Partnership: A body, designated by the Secretary of State for Housing, Communities and Local Government, established for the purpose of creating or improving the conditions for economic growth in an area.

Local housing need: The number of homes identified as being needed through the application of the standard method set out in national planning guidance (or, in the context of preparing strategic policies only, this may be calculated using a justified alternative approach as provided for in paragraph 61 of this Framework).

Local Nature Partnership: A body, designated by the Secretary of State for Environment, Food and Rural Affairs, established for the purpose of protecting and improving the natural environment in an area and the benefits derived from it.

Local planning authority: The public authority whose duty it is to carry out specific planning functions for a particular area. All references to local planning authority include the district council, London borough council, county council, Broads Authority, National Park Authority, the Mayor of London and a development corporation, to the extent appropriate to their responsibilities.

Local plan: A plan for the future development of a local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. A local plan can consist of either strategic or non-strategic policies, or a combination of the two.

Main town centre uses: Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).

Major development[82]: For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m^2 or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Major hazard sites, installations and pipelines: Sites and infrastructure, including licensed explosive sites and nuclear installations, around which Health and Safety Executive (and Office for Nuclear Regulation) consultation distances to mitigate the consequences to public safety of major accidents may apply.

Mansard roof: A type of roof that is characterised by two slopes, the lower steep and the upper shallow. It is generally regarded as a suitable type of roof extension for buildings which are part of a terrace of at least three buildings and at least two stories tall, with a parapet running the entire length of the front façade (reference: Create Streets, 2021, *Living Tradition*).

Minerals resources of local and national importance: Minerals which are necessary to meet society's needs, including aggregates, brickclay (especially Etruria Marl and fireclay), silica sand (including high grade silica sands), coal derived fly ash in single use deposits, cement raw materials, gypsum, salt, fluorspar, shallow and deep-mined coal, oil and gas (including conventional and unconventional hydrocarbons), tungsten, kaolin, ball clay, potash, polyhalite and local minerals of importance to heritage assets and local distinctiveness.

Mineral Consultation Area: a geographical area based on a Mineral Safeguarding Area, where the district or borough council should consult the Mineral Planning Authority for any proposals for non-minerals development.

Mineral Safeguarding Area: An area designated by minerals planning authorities which covers known deposits of minerals which are desired to be kept safeguarded from unnecessary sterilisation by non-mineral development.

National trails: Long distance routes for walking, cycling and horse riding.

Natural Flood Management: managing flood and coastal erosion risk by protecting, restoring and emulating the natural 'regulating' function of catchments, rivers, floodplains and coasts.

Nature Recovery Network: An expanding, increasingly connected, network of wildlife-rich habitats supporting species recovery, alongside wider benefits such as carbon capture, water quality improvements, natural flood risk management and recreation. It includes the existing network of protected sites and other wildlife rich habitats as well as

[82] Other than for the specific purposes of paragraphs 182 and 183 in this Framework.

and landscape or catchment scale recovery areas where there is coordinated action for species and habitats.

Neighbourhood Development Order: An Order made by a local planning authority (under the Town and Country Planning Act 1990) through which parish councils and neighbourhood forums can grant planning permission for a specific development proposal or classes of development.

Neighbourhood plan: A plan prepared by a parish council or neighbourhood forum for a designated neighbourhood area. In law this is described as a neighbourhood development plan in the Planning and Compulsory Purchase Act 2004.

Non-strategic policies: Policies contained in a neighbourhood plan, or those policies in a local plan that are not strategic policies.

Older people: People over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs.

Open space: All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.

Original building: A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

Out of centre: A location which is not in or on the edge of a centre but not necessarily outside the urban area.

Out of town: A location out of centre that is outside the existing urban area.

Outstanding universal value: Cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations. An individual Statement of Outstanding Universal Value is agreed and adopted by the UNESCO World Heritage Committee for each World Heritage Site.

People with disabilities: People have a disability if they have a physical or mental impairment, and that impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. These persons include, but are not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs.

Permission in principle: A form of planning consent which establishes that a site is suitable for a specified amount of housing-led development in principle. Following a grant of permission in principle, the site must receive a grant of technical details consent before development can proceed.

Planning condition: A condition imposed on a grant of planning permission (in accordance with the Town and Country Planning Act 1990) or a condition included in a Local Development Order or Neighbourhood Development Order.

Planning obligation: A legal agreement entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.

Playing field: The whole of a site which encompasses at least one playing pitch as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

Primary shopping area: Defined area where retail development is concentrated.

Priority habitats and species: Species and Habitats of Principal Importance included in the England Biodiversity List published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006.

Ramsar sites: Wetlands of international importance, designated under the 1971 Ramsar Convention.

Renewable and low carbon energy: Includes energy for heating and cooling as well as generating electricity. Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass and deep geothermal heat. Low carbon technologies are those that can help reduce emissions (compared to conventional use of fossil fuels).

Rural exception sites: Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding.

Recycled aggregates: aggregates resulting from the processing of inorganic materials previously used in construction, e.g. construction and demolition waste.

Safeguarding zone: An area defined in Circular 01/03: *Safeguarding aerodromes, technical sites and military explosives storage areas*, to which specific safeguarding provisions apply.

Secondary aggregates: aggregates from industrial wastes such as glass (cullet), incinerator bottom ash, coal derived fly ash, railway ballast, fine ceramic waste (pitcher), and scrap tyres; and industrial and minerals by-products, notably waste from china clay, coal and slate extraction and spent foundry sand. These can also include hydraulically

bound materials.

Self-build and custom-build housing: Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.

Setting of a heritage asset: The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Significance (for heritage policy): The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance.

Special Areas of Conservation: Areas defined by regulation 3 of the Conservation of Habitats and Species Regulations 2017 which have been given special protection as important conservation sites.

Special Protection Areas: Areas classified under regulation 15 of the Conservation of Habitats and Species Regulations 2017 which have been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds.

Site investigation information: Includes a risk assessment of land potentially affected by contamination, or ground stability and slope stability reports, as appropriate. All investigations of land potentially affected by contamination should be carried out in accordance with established procedures (such as BS10175 Investigation of Potentially Contaminated Sites – Code of Practice).

Site of Special Scientific Interest: Sites designated by Natural England under the Wildlife and Countryside Act 1981.

Spatial development strategy: A plan containing strategic policies prepared by a Mayor or a combined authority. It includes the London Plan (prepared under provisions in the Greater London Authority Act 1999) and plans prepared by combined authorities that have been given equivalent plan-making functions by an order made under the Local Democracy, Economic Development and Construction Act 2009 (as amended).

Stepping stones: Pockets of habitat that, while not necessarily connected, facilitate the movement of species across otherwise inhospitable landscapes.

Strategic environmental assessment: A procedure (set out in the Environmental Assessment of Plans and Programmes Regulations 2004) which requires the formal environmental assessment of certain plans and programmes which are likely to have significant effects on the environment.

Strategic policies: Policies and site allocations which address strategic priorities in line with the requirements of Section 19 (1B-E) of the Planning and Compulsory Purchase Act 2004.

Strategic policy-making authorities: Those authorities responsible for producing strategic policies (local planning authorities, and elected Mayors or combined authorities, where this power has been conferred). This definition applies whether the authority is in the process of producing strategic policies or not.

Supplementary planning documents: Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

Sustainable transport modes: Any efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, ultra low and zero emission vehicles, car sharing and public transport.

Town centre: Area defined on the local authority's policies map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. References to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance. Unless they are identified as centres in the development plan, existing out-of-centre developments, comprising or including main town centre uses, do not constitute town centres.

Transport assessment: A comprehensive and systematic process that sets out transport issues relating to a proposed development. It identifies measures required to improve accessibility and safety for all modes of travel, particularly for alternatives to the car such as walking, cycling and public transport, and measures that will be needed deal with the anticipated transport impacts of the development.

Transport statement: A simplified version of a transport assessment where it is agreed the transport issues arising from development proposals are limited and a full transport assessment is not required.

Travel plan: A long-term management strategy for an organisation or site that seeks to deliver sustainable transport objectives and is regularly reviewed.

Wildlife corridor: Areas of habitat connecting wildlife populations.

Windfall sites: Sites not specifically identified in the development plan.

Annex 3: Flood risk vulnerability classification

ESSENTIAL INFRASTRUCTURE

- Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.
- Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including infrastructure for electricity supply including generation, storage and distribution systems; and water treatment works that need to remain operational in times of flood.
- Wind turbines.
- Solar farms

HIGHLY VULNERABLE

- Police and ambulance stations; fire stations and command centres; telecommunications installations required to be operational during flooding.
- Emergency dispersal points.
- Basement dwellings.
- Caravans, mobile homes and park homes intended for permanent residential use.
- Installations requiring hazardous substances consent. (Where there is a demonstrable need to locate such installations for bulk storage of materials with port or other similar facilities, or such installations with energy infrastructure or carbon capture and storage installations, that require coastal or water-side locations, or need to be located in other high flood risk areas, in these instances the facilities should be classified as ‘Essential Infrastructure’.)

MORE VULNERABLE

- Hospitals
- Residential institutions such as residential care homes, children’s homes, social services homes, prisons and hostels.
- Buildings used for dwelling houses, student halls of residence, drinking establishments, nightclubs and hotels.
- Non–residential uses for health services, nurseries and educational establishments.
- Landfill* and sites used for waste management facilities for hazardous waste.
- Sites used for holiday or short-let caravans and camping, subject to a specific warning and evacuation plan.

LESS VULNERABLE

- Police, ambulance and fire stations which are not required to be operational during flooding.

- Buildings used for shops; financial, professional and other services; restaurants, cafes and hot food takeaways; offices; general industry, storage and distribution; non-residential institutions not included in the ‘more vulnerable’ class; and assembly and leisure.
- Land and buildings used for agriculture and forestry.
- Waste treatment (except landfill* and hazardous waste facilities).
- Minerals working and processing (except for sand and gravel working).
- Water treatment works which do not need to remain operational during times of flood.
- Sewage treatment works, if adequate measures to control pollution and manage sewage during flooding events are in place.
- Car parks.

WATER-COMPATIBLE DEVELOPMENT

- Flood control infrastructure.
- Water transmission infrastructure and pumping stations.
- Sewage transmission infrastructure and pumping stations.
- Sand and gravel working.
- Docks, marinas and wharves.
- Navigation facilities.
- Ministry of Defence installations.
- Ship building, repairing and dismantling, dockside fish processing and refrigeration and compatible activities requiring a waterside location.
- Water-based recreation (excluding sleeping accommodation).
- Lifeguard and coastguard stations.
- Amenity open space, nature conservation and biodiversity, outdoor sports and recreation and essential facilities such as changing rooms.
- Essential ancillary sleeping or residential accommodation for staff required by uses in this category, subject to a specific warning and evacuation plan.

* Landfill is as defined in Schedule 10 of the Environmental Permitting (England and Wales) Regulations 2010.

National Design Guide

Planning practice guidance for beautiful, enduring and successful places



Ministry of Housing,
Communities &
Local Government

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Part 1:

The purpose of the National Design Guide



The purpose of the National Design Guide



1 Places affect us all – they are where we live, work and spend our leisure time. Well-designed places influence the quality of our experience as we spend time in them and move around them. We enjoy them, as occupants or users but also as passers-by and visitors. They can lift our spirits by making us feel at home, giving us a buzz of excitement or creating a sense of delight. They have been shown to affect our health and well-being, our feelings of safety, security, inclusion and belonging, and our sense of community cohesion.

2 They function well, accommodating businesses, homes and a range of other uses and activities that support our everyday lives. Well-designed places can last for many years.

3 The National Planning Policy Framework makes clear that creating high quality buildings and places is fundamental to what the planning and development process should achieve. This National Design Guide, and the National Model Design Code and Guidance Notes for Design Codes illustrate how well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools.

Introduction

4 The long-standing, fundamental principles for good design are that it is: fit for purpose; durable; and brings delight[1]. It is relatively straightforward to define and assess these qualities for a building. We can identify its activities and users, the quality of detail, materials, construction and its potential flexibility. We can also make judgements about its beauty.

5 A place is more complex and multi-faceted than a building:

- it is a setting for a diverse range of uses and activities, and is experienced by many people in many different ways;
- it is made up of buildings, and also landscape and infrastructure, which are likely to endure longer than the buildings themselves;
- most places evolve over a long period of time once they have been established, with many incremental changes that can affect their quality;
- the quality of 'delight' includes a richness of experience gained from all of our senses, not only the visual; and
- beauty in a place may range from a long view down to the detail of a building or landscape.

[1] *Originally from Vitruvius*

6 The National Planning Policy Framework sets out that achieving high quality places and buildings is fundamental to the planning and development process. It also leads to improvements in the quality of existing environments. The National Planning Policy Framework expands upon the fundamental principles of good design to define what is expected for well-designed places and explain how planning policies and decisions should support this.

7 The National Planning Policy Framework is supported by a suite of planning practice guidance that is relevant to both design quality and quality in delivery. See **Part 3: References**.

8 The underlying purpose for design quality and the quality of new development at all scales is to create well-designed and well-built places that benefit people and communities. This includes people who use a place for various purposes such as:

- to live, work, shop, for leisure and recreation, and to move around between these activities; and
- those who visit or pass through.

It also includes people at different stages of life and with different abilities – children, young people, adults, families and older people, both able-bodied and disabled.

9 The National Design Guide addresses the question of how we recognise well-designed places, by outlining and illustrating the Government's priorities for well-designed places in the form of ten characteristics. See **Part 2: The ten characteristics**.

Definitions

Inclusion: Making sure that all individuals have equal access, opportunity and dignity in the use of the built environment.

Community cohesion: A sense of belonging for all communities, with connections and trust between them. Diversity is valued and people of different backgrounds have the opportunity to develop positive relationships with one another.

Design guide: A document providing guidance on how development can be carried out in accordance with good design practice, often produced by a local authority.

Design code: A set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area. The graphic and written components of the code should build upon a design vision, such as a masterplan or other design and development framework for a site or area.

10 It is based on national planning policy, practice guidance and objectives for good design as set out in the National Planning Policy Framework. Specific, detailed and measurable criteria for good design are most appropriately set out at the local level. They may take the form of local design policies, design guides or design codes, prepared either by local authorities, or applicants to accompany planning applications.

How to use this design guide

11 The focus of this design guide is on good design in the planning system, so it is primarily for:

- local authority planning officers, who prepare local planning policy and guidance and assess the quality of planning applications;
- councillors, who make planning decisions;
- applicants and their design teams, who prepare applications for planning permission; and
- people in local communities and their representatives.

12 The terminology used here avoids jargon where possible. Definitions are provided where particular technical language is needed for clarity and precision. The planning application process refers to key components of design. Together with related terms, these are defined on p.6. Otherwise definitions can generally be found in the section where the term is used for the first time.

13 In a well-designed place, an integrated design process brings the ten characteristics together in a mutually supporting way. They interact to create an overall character of place. Good design considers how a development proposal can make a contribution towards all of them. This applies to proposals of all sizes, including small scale incremental changes (such as highway works), new buildings, infill developments, major developments and larger scale developments such as urban extensions, new neighbourhoods, new settlements and infrastructure.

14 At an early stage of the design process, the relative priority for different characteristics may be discussed and agreed. The most relevant characteristics will be determined by a number of considerations:

- locally identified priorities and concerns;
- the strategic priorities of the local authority;
- the priorities of a particular user group;
- the scale of proposal;
- its site and location; and/or
- the design process, including whether it is at a strategic or detailed stage.

15 As well as helping to inform development proposals and their assessment by local planning authorities, this design guide supports paragraph 130 of the National Planning Policy Framework which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The statements in this guide provide a series of tests for assessing whether a place is well-designed or not. If they are not met, then it can be concluded that it is not well-designed.

16 Well-designed places and buildings come about when there is a clearly expressed ‘story’ for the design concept and how it has evolved into a design proposal. This explains how the concept influences the layout, form, appearance and details of the proposed development. It may draw its inspiration from the site, its surroundings or a wider context. It may also introduce new approaches to contrast with, or complement, its context. This ‘story’ will inform and address all ten characteristics. It is set out in a Design and Access Statement that accompanies a planning application.

17 Local communities can play a vital role in achieving well-designed places and buildings and making sure there is a relationship between the built environment and quality of life. Communities can be involved in design processes through approaches such as co-design, design workshops and other engagement techniques, so that places and buildings reflect local community preferences, improve their quality of life and fit well into their surroundings. The design-related chapters of the planning practice guidance explain these and other design processes.

Definitions

Design concept: The basic design ideas on which a proposal will be based, often expressed in a combination of words and visual material.

Design and Access Statement: A short report accompanying and supporting a planning application. It provides a framework for applicants to explain how a proposed development is a suitable response to the site and its setting, and demonstrate that it can be adequately accessed by prospective users.

Looking forward

18 This guide has been prepared in the context of social, economic and environmental change. Technological change is rapid, with developments in digital, artificial intelligence and machine learning affecting our lives at all scales, both inside and outside the home. Demographics are also driving change, with an ageing population. Younger people's expectations are changing too. This is leading to new lifestyles and new models of home ownership. It includes more communal forms of living, such as cohousing. New models of development are also emerging, driven by advanced technologies. These include new off-site production methods, the use of digital technologies for production and customisation, and an increase in self- and custom-build.

19 We expect continuing change as a consequence of climate change, changing home ownership models and technological changes. It is likely to emerge and embed in society rapidly. It will influence the planning, design and construction of new homes and places. So, for each of the ten characteristics, a Looking Forward box identifies some issues to consider as we are thinking ahead about our places. Both local planning policies and the design process need to take these into account.

Components for good design

20 Buildings are an important component of places and proposals for built development are a focus of the development management system. However good design involves careful attention to other important components of places. These include:

- the context for places and buildings;
- hard and soft landscape;
- technical infrastructure – transport, utilities, services such as drainage; and
- social infrastructure – social, commercial, leisure uses and activities.

21 A well-designed place is unlikely to be achieved by focusing only on the appearance, materials and detailing of buildings. It comes about through making the right choices at all levels, including:

- the layout (or masterplan);
- the form and scale of buildings;
- their appearance;
- landscape;
- materials; and
- their detailing.

These components are defined overleaf.

22 All developments are made up of these components put together in a particular way. The choices made in the design process contribute towards achieving the ten characteristics and shape the character of a place.

Layout

23 A layout shows how routes and blocks of development are arranged and relate to one another to create streets, open spaces and buildings. It defines:

- the structure or settlement pattern;
- the grain - the pattern of development blocks and plots; and
- the broad distribution of different uses, and their densities or building heights.

Form

24 Form is the three-dimensional shape and modelling of buildings and the spaces they define. Buildings and spaces can take many forms, depending upon their:

- size and shape in plan;
- height;
- bulk - their volume;
- massing - how bulk is shaped into a form;
- building lines - the alignment of building frontages along a street; and
- relationship to the plot boundary - and whether they share party walls or not.

In the case of spaces, their form is influenced by the buildings around them.

25 The form of a building or a space has a relationship with the uses and activities it accommodates, and also with the form of the wider place where it is sited.

Scale

26 Scale is the height, width and length of each building proposed within a development in relation to its surroundings. This relates both to the overall size and massing of individual buildings and spaces in relation to their surroundings, and to the scale of their parts. It affects how a space can be used and how it is experienced. The relationships between the different dimensions of a building or component are known as its proportions.

27 Enclosure is the relationship between the height of the buildings across a space, and the dimension of the space itself. Taller building heights and a more built up building line both increase the enclosure. Different degrees of enclosure influence how people use different spaces, by creating differences in character that suit different activities.

Appearance

28 Appearance is the aspects of a building or space within the development which determine the visual impression the building or space makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture. In the case of a space, its landscape also influences its appearance.

Landscape

29 Landscape is the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site, the area in which it is situated and the natural environment. Landscape includes landform and drainage, hard landscape such as surfacing, boundary treatments, street furniture and play equipment. It also includes soft landscape – trees, shrubs and other planting.

Materials

30 The materials used for a building or landscape affect how well it functions and lasts over time. They also influence how it relates to what is around it and how it is experienced. The scale, form and appearance of a building influence what materials may be appropriate for its construction. Materials should be practical, durable, affordable and attractive. Choosing the right materials can greatly help new development to fit harmoniously with its surroundings.

31 Innovative materials and construction techniques are being developed all the time. Modern methods of construction are becoming more common, whether in the form of mass production for modular construction, or off-site bespoke construction for self- or custom-build.

Detailing

32 The details of a building are the individual components and how they are put together. Some are a deliberate part of the appearance of a building, including doors, windows and their surrounds, porches, decorative features and ironmongery. Others are functional, although they can also contribute to the appearance of a building. These include lighting, flues and ventilation, gutters, pipes and other rainwater details.

33 Detailing affects the appearance of a building or space and how it is experienced. It also affects how well it weathers and lasts over time.

The relationship between the National Design Guide and local design guides

34 This document is set out in four parts:

- this part, Part 1, outlines the purpose of the National Design Guide;
- Part 2 sets out the ten characteristics of beautiful, enduring and successful places; and
- Part 3 provides sources of reference relevant to Part 2, including to other guidance and the good practice examples featured, as well as cross references to the National Planning Policy Framework and planning practice guidance.

The National Design Guide should be read alongside the National Model Design Code and Guidance Notes for Design Codes, which sets out detailed guidance that needs to be considered in the production of local design codes, guides and other design policies. It expands on the ten characteristics of good design set out in this document, which reflect the Government's priorities and provide a common overarching framework for design.

35 The National Design Guide provides a structure that can be used for the content of local design policies, guides and codes, and addresses issues that are important for design codes where these are applied to large scale development on single or multiple sites. The ten characteristics reflect the Government's priorities and provide a common overarching framework. More specific guidance in the form of design policies, guides and codes can then be locally formulated to meet the priorities of local communities. All local design policies, design guides and codes will need to set out a baseline understanding of the local context and an analysis of local character and identity. This may include (but not be limited to) the contribution made by the following:

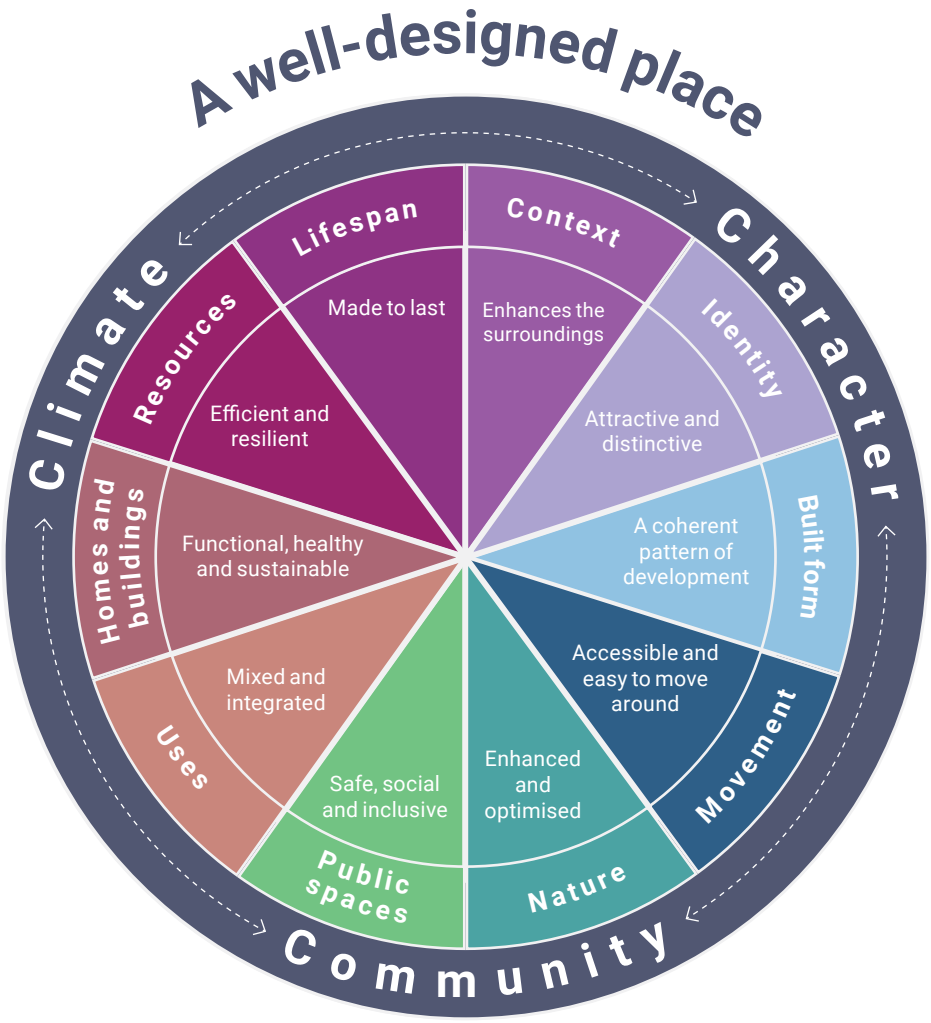
- the relationship between the natural environment and built development;
- the typical patterns of built form that contribute positively to local character;
- the street pattern, their proportions and landscape features;
- the proportions of buildings framing spaces and streets;
- the local vernacular, other architecture and architectural features that contribute to local character.

Introducing the ten characteristics

36 Well-designed places have individual characteristics which work together to create its physical **Character**. The ten characteristics help to nurture and sustain a sense of **Community**. They work to positively address environmental issues affecting **Climate**. They all contribute towards the cross-cutting themes for good design set out in the National Planning Policy Framework.

37 The ten characteristics set out in Part 2 are:

- **Context** – enhances the surroundings.
- **Identity** – attractive and distinctive.
- **Built form** – a coherent pattern of development.
- **Movement** – accessible and easy to move around.
- **Nature** – enhanced and optimised.
- **Public spaces** – safe, social and inclusive.
- **Uses** – mixed and integrated.
- **Homes and buildings** – functional, healthy and sustainable.
- **Resources** – efficient and resilient.
- **Lifespan** – made to last.



The ten characteristics of well-designed places

Part 2:

The ten characteristics



Context

Enhances the surroundings



38 **Context** is the location of the development and the attributes of its immediate, local and regional surroundings.

39 An understanding of the context, history and the cultural characteristics of a site, neighbourhood and region influences the location, siting and design of new developments. It means they are well grounded in their locality and more likely to be acceptable to existing communities. Creating a positive sense of place helps to foster a sense of belonging and contributes to well-being, inclusion and community cohesion.

40 Well-designed places are:

- based on a sound understanding of the features of the site and the surrounding context, using baseline studies as a starting point for design;
- integrated into their surroundings so they relate well to them;
- influenced by and influence their context positively; and
- responsive to local history, culture and heritage.

*The topography, landscape character, cultural history and built form all define the context for **Ilkley, West Yorkshire.***

C1 Understand and relate well to the site, its local and wider context

41 Well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary. It enhances positive qualities and improves negative ones. Some features are physical, including:

- the existing built development, including layout, form, scale, appearance, details, and materials;
- local heritage – see below – and local character – see **Identity**;
- landform, topography, geography and ground conditions;
- landscape character, waterways, drainage and flood risk, biodiversity and ecology;
- access, movement and accessibility;
- environment – including landscape and visual impact, microclimate, orientation, flood risk, noise, air and water quality;
- views inwards and outwards;
- the pattern of uses and activities, including community facilities and local services; and
- how it functions.

Others are non-physical, such as:

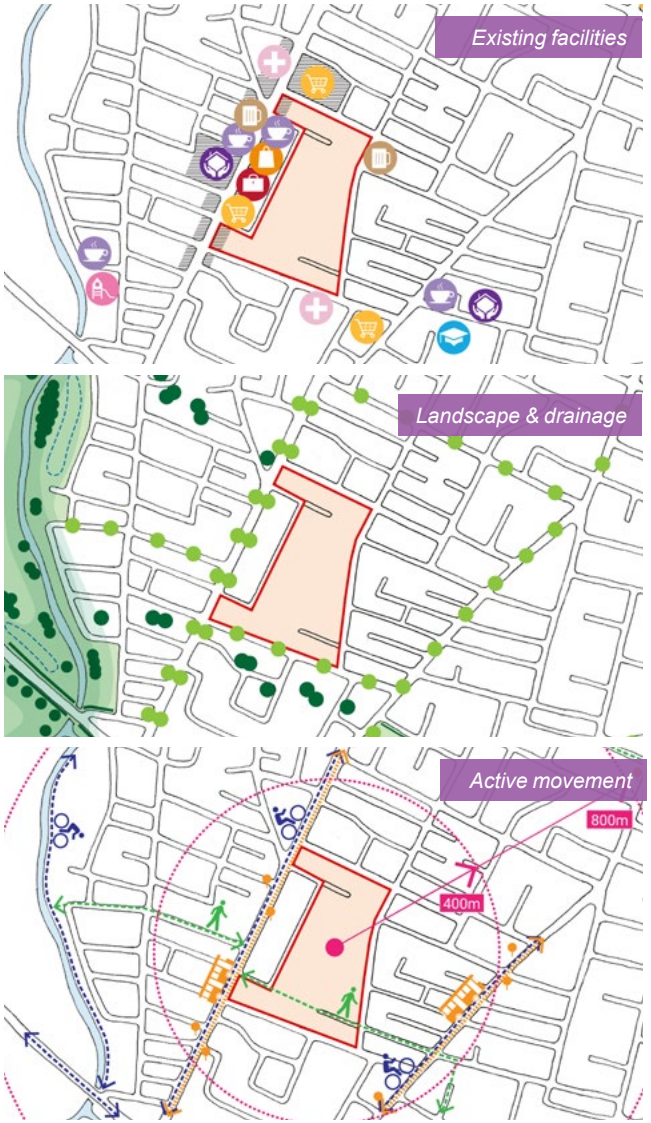
- social characteristics, including demographics;
- economic factors; and
- the aspirations, concerns and perceptions of local communities.

42 Well-designed development proposals are shaped by an understanding of the context that identifies opportunities for design as well as constraints upon it. This is proportionate to the nature, size and sensitivity of the site and proposal. A simple analysis may be appropriate for a small scale proposal. Baseline studies covering a wide range of topics are likely to be required for a larger scale development.

43 Well-designed new development is integrated into its wider surroundings, physically, socially and visually. It is carefully sited and designed, and is demonstrably based on an understanding of the existing situation, including:

- the landscape character and how places or developments sit within the landscape, to influence the siting of new development and how natural features are retained or incorporated into it;
- patterns of built form, including local precedents for routes and spaces and the built form around them, to inform the layout, grain, form and scale – see **Built form**;
- the architecture prevalent in the area, including the local vernacular and other precedents that contribute to local character, to inform the form, scale, appearance, details and materials of new development – see **Identity**.

National Planning Policy Framework chapters 8 12 14 15 16



Identifying the existing features of the site and the wider area highlights opportunities for the design of new developments to link well into their context and enhance these features for the benefit of new and existing residents.

- uses and facilities, including identifying local needs and demands that well-located new facilities may satisfy; and
- public spaces, including their characteristic landscape design and details, both hard and soft.

44 However, well-designed places do not need to copy their surroundings in every way. It is appropriate to introduce elements that reflect how we live today, to include innovation or change such as increased densities, and to incorporate new sustainable features or systems.

45 To communicate the benefits of a scheme, it is important to explain how the design of a development relates to context and local character.

C2 Value heritage, local history and culture

46 When determining how a site may be developed, it is important to understand the history of how the place has evolved. The local sense of place and identity are shaped by local history, culture and heritage, and how these have influenced the built environment and wider landscape.

47 Sensitive re-use or adaptation adds to the richness and variety of a scheme and to its diversity of activities and users. It helps to integrate heritage into proposals in an environmentally sustainable way.

48 Well-designed places and buildings are influenced positively by:

- the history and heritage of the site, its surroundings and the wider area, including cultural influences;
- the significance and setting of heritage assets and any other specific features that merit conserving and enhancing;
- the local vernacular, including historical building typologies such as the terrace, town house, mews, villa or mansion block, the treatment of façades, characteristic materials and details – see Identity.

49 Today's new developments extend the history of the context. The best of them will become valued as tomorrow's heritage, representing the architecture and placemaking of the early 21st century.

Definitions

Baseline studies: Descriptions of the conditions as existing or committed (e.g. environmental), against which changes arising from a proposed development are predicted and assessed.

Local vernacular: An indigenous building style using local materials and traditional methods of construction and ornament, especially as distinguished from academic or historical architectural styles.



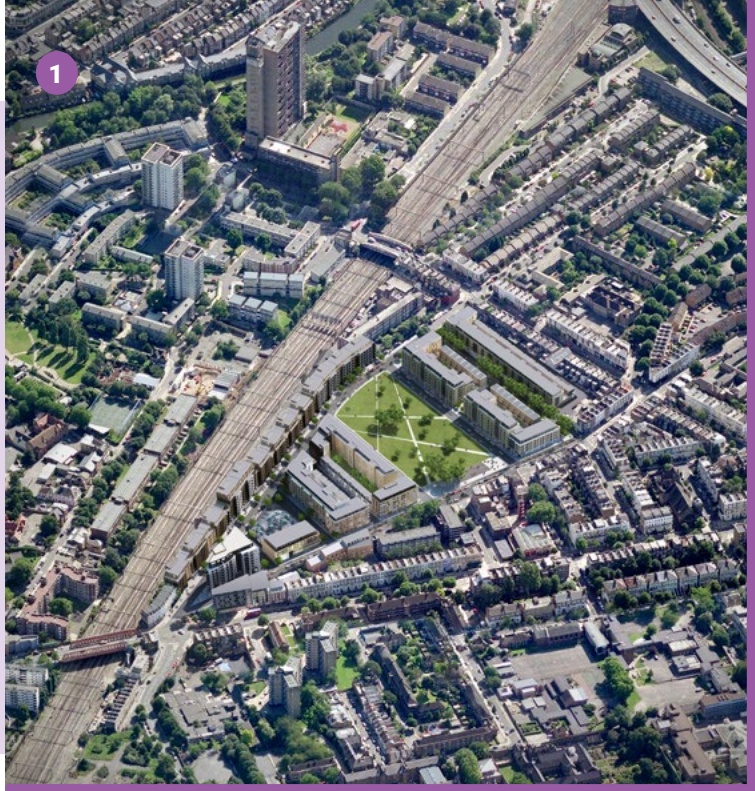
New development relates well to Grade II listed buildings in an historic harbour-side conservation area. Residential buildings are designed as courtyard blocks with familiar roof forms around new pedestrian and cycle-focused streets. ***Wapping Wharf, Bristol***

Good practice examples

1 *This development relates well to its context in terms of its layout, scale and massing as well as the location of open space and infrastructure. It respects the existing urban grain to create new streets and a new London square, a familiar type of open space in this west London context.* ***Portobello Square, Kensington, London****.*

2 *New homes relate positively to their historic town setting. The proportions of buildings, their openings and their materials all complement and enhance the context.* ***The Piggeries, Frome, Somerset.***

3 *Historic streets are reintroduced to create permeable and well-sized urban blocks. The new housing creates a positive setting for several listed buildings.* ***Timekeepers Square, Salford.***







Looking forward

Have you considered:

- ☐ How climate and environmental change influences your understanding of context?
- ☐ Are there opportunities for flood alleviation? Net environmental gain? Absorption of CO_2? Reducing embodied carbon by retaining existing buildings?
- ☐ How emerging modes of transport and infrastructure may influence accessibility?
- ☐ How heritage may be incorporated into proposals so it is inclusive and accessible to all?

Identity

Attractive and distinctive



50 The **identity** or character of a place comes from the way that buildings, streets and spaces, landscape and infrastructure combine together and how people experience them. It is not just about the buildings or how a place looks, but how it engages with all of the senses. Local character makes places distinctive and memorable and helps people to find their way around. Well-designed, sustainable places with a strong identity give their users, occupiers and owners a sense of pride, helping to create and sustain communities and neighbourhoods.

51 Well-designed places, buildings and spaces:

- have a positive and coherent identity that everyone can identify with, including residents and local communities, so contributing towards health and well-being, inclusion and cohesion;
- have a character that suits the context, its history, how we live today and how we are likely to live in the future; and
- are visually attractive, to delight their occupants and other users.

The distinctive character of the buildings and landscape helps to create an identity for this new development. Its design has a strong narrative and clear precedents. ***Derwenthorpe, York.***

I1 Respond to existing local character and identity

52 Local identity is made up of typical characteristics such as the pattern of housing, and special features that are distinct from their surroundings. These special features can be distinguished by their uses and activity, their social and cultural importance, and/or their physical form and design. Most places have some positive elements of character, particularly for their users. These can help to inform the character of a new development.

53 Well-designed new development is influenced by:

- an appreciation and understanding of vernacular, local or regional character, including existing built form, landscape and local architectural precedents;
- the characteristics of the existing built form – see **Built form**;
- the elements of a place or local places that make it distinctive; and
- other features of the context that are particular to the area – see **Context**.

This includes considering:

- the composition of street scenes, individual buildings and their elements;
- the height, scale, massing and relationships between buildings;
- views, vistas and landmarks;
- legibility - how easy it is for people to find their way around;
- roofscapes;
- the scale and proportions of buildings;
- façade design, such as the degree of symmetry, variety, the pattern and proportions of windows and doors, and their details;
- the scale and proportions of streets and spaces;
- hard landscape and street furniture;
- soft landscape, landscape setting and backdrop;
- nature and wildlife, including water;
- light, shade, sunshine and shadows; and
- colours, textures, shapes and patterns.

I2 Well-designed, high quality and attractive places and buildings

54 Well-designed places and buildings are visually attractive and aim to delight their occupants and passers-by. They cater for a diverse range of residents and other users. All design approaches and architectural styles are visually attractive when designed well.

55 Well-designed places appeal to all our senses. The way a place looks, feels, sounds, and even smells, affects its enduring distinctiveness, attractiveness and beauty.



This neighbourhood in a semi-rural setting draws on local historical precedents to create a distinctive character. It is defined by the height and massing of buildings, variation in roof forms and material selection. Gables are paired to create a focal point and mark the entrance to a street. ***Trowse Newton, Norfolk.***

56 Well-designed places contribute to local distinctiveness. This may include:

- adopting typical building forms, composition, articulation, proportions, features, materials, details, patterns and colours of an area;
- drawing upon the architectural precedents that are prevalent in the local area, including the proportions of buildings and their openings;
- using local building, landscape or topographical features, materials or planting types;
- introducing built form and appearance that adds new character and difference to places, with particular attention to how buildings meet the ground and sky;
- creating a positive and coherent identity that residents and local communities can identify with.

57 Materials, construction details and planting are selected with care for their context. They are attractive but also practical, durable and affordable. They contribute to visual appeal and local distinctiveness. In well-designed buildings, the materials and details suit the design concept and they are consistently followed through the construction process to completion.

I3 Create character and identity

58 Design decisions at all levels and scales shape the character of a new place or building and help to create a memorable sense of place. Character starts to be determined by the siting of development in the wider landscape, then by the layout and grain – the pattern of streets, landscape and spaces, the movement network and the arrangement of development blocks. It continues to be created by the form, scale, proportions, design, materials, details, patterns and colours of buildings and landscape. In this way, it creates a coherent identity for residents and communities to identify with.

59 Where the scale or density of new development is very different to the existing place, it may be more appropriate to create a new identity rather than to scale up the character of an existing place in its context. New character may also arise from a response to how today's lifestyles could evolve in the future, or to the proposed method of development and construction. Larger scale new developments, such as garden villages or urban extensions, may benefit from a variety of characters so that different areas or neighbourhoods each have their own identity.

60 Where the character of an existing place has limited or few positive qualities, then a new and positive character will enhance its identity.



A wide street with house frontages stepping down along its length. Their simple forms, considered roof detailing, and colourful façades create a strong identity appropriate to the local and wider context of ***Nansledan, Newquay.***

Definitions

Street scene: The appearance of all of the elements of a street, including the carriageway, pavement, street furniture, planting, and the buildings or structures along its edges, particularly the composition of buildings on each side of the street.

Roofscape: A view of roofs, particularly in terms of its aesthetic appeal.

Legibility: How easy it is for people to understand and find their way around a place and how memorable it is.

Good practice examples

1 *Apartments designed in a traditional style in response to the local identity. The frontage of the development is designed as a series of façades to create a vertical rhythm along the street and this is reinforced by the composition and proportions of openings.* ***Highbury Gardens, Islington, London.***

2 *Timber cladding, gable ends, a pedestrian-focused public realm and generous planting all give an informal, rural character to this neighbourhood at* ***Abode, Great Kneighton, Cambridge.***

3 *The use of brick cladding on this tall building gives it a character that fits well into its historic surroundings, and a texture that is human scale and tactile where the building meets the ground.* ***Blackfriars Circus, Southwark, London.***







Looking forward

Have you considered:

- ☐ How the identity suits the proposed approach to development such as construction technologies, diversity of procurement or ownership models?
- ☐ How the proposed character responds to climate change?
- ☐ How natural features such as tree planting, wetlands or other sustainable drainage systems can contribute to a positive character and perform a multifunctional role?

Built form

A coherent pattern of development



61 **Built form** is the three-dimensional pattern or arrangement of development blocks, streets, buildings and open spaces. It is the interrelationship between all these elements that creates an attractive place to live, work and visit, rather than their individual characteristics. Together they create the built environment and contribute to its character and sense of place.

62 It is relevant to city and town centres, suburbs, villages and rural settlements. It creates a coherent framework that forms a basis for the design of individual developments within a place.

63 Well-designed places have:

- compact forms of development that are walkable, contributing positively to well-being and placemaking;
- accessible local public transport, services and facilities, to ensure sustainable development;
- recognisable streets and other spaces with their edges defined by buildings, making it easy for anyone to find their way around, and promoting safety and accessibility; and
- memorable features or groupings of buildings, spaces, uses or activities that create a sense of place, promoting inclusion and cohesion.

The built form of this urban block is oriented to make the most of views towards the river. It steps to create a varied roof line, so that it sits sensitively in the wider historic industrial context. This helps to manage the levels of a sloping site. It also provides attractive roof terraces for residents. ***The Malings, Ouseburn.***

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B1 Compact form of development

64 Compact forms of development bring people together to support local public transport, facilities and local services. They make destinations easily accessible by walking or cycling wherever this is practical. This helps to reduce dependency upon the private car.

65 Well-designed new development makes efficient use of land with an amount and mix of development and open space that optimises density. It also relates well to and enhances the existing character and context.

66 Built form is determined by good urban design principles that combine layout, form and scale in a way that responds positively to the context. The appropriate density will result from the context, accessibility, the proposed building types, form and character of the development.

B2 Appropriate building types and forms

67 Well-designed places use the right mix of building types, forms and scale of buildings and public spaces for the context and the proposed density, to create a coherent form of development that people enjoy. They also adopt strategies for parking and amenity that support the overall quality of the place.

68 The built form of well-designed places relates well to:

- the site, its context and the opportunities they present;
- the proposed identity and character for the development in the wider place;
- the lifestyles of occupants and other users; and
- resource efficiency, climate change mitigation and adaptation. See **Resources.**

69 Built form defines a pattern of streets and development blocks. Streets are places for people as well as for movement. Street types will depend on:

- their width, relating to their use;
- the height of buildings and the consistency of their building line in relation to the street itself, and the sense of enclosure that results;
- how built up they are along their length including whether or not buildings share party walls, and the structure of blocks and routes that this creates;
- the relationship between building fronts and backs, with successful streets characterised by buildings facing the street to provide interest, overlooking and active frontages at ground level - see **Public spaces**;



Considering the layout, grain and scale of buildings and spaces in different situations, and drawing inspiration from traditional street patterns, helps to create new developments that fit well into the surrounding context.

- establishing an appropriate relationship with the pattern, sizes and proportions of existing streets in the local area; and
- how they create a clear distinction between public and private spaces.

70 Well-designed tall buildings play a positive urban design role in the built form. They act as landmarks, emphasising important places and making a positive contribution to views and the skyline.

71 Proposals for tall buildings (and other buildings with a significantly larger scale or bulk than their surroundings) require special consideration. This includes their location and siting; relationship to context; impact on local character, views and sight lines; composition - how they meet the ground and the sky; and environmental impacts, such as sunlight, daylight, overshadowing and wind. These need to be resolved satisfactorily in relation to the context and local character.

B3 Destinations

72 Destinations provide opportunities for people to meet, share experiences and come together as a community - see also **Uses**. By bringing existing and new together, destinations become a place for everyone.

73 They create valuable opportunities for the built form to strengthen the local character of a place. The choice of site, layout, form and scale of built form, together with good design and well-considered materials, all help to add to local distinctiveness and create a sense of community.

74 In this way, local destinations become recognisable features that help people find their way around and feel a sense of identity. Involving potential users in the design process also helps to achieve this.

Definitions

Accessibility: The ability of people to move around an area and reach places and facilities, including older and disabled people, those with young children and those carrying luggage or shopping.

Compact form of development: Development that is planned with a relatively high residential density and an urban layout. Community facilities are closer to one another and their users, preserves more open landscape, and makes efficient use of land and resources.

Walkable: Local facilities are within walking distance, generally considered to be no more than a 10 minute walk (800m radius).

Destinations: Places or facilities that people want to visit. In a neighbourhood these may be transport hubs, open spaces, local services such as schools, shops, healthcare or community facilities.



The form of these new homes draws from local rural typologies, with a contemporary interpretation. ***Carrowbreck Meadow, Norfolk***



Flats are used to turn the corner of this urban block. Stepped bay windows and a large chimney stack to create a positive and interesting facade treatment on a prominent corner. ***Pottergate, Alnwick, Northumberland***

Good practice examples

1 *This development is designed around a clear street hierarchy, a mix of open spaces and an associated variety of building types and sizes.* ***Great Western Park, Didcot.***

2 *A network of streets and courts frame open spaces that allow views out to the hillside and coastline for existing and new residents. The built form adopts a, contemporary approach to traditional typologies.* ***Officers Field, Weymouth.***

3 *This higher density, urban development uses the size and location of open spaces, layout, orientation and stepping façades and roofs to break up the form.* ***St. Andrews Block B, Bromley-by-Bow, London.***







Looking forward

Have you considered:

- ☐ How the built form reduces reliance upon the car by promoting walking and cycling to local destinations, and prioritising public transport routes?
- ☐ How it can support evolving lifestyles? Working remotely or from home? Intergenerational living? Cohousing?
- ☐ How the layout, form and scale are a suitable starting point for an appropriate character?

Movement

Accessible and easy to move around



Cycle and pedestrian movement that is well-overlooked and attractive. ***Packington Estate, Islington, London.***

75 Patterns of **movement** for people are integral to well-designed places. They include walking and cycling, access to facilities, employment and servicing, parking and the convenience of public transport. They contribute to making high quality places for people to enjoy. They also form a crucial component of urban character. Their success is measured by how they contribute to the quality and character of the place, not only how well they function.

76 Successful development depends upon a movement network that makes connections to destinations, places and communities, both within the site and beyond its boundaries.

77 A well-designed movement network defines a clear pattern of streets that:

- is safe and accessible for all;
- functions efficiently to get everyone around, takes account of the diverse needs of all its potential users and provides a genuine choice of sustainable transport modes;
- limits the impacts of car use by prioritising and encouraging walking, cycling and public transport, mitigating impacts and identifying opportunities to improve air quality;
- promotes activity and social interaction, contributing to health, well-being, accessibility and inclusion; and
- incorporates green infrastructure, including street trees to soften the impact of car parking, help improve air quality and contribute to biodiversity.

M1 A connected network of routes for all modes of transport

78 A well-designed and connected network gives people the maximum choice in how to make their journeys. This includes by rail, other public transport, walking, cycling and by car.

79 In a well-designed place, all modes of transport are positively designed into the built form. They are integrated into public spaces with character that people enjoy using. People move around in attractive streets and other public spaces - parks, natural open spaces and green corridors. Well-designed streets create attractive public spaces with character, through their layout, landscape, including street trees, lighting, street furniture and materials - see Public spaces.

80 A clear layout and hierarchy of streets and other routes helps people to find their way around so that journeys are easy to make. Wider, more generous spaces are well-suited to busier streets, including streets served by public transport. They have enough space to create an attractive place for all users. Narrower streets are more suitable where there is limited vehicle movement and speeds are low. Mews, courtyards and culs-de-sac will generally only be appropriate at the most local level where there is little vehicular movement.

81 Higher densities are dependent upon accessibility to public transport and essential facilities. To optimise density, it may be necessary to provide public transport infrastructure or to improve existing local transport services. A transport hub may represent an opportunity for a local increase in density, where appropriate to local context and character.

M2 Active travel

82 Priority is given to pedestrian and cycle movements, subject to location and the potential to create connections. Prioritising pedestrians and cyclists mean creating routes that are safe, direct, convenient and accessible for people of all abilities. These are designed as part of attractive spaces with good sightlines, and well chosen junctions and crossings, so that people want to use them. Public rights of way are protected, enhanced and well-linked into the wider network of pedestrian and cycle routes.

83 In well-designed places, people should not need to rely on the car for everyday journeys, including getting to workplaces, shops, schools and other facilities, open spaces or the natural environment. Safe and direct routes with visible destinations or clear signposting encourage people to walk and cycle.



Well-designed places have a hierarchy of well-connected routes, such as boulevards, streets, roads, avenues, mews and courts. New developments help to reinforce or extend the movement network. For pedestrians and cyclists, direct links create good connections to public transport and promote active travel, particularly where they are along routes with low levels of vehicular traffic.

M3 Well-considered parking, servicing and utilities infrastructure for all users

84 Parking standards are set locally and vary in response to local conditions. How parking is arranged has a fundamental effect on the quality of a place or development.

85 Well-designed car and cycle parking at home and at other destinations is conveniently sited so that it is well used. This could be off-street to avoid on-street problems such as pavement parking or congested streets. It is safe and meets the needs of different users including occupants, visitors and people with disabilities. It may be accommodated in a variety of ways, in terms of location, allocation and design.

86 Well-designed parking is attractive, well-landscaped and sensitively integrated into the built form so that it does not dominate the development or the street scene. It incorporates green infrastructure, including trees, to soften the visual impact of cars, help improve air quality and contribute to biodiversity. Its arrangement and positioning relative to buildings limit its impacts, whilst ensuring it is secure and overlooked.

87 Electric vehicle spaces and charging points need to be considered, so they are suitably located, sited and designed to avoid street clutter.

88 Access for servicing is also well-integrated into developments, including for refuse collection, deliveries and removals. Bin stores are carefully integrated so that bins are not visible from the street (see Homes and Buildings).

89 Utilities services and infrastructure include water supply, sewerage, drainage, gas, electricity, full fibre broadband, digital infrastructure and telephones. Their siting and layout take into account:

- their space requirements and visual impact;
- convenient maintenance while not impeding the planting of street trees; and
- implications for foreseeable future changes in demand.



*A guided busway with dedicated pedestrian and cycle paths provides fast and direct links to connect new and existing neighbourhoods with employment and services in **Cambridgeshire**.*

Definitions

Movement network: The linked routes and connections for people and vehicles to go and move through places and spaces. Specific consideration is given to the needs of each of the different users of the network, including pedestrians, cyclists, public transport, cars and service vehicles.

Sustainable transport mode: Any efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra low emission vehicles, car sharing and public transport.

Green corridor: Uninterrupted network of natural features within an urban area that acts as a linkage for wildlife, and potentially for people.

Street clutter: Street furniture and landscape arranged so that streets are difficult to move through, use or are unattractive.

Good practice examples

1 *A dedicated pedestrian and cycle Quietway route separates pedestrians and cyclists from vehicles in* ***Walthamstow, London.***

2 *Streets are places for people as well as cars.* ***Poundbury, Dorchester.***

3 *The street is designed with parking located in front of homes and screened with robust shrub planting and small trees. Planting is kept low to maintain visibility along the street and towards front doors.* ***Horsted Park, Kent.***







Looking forward

Have you considered:

- ☐ How to reduce reliance upon the private car? Moving away from car use for short journeys? Prioritising walking, cycling and public transport?
- ☐ How changing technology will continue to affect movement? Electric vehicles (cars and e-bikes) and their charging requirements? Private hire/driverless vehicles in terms of parking provision?
- ☐ How to improve air quality? Restrictions/ charging for certain types of vehicles? Natural features such as trees, hedges or water?



Nature

Enhanced and optimised

90 **Nature** contributes to the quality of a place, and to people's quality of life, and it is a critical component of well-designed places. Natural features are integrated into well-designed development. They include natural and designed landscapes, high quality public open spaces, street trees, and other trees, grass, planting and water.

91 Well-designed places:

- integrate existing, and incorporate new natural features into a multifunctional network that supports quality of place, biodiversity and water management, and addresses climate change mitigation and resilience;
- prioritise nature so that diverse ecosystems can flourish to ensure a healthy natural environment that supports and enhances biodiversity;
- provide attractive open spaces in locations that are easy to access, with activities for all to enjoy, such as play, food production, recreation and sport, so as to encourage physical activity and promote health, well-being and social inclusion.

Informal doorstep play is located along a pedestrian route among planting and trees, well-overlooked by neighbouring homes. ***South Gardens, Elephant Park, London.***

N1 Provide a network of high quality, green open spaces with a variety of landscapes and activities, including play

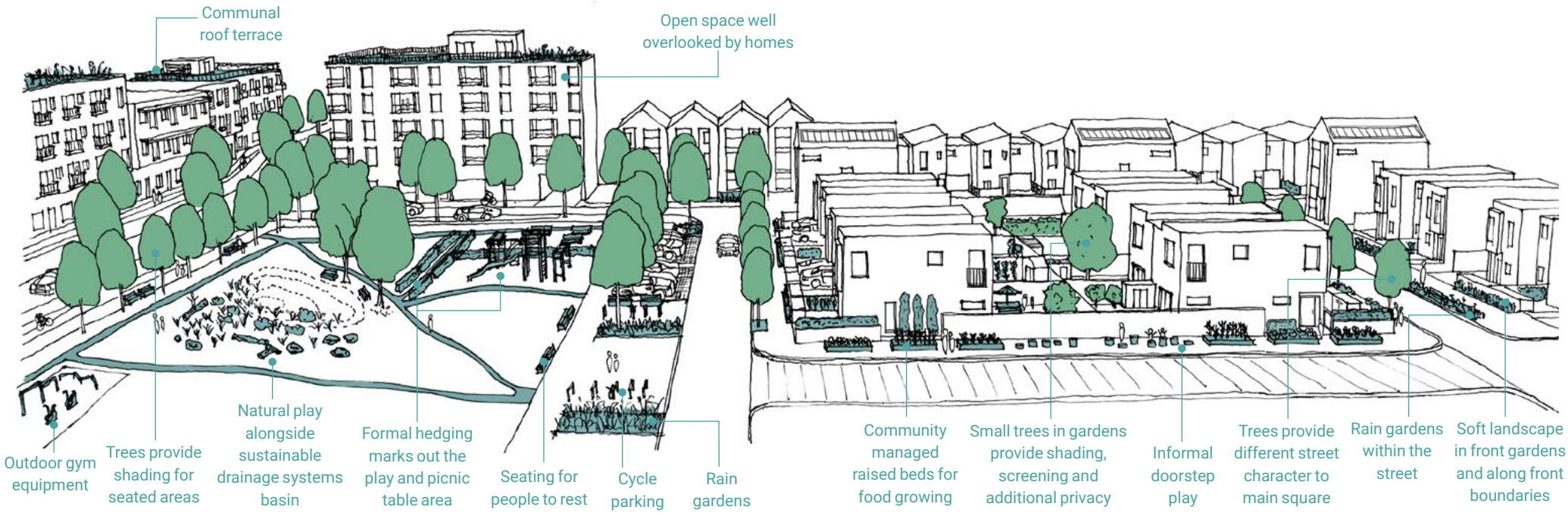
92 Well-designed places provide usable green spaces, taking into account:

- the wider and local context, including existing landscape and ecology;
- access;
- how spaces are connected;
- the balance between public and private open spaces – see Public spaces;
- their potential to contribute to a strategic green infrastructure system, and to water management – see below;
- their ability to support a range of activities and provide amenity value; and
- how they are to be managed and maintained.

93 Open spaces are designed to be high quality, robust and adaptable over time so that they remain fit for purpose and are managed and maintained for continual use.

94 Open spaces include public, shared and private outdoor spaces with:

- a range of sizes and locations;
- a variety of natural and designed landscapes for everyone, with different functions to suit a diverse range of needs;
- opportunities for formal and informal play, exercise and rest that are accessible to all and with no segregation;
- well-integrated drainage, ecology, shading, recreation and food production that achieve a biodiversity net gain as required by the 25-year Environment Plan; and
- well-considered maintenance and management regimes based on an understanding of the costs for occupants or users.



95 Public open spaces are open to all. They provide opportunities for comfort, relaxation, stimulation and social interaction in a safe environment. To encourage interaction in an open space, its location and structure need careful consideration along with its activities, versatility, and how it can be used and accessed by all groups of people.

N2 Improve and enhance water management

96 Water management maintains healthy water systems and is important for effective sustainable drainage systems. In well-designed places, water features form part of an integrated system of landscape, biodiversity and drainage. This includes new water features that manage drainage and also existing watercourses. Together with green and brown roofs, swales, rain gardens, rain capture and other drainage, water features create multifunctional 'green' sustainable drainage systems. They also enhance the attractiveness of open spaces and provide opportunities for play, interaction and relaxation.

97 Alternatively, places or developments may be designed to adapt to flood conditions. Examples may include a terraced open space where lower levels may become a water feature, or homes with habitable rooms lifted above flood level.



Introducing planting softens and greens the city centre and provides pocket parks, so enhancing the quality of the public realm. ***Grey to Green, Sheffield.***

N3 Support rich and varied biodiversity

98 Well-designed developments include site-specific enhancements to achieve biodiversity net gains at neighbourhood, street and household level. Green corridors can be used to extend and enhance existing ecosystems. Existing areas of valuable biodiversity are protected and enhanced. Priority is given to rare or critical habitats and species.

Definitions

Net gain for biodiversity: Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity net gain can be achieved on-site, off-site or through a combination of on-site and off-site measures. See the Natural Environment planning practice guidance for more detail.

Green infrastructure: A network of multifunctional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities.

Sustainable drainage systems: Features designed to reduce flood risk, which are built to receive surface water run-off, such as constructed wetlands, permeable surfaces, retention ponds, green roofs and swales.

Good practice examples

1 *Sustainable drainage systems and trees are incorporated into streets, creating a high quality, green setting for new homes and contributing to the character of the neighbourhood.* ***Upton, Northampton.***

2 *Ponds are used as a key part of the sustainable drainage systems strategy to manage drainage and provide an attractive rural outlook from neighbouring homes.* ***Houlton, Rugby.***

3 *New landscape in the courtyards of these existing homes promotes well-being and social interaction. It includes abundant planting with trees and wild flower meadows, new paths and seating, and carefully integrated parking.* ***Maritime Streets, Barrow-in-Furness, Cumbria.***

Looking forward

Have you considered:

- ☐ How to achieve a net gain in biodiversity?
- ☐ The impact of climate change on biodiversity?
- ☐ How natural features can contribute to quality, while addressing technical issues? Wetlands/ ponds?
- ☐ How natural features contribute to climate change mitigation or adaptation? Tree planting for CO_2 absorption and/ or shade?







Public spaces

Safe, social and inclusive



99 The quality of the spaces between buildings is as important as the buildings themselves. **Public spaces** are streets, squares, and other spaces that are open to all. They are the setting for most movement. The design of a public space encompasses its siting and integration into the wider network of routes as well as its various elements. These include areas allocated to different users – cars, cyclists and pedestrians – for different purposes such as movement or parking, hard and soft surfaces, street furniture, lighting, signage and public art.

100 Well-designed places:

- include well-located public spaces that support a wide variety of activities and encourage social interaction, to promote health, well-being, social and civic inclusion;
- have a hierarchy of spaces that range from large and strategic to small and local spaces, including parks, squares, greens and pocket parks;
- have public spaces that feel safe, secure and attractive for all to use; and
- have trees and other planting within public spaces for people to enjoy, whilst also providing shading, and air quality and climate change mitigation.

High quality public space at the heart of the city centre, designed as a flexible space with water features for play and animation. ***City Park, Bradford.***

P1 Create well-located, high quality and attractive public spaces

101 Well-designed public spaces, particularly streets, are designed to support an active life for everyone, and are maintained for continual use. It is important to design them to include all of the users who may wish to use them for activities such as socialising, informal doorstep play, resting and movement. Their success depends on them being fit for purpose, attractive places that people enjoy using.

102 In well-designed places, streets are public spaces that are open to all. They encourage people to walk and cycle rather than to depend upon cars, particularly for short, local journeys. They are accessible to all and designed to meet the needs of their most vulnerable users. They are places where the design of shared space schemes, that remove or reduce the distinction between the pavement and carriageway, takes into consideration the needs of people with disabilities particularly visual impairment.

103 High quality public spaces include natural elements such as tree planting or water. These may be sited within the space itself, associated with the buildings around its edges or in the backdrop of views (See Nature). The design of landscape influences the microclimate and can promote a sense of tranquillity.

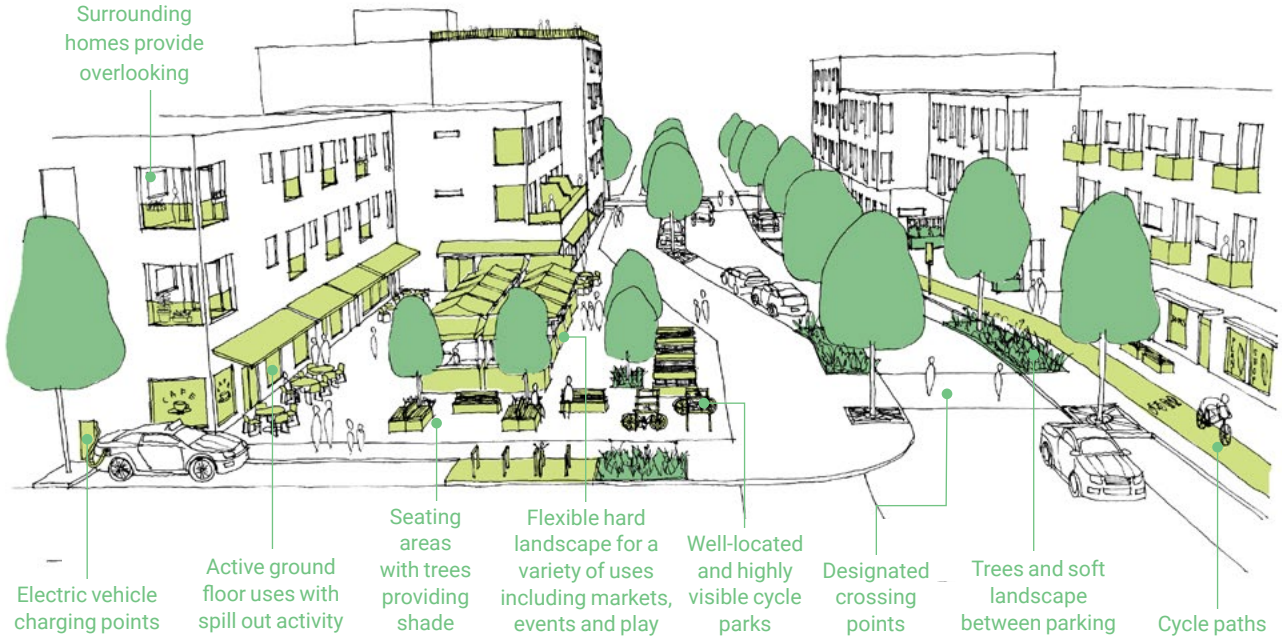
P2 Provide well-designed spaces that are safe

104 Well-designed public and shared amenity spaces feel safe for people who occupy the buildings around them, and also for visitors and passers-by. They help to overcome crime and the fear of crime.

105 Careful planning and design create the right conditions for people to feel safe and secure, without the need for additional security measures.



New public space that accommodates a range of activities, with a mix of uses around its edges, including a supermarket and housing. ***The Russells, Broadway, Worcestershire.***



These include:

- buildings around the edges of a space;
- active frontages along its edges, provided by entrances onto the space and windows overlooking it, so that people come and go at different times;
- natural surveillance from inside buildings provided by windows and balconies, so that users of the space feel they might be overlooked by people from inside;
- reasons for people to enter into the space, for an activity or destination or because it is on a natural line of direction of travel;
- risk assessment and mitigation at an early stage of the design process, so security measures can be integrated into positive design features.

P3 Make sure public spaces support social interaction

106 Well-designed public spaces are social spaces, providing meeting places, and opportunities for comfort, relaxation and stimulation for all, regardless of the type or tenure of the homes around them. They have widespread appeal, are able to accommodate people with different needs and can help combat social isolation and loneliness. See Built form.



High quality green public spaces provide key pedestrian links to local facilities, a range of outdoor amenity including play areas, and a net gain in biodiversity. ***Beaulieu, Chelmsford.***

107 A well-designed public space that encourages social interaction is sited so that it is open and accessible to all local communities. It is connected into the movement network, preferably so that people naturally pass through it as they move around. It appeals to different groups. This is influenced by the range of activities that can happen within the space and who they are for. It is also influenced by the versatility and accessibility of its design. The uses around its edges reinforce its appeal and help make it into a destination.

Definitions

Active frontage: The front of a buildings with openings onto the space that generate activity and engagement between the building interior and the space outside, particularly entrances.

Natural surveillance: When buildings around a space are designed with features that are likely to lead to people overlooking the space. These may be windows, balconies, front gardens or entrances.

Good practice examples

1 *The street is designed to prioritise pedestrians with a focus on social interaction, such as play, communal gatherings and places to sit with neighbours.* ***Marmalade Lane, Cambridge.***

2 *Central urban public space with tree planting and grass provides a peaceful space to meet and interact in the city.* ***West Smithfield, The City of London.***

3 *Central pedestrianised street activated with cafés and shops spilling out, and strategically located trees, benches and bike stands to separate the external space of shop units from a central zone for movement.* ***Castle Street, Kingston upon Thames.***







Looking forward

Have you considered:

- ☐ How the design of public spaces can mitigate the 'heat island' effect? By planting trees? Introducing water into spaces?
- ☐ How to accommodate different users to prioritise walking and cycling? Using segregated spaces? Traffic calming measures?
- ☐ How public spaces meet the needs of the most vulnerable users – both young and old?

Uses

Mixed and integrated



108 Sustainable places include a mix of **uses** that support everyday activities, including to live, work and play.

109 Well-designed neighbourhoods need to include an integrated mix of tenures and housing types that reflect local housing need and market demand. They are designed to be inclusive and to meet the changing needs of people of different ages and abilities. New development reinforces existing places by enhancing local transport, facilities and community services, and maximising their potential use.

110 Where there is rapid social and economic change, such as sustainable growth or diversification in rural communities or town centres, well-designed buildings and places are able to accommodate a variety of uses over time.

111 Well-designed places have:

- a mix of uses including local services and facilities to support daily life;
- an integrated mix of housing tenures and types to suit people at all stages of life; and
- well-integrated housing and other facilities that are designed to be tenure neutral and socially inclusive.

A high quality, mixed-use development with active frontages rejuvenates a town centre. ***Dickens Yard, Ealing, London.***

U1 A mix of uses

112 Successful communities require a range and variety of local services and community facilities including schools, nurseries, workplaces, healthcare, spiritual, recreational, civic and commercial uses. These:

- represent the varied needs and aspirations of the existing and future local community, including all ages and abilities;
- support everyday life and encourage sustainable lifestyles;
- are convenient and within walking or cycling distance on accessible routes to local homes and other facilities; and
- are located to complement rather than conflict with neighbouring uses in terms of noise, servicing and ventilation.

113 Mixed-use development creates an active and vibrant place with an intensity that feels like a centre or destination - see **Built form**. Typically, it is appropriate in urban locations and the centres of larger scale developments.

114 In well-designed mixed-use development, the interrelationship between different uses is designed to cater well for all users. Particular attention is paid to:

- the arrangement of ground floor uses, to ensure they are occupied successfully;
- the access arrangements to upper floors, especially to homes.

U2 A mix of home tenures, types and sizes

115 Well-designed neighbourhoods provide a variety and choice of home to suit all needs and ages. This includes people who require affordable housing or other rental homes, families, extended families, older people, students, and people with physical disabilities or mental health needs.

116 Where different tenures are provided, they are well-integrated and designed to the same high quality to create tenure neutral homes and spaces, where no tenure is disadvantaged.

117 Well-designed places include a variety of homes to meet the needs of older people, including retirement villages, care homes, extra-care housing, sheltered housing, independent living and age-restricted general market housing. They are integrated into new settlements with good access to public transport and local facilities.

118 Well-designed larger scale developments include a range of tenures. They also promote a variety of development models, such as community-led development, self- and custom-build and build to rent. This supports a diversity of delivery, by small as well as large developers. It also helps to create rich, diverse settlements.

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Estate regeneration including new mixed tenure homes, a community centre and a Multi-Use Games Area for social and physical well-being. ***Bourne Estate, Holborn, London.***



A large mixed-use canal-side development with a range of mixed uses including commercial and residential around a central square. The square is designed to accommodate a variety of uses and events. It has many access points and is well-overlooked by neighbouring buildings. ***Brindleyplace, Birmingham.***

U3 Socially inclusive

119 Good design promotes social inclusion by:

- contributing to creating balanced and mixed neighbourhoods that are suitable and accessible for all;
- maximising the potential for social integration in the layout, form and appearance of types of development;
- avoiding features that could create actual or perceived barriers, or contribute to segregation, both within the development and with its surroundings;
- providing a consistent level of design quality across tenures, to support social integration; and
- using local resources such as schools, nurseries, community facilities, parks, other open spaces, health, and religious or cultural facilities as destinations in layouts to promote social interaction and integration, and help combat loneliness. See Built form and Public spaces .



Multiple tenures including private ownership, rent, shared ownership and specialist housing groups, with no visual distinction in the facade or difference to communal entrances from the front. ***Buccleuch House, Clapton, London.***

Definitions

Tenure neutral: Housing where no group of residents is disadvantaged as a result of the tenure of their homes. There is no segregation or difference in quality between tenures by siting, accessibility, environmental conditions, external facade or materials. Homes of all tenures are represented in equally attractive and beneficial locations, and there is no differentiation in the positions of entrances. Shared open or play spaces are accessible to all residents around them, regardless of tenure.

Mixed-use development: Provision of a mix of complementary uses, such as residential, community and leisure uses, on a site or in close proximity within a particular area.

Good practice examples

1 *A village square is the focus of the community, faced by a mix of uses including a primary school with community centre, a nursery, shops, offices and flats and extra-care housing with a public cafe, shops, offices and flats. It creates a popular, flexible space for community activities.* ***Lightmoor, Telford.***

2 *A mix of house types and tenures for a range of housing needs are visually integrated, creating a mixed neighbourhood that faces onto a tree-lined avenue in a Conservation Area.* ***The Avenue, Saffron Walden.***

3 *A new church, cafe and community space is integrated in a new residential development.* ***Frampton Park Baptist Church, Hackney, London.***







Looking forward

Have you considered:

- ☐ How to introduce or promote a broad mix of uses to bring vibrancy to neighbourhood or other centres, including high streets?
- ☐ Will buildings be able to adapt to evolving uses, as changing technology affects patterns of work, shopping and leisure?
- ☐ How the use of community buildings and other facilities could be shared?
- ☐ How to make sure that developments are tenure neutral and do not disadvantage any group of residents?

Homes & buildings

Functional, healthy and sustainable



120 Well-designed **homes and buildings** are functional, accessible and sustainable. They provide internal environments and associated external spaces that support the health and well-being of their users and all who experience them.

121 They meet the needs of a diverse range of users, taking into account factors such as the ageing population and cultural differences. They are adequate in size, fit for purpose and are adaptable to the changing needs of their occupants over time.

122 Successful buildings also provide attractive, stimulating and positive places for all, whether for activity, interaction, retreat, or simply passing by.

123 Well-designed homes and buildings:

- provide good quality internal and external environments for their users, promoting health and well-being;
- relate positively to the private, shared and public spaces around them, contributing to social interaction and inclusion; and
- resolve the details of operation and servicing so that they are unobtrusive and well-integrated into their neighbourhoods.

A balcony has space for sitting and growing plants. It faces out to the public realm, but maintains a sense of enclosure and privacy. ***Prince Charles House, St Austell.***

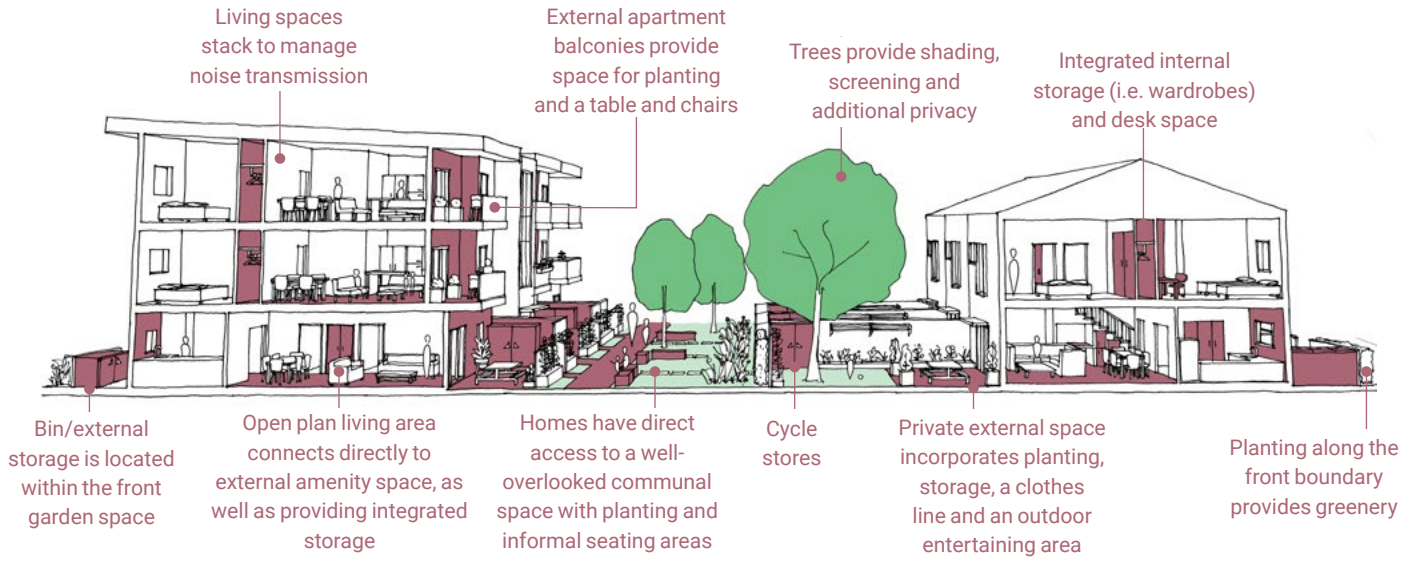
H1 Healthy, comfortable and safe internal and external environment

124 Good design promotes quality of life for the occupants and users of buildings. This includes function – buildings should be easy to use. It also includes comfort, safety, security, amenity, privacy, accessibility and adaptability.

125 Well designed homes and buildings are efficient and cost effective to run. They help to reduce greenhouse gas emissions by incorporating features that encourage sustainable lifestyles. They have good ventilation, avoid overheating, minimise sound pollution and have good air quality, while providing comfort and personal control for their users.

126 Well-designed homes and communal areas within buildings provide a good standard and quality of internal space. This includes room sizes, floor-to-ceiling heights, internal and external storage, sunlight, daylight and ventilation. The quality of internal space needs careful consideration in higher-density developments, particularly for family accommodation, where access, privacy, daylight and external amenity space are also important.

127 Where a need is identified, Local Plans may adopt the Nationally Described Space Standards and those for accessibility and water.



128 Well-designed buildings have building safety requirements under other legislation in mind from the outset to provide a safe and secure environment for occupants and users. They allow ease of access for emergency services, and facilities for the safe access to and from buildings in the need for evacuation.

H2 Well-related to external amenity and public spaces

129 Well-designed buildings are carefully integrated with their surrounding external space. All private and shared external spaces including parking (see **Movement**), are high quality, convenient and function well. Amenity spaces have a reasonable degree of privacy External spaces are designed to respond to local character, as appropriate solutions will vary by the context, for example whether it is a town centre or suburb.

130 Well-designed private or shared external spaces are fit for purpose and incorporate planting wherever possible. The appropriate size, shape and position for an external amenity space can be defined by considering:

- how the associated building sits in the wider context, including access to public and open spaces;
- how the amenity space will be used, what for, and by whom;

- environmental factors that may affect its usability, such as sunlight and shade, noise or pollution;
- wider environmental factors affecting its quality or sustainability, such as a green corridor or drainage.

131 Well-designed shared amenity spaces feel safe and secure for their users. They are social spaces providing opportunities for comfort, relaxation and stimulation - including play - for residents, regardless of the type or tenure of homes. They are well-overlooked and all of the residents who share them can access them easily.

132 Private amenity spaces including both gardens and balconies enhance visual and outdoor amenity. They can also provide a degree of privacy and separation for living areas from adjoining public space. Front gardens may incorporate planting to add to natural features within the public space.

133 Well-designed buildings relate well to the public spaces around them. The interface between building and public space is carefully designed so that it is positive and appropriate to its context (see also **Context**, **Identity** and **Public spaces**) and to the occupants and passers-by who use them.

H3 Attention to detail: storage, waste, servicing and utilities

134 Well-designed places include a clear attention to detail. This considers how buildings operate in practice and how people access and use them on a day-to-day basis, both now and in future. They include:

- Local waste storage, management and pick up: Refuse bins for all the different types of collection, including landfill, recycling and food waste. They are accessible and well-integrated into the design of streets, spaces and buildings, to minimise visual impact, unsightliness and avoid clutter. Where refuse bins are required to be on a street frontage or in a location that is visible from a street, they are sited within well-designed refuse stores that are easy for occupants to use.
- Services including utilities and window cleaning: Simple electric, lighting and water systems are discreet and well-designed. They are easy to access, clean and maintain.
- Exterior details: Drainpipes, gutters and meter boxes are integrated into the wider design to avoid a cluttered appearance.
- Cycle storage: Conveniently positioned and sensitively integrated into public spaces, amenity space or buildings.



Well-designed and naturally lit internal spaces with views out. ***Hortsley, Seaford.***

Definitions

Amenity space: The outside space associated with a home or homes. It may be private or shared, depending on the building it serves.

Good practice examples

1 *House frontages are carefully designed with generous windows from habitable rooms, visible and attractive front doors and planting to act as buffer between the pavement and window.* ***Caudale, Camden, London.***

2 *Affordable housing with simple design is well-integrated into a mixed tenure development.* ***Derwenthorpe, York.***

3 *Internal habitable rooms have high levels of natural daylight and connect well to gardens and terraces.* ***Accordia, Cambridge.***







Looking forward

Have you considered:

- ☐ How the design and development of homes addresses different lifestyles, abilities and stages of life, including an ageing population?
- ☐ How it enables a variety of different development models? Community-led development? Cohousing?
- ☐ How the design of homes is adaptable to meet the future needs of residents? Whole life approaches?

Resources

Efficient and resilient



Low energy housing with passive solar design, including shading to prevent overheating in summer, and highly insulated thermal mass construction. ***Great Bow Yard, Langport, Somerset***

135 Well-designed places and buildings conserve natural **resources** including land, water, energy and materials. Their design responds to the impacts of climate change by being energy efficient and minimising carbon emissions to meet net zero by 2050. It identifies measures to achieve:

- mitigation, primarily by reducing greenhouse gas emissions and minimising embodied energy; and
- adaptation to anticipated events, such as rising temperatures and the increasing risk of flooding.

136 A compact and walkable neighbourhood with a mix of uses and facilities reduces demand for energy and supports health and well-being. It uses land efficiently so helps adaptation by increasing the ability for CO_2 absorption, sustaining natural ecosystems, minimising flood risk and the potential impact of flooding, and reducing overheating and air pollution.

137 Well-designed places:

- have a layout, form and mix of uses that reduces their resource requirement, including for land, energy and water;
- are fit for purpose and adaptable over time, reducing the need for redevelopment and unnecessary waste;
- use materials and adopt technologies to minimise their environmental impact.

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R1 Follow the energy hierarchy

138 Well-designed places and buildings follow the energy hierarchy of:

- reducing the need for energy through passive measures including form, orientation and fabric;
- using energy efficient mechanical and electrical systems, including heat pumps, heat recovery and LED lights; and
- maximising renewable energy especially through decentralised sources, including on-site generation and community-led initiatives.

139 They maximise the contributions of natural resources such as sun, ground, wind, and vegetation.

140 They make use of potential for renewable energy infrastructures at neighbourhood and building level. These include photovoltaic arrays, heat pumps and district heating systems, to reduce demand for non-sustainable energy sources. IT advances and app-based solutions allow users to take ownership or to manage these systems so as to use them most efficiently.

141 They follow the principles of whole life carbon assessment and the circular economy, reducing embodied carbon and waste and maximising reuse and recycling.

142 Good developments minimise the cost of running buildings and are easy and affordable for occupants to use and manage.

R2 Careful selection of materials and construction techniques

143 The selection of materials and the type of construction influence how energy efficient a building or place can be and how much embodied carbon it contains.

144 Well-designed proposals for new development use materials carefully to reduce their environmental impact. This may be achieved in many different ways, for instance through materials that are locally sourced, high thermal or solar performance; or designs based on the typical dimensions of materials to reduce waste.

145 A well-designed place is durable and adaptable, so that it works well over time and reduces long-term resource needs. The re-use and adaptation of existing buildings reduces the consumption of resources and contributes to local character and context.

146 New construction techniques may contribute towards improving efficiency, productivity and the quality of new homes and buildings. These include the off-site manufacture of buildings and components using innovative and smart technologies, supported by digital infrastructure. They offer the potential to reduce whole life costs and for users to customise the products. Careful consideration needs to be given to placemaking, local distinctiveness and the character of new homes and buildings.



A community self-build project with a range of house types and a commitment by residents to support and live to environmental values. ***Ashley Vale, Self-build, Bristol.***

R3 Maximise resilience

147 Well-designed places are robust and take account of local environmental conditions, both prevailing and forecast. They contribute to community resilience and climate adaptation by addressing the potential effects of temperature extremes in summer and winter, increased flood risk, and more intense weather events such as rainstorms.

148 Well-designed public and open spaces incorporate planting, structures and water for comfort. They create shade and shelter for their users, improve air quality and mitigate the effects of pollution. Deciduous trees provide shade to buildings, helping to manage solar gain when needed in summer months. These landscape features also contribute to reducing the 'heat island' effect whereby the temperatures in built up areas are significantly higher than outside them.

149 Well-designed places have sustainable drainage systems to manage surface water, flood risk and significant changes in rainfall. Urban environments make use of 'green' sustainable drainage systems and natural flood resilience wherever possible (see Nature). Homes and buildings also incorporate flood resistance and resilience measures where necessary and conserve water through water saving measures and by harnessing rainfall or grey water for re-use on-site.



An old chocolate factory has been converted to apartments with new housing alongside the original buildings. This compact development is located close to a train station and local facilities. ***The Chocolate Quarter, Keynsham***

150 Well-designed buildings make the most of passive design strategies to minimise overheating and achieve internal comfort. These include:

- the layout and aspect of internal spaces;
- insulation of the external envelope and thermal mass;
- management of solar gain; and
- good ventilation to reduce overheating.

They are supported by other measures where necessary, such as mechanical ventilation with heat recovery for efficient ventilation in winter.

Definitions

Climate change mitigation: Action to reduce the impact of human activity on the climate system, primarily through reducing greenhouse gas emissions.

Climate change adaptation: Adjustments made to natural or human systems in response to the actual or anticipated impacts of climate change, to mitigate harm or exploit beneficial opportunities.

Circular economy: A circular economy is based on three principles: designing out waste and pollution; keeping products and materials in use; and regenerating natural systems.

Good practice examples

1 *A communal winter garden, events space and artist's residence were created from two derelict terraced houses for the benefit of the local community.* ***Granby Winter Garden, Liverpool.***

2 *A social housing development that sits well in the local urban context and meets high environmental standards.* ***Goldsmith Street, Norwich.***

3 *Modular homes improve quality through factory production and minimise on-site construction time.* ***New Islington, Manchester.***







Looking forward

Have you considered:

- ☐ How the design of developments can mitigate or adapt to extreme weather events?
- ☐ How changing energy technologies, including electrical storage, will influence places?
- ☐ How design, procurement and construction can take up new opportunities and future trends to minimise the use of resources? For example, in digital, construction and energy technologies and infrastructure?

Lifespan

Made to last



151 Well-designed places sustain their beauty over the long term. They add to the quality of life of their users and as a result, people are more likely to care for them over their **lifespan**. They have an emphasis on quality and simplicity.

152 Well-designed places, buildings and spaces are:

- designed and planned for long-term stewardship by landowners, communities and local authorities from the earliest stages;
- robust, easy to use and look after, and enable their users to establish a sense of ownership and belonging, ensuring places and buildings age gracefully;
- adaptable to their users' changing needs and evolving technologies; and
- well-managed and maintained by their users, owners, landlords and public agencies.

Garden City principles include community ownership of land, long-term stewardship of assets and community engagement in management.
Letchworth Garden City, Hertfordshire.

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L1 Well-managed and maintained

153 Good management contributes to the resilience, attractiveness and beauty of a place. Well-designed places are robust, durable and easy to look after. They are designed so management and maintenance responsibilities are clearly defined for all parts of a development.

154 Well-designed places consider management and maintenance regimes from the early stages of the design process and set them out in a management plan. They take into account potential impacts on communities such as in the form of service charges or where management will pass into their control. Management of local waste, cleaning, parking, internal common spaces, shared spaces and public spaces are all considered from the outset. These include play areas, open spaces, streets and other public spaces.

155 Community management systems are designed in from the start, with users and stakeholders involved during the design process, so that they are fit for purpose.

156 High density urban developments, including tall buildings also consider long-term management requirements, such as for the renewal of cladding systems.

L2 Adaptable to changing needs and evolving technologies

157 While public places are inclusive to all, well-designed private places, such as homes and gardens, are designed to be flexible to adapt to the changing needs of their users over time. This includes changes in the health and mobility of the user, as well as potential changes in lifestyle due to developing technologies, such as use of electric vehicles, remote working and general changes to the way in which people live.

158 Well-designed places also have high-speed digital connectivity in order to provide options and information for education, health, leisure, social interaction, businesses and home working.



*Affordable housing for local people developed by a Community Land Trust in **Brambleside, St Teath.***



*A cohousing scheme built around a large communal courtyard provides an alternative, community-focused housing option, where residents were involved in the design process throughout. **New Ground Cohousing, Barnet, London.***

L3 A sense of ownership

159 Well-designed places enable their users to develop a sense of ownership and belonging over time, while also feeling welcoming to visitors and passers-by. Community participation in design processes can start to establish a sense of ownership .

160 Community management and maintenance of shared amenities - such as halls and gardens - is more likely to be a success when the future community is involved in the design process from the start.

161 Well-designed places clearly define the boundaries for private, shared and public spaces, making it more likely that occupants will use, value and take ownership of them.

162 They include features that encourage users to really care for them. For example, well-sized apartment balconies with enough space for people to enjoy sitting out and personalising them with a degree of privacy. Shared spaces are visible and easy to get to, so they feel accessible to their intended users. They are also flexible so can be used for a variety of activities.



A communal terrace is provided for all residents to enjoy in this community-led estate regeneration scheme. ***Marklake Court, Southwark, London.***

Definitions

Community management: The communal management of a shared resource or facility by an organisation controlled by the community who it benefits.

Good practice examples

1 *A corner house with an annexe provides options for multi-generation living. It is a positive response to a corner site in a terraced housing layout.* ***Chobham Manor, Stratford, London.***

2 *A communal green, overlooked by neighbouring homes, is a place for the local community to come together.* ***The Triangle, Swindon.***

3 *A large site has been allocated for self- and custom-build, with affordable plots providing new options for housing delivery, as well as affordable homes and some apartments for sale . This embeds homeowners into the design process from the start and ensures the homes are fit for their needs.* ***Graven Hill, Bicester.***







Looking forward

Have you considered:

- ☐ How management and stewardship may evolve with digital technologies and management systems?
- ☐ How new and flexible working practices may affect places?
- ☐ How changing home ownership and rental patterns will affect places?
- ☐ How changing construction technologies will influence management and maintenance?

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Part 3:

References





References

171 The ten characteristics in this National Design Guide are based on the objectives for design set out in Chapter 12: Achieving well-designed places of the National Planning Policy Framework.

172 There are many other guides to good design and placemaking. They provide more detailed guidance and examples of best practice on particular topics to inform local authority officers and councillors, applicants and their design teams, and also local communities.

173 The following is a list of key references that provide further information to the guidance set out within the National Design Guide.

174 Part 3 also provides details for the good practice examples that illustrate the ten characteristics, and image credits, in Table 1.

175 Other chapters of the National Planning Policy Framework and the planning practice guidance provide more detail on the Government's policy in relation to some of the ten characteristics, as set out in Tables 2 and 3.

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Table 1: Good practice examples and image credits

Page no.	*Project name and location*	*Developer*	*Masterplanner/ Architect/ Landscape architect*	*Local authority*	*Image credit*
p.10	Ilkley, West Yorkshire	-	-	City of Bradford Metropolitan District Council	© City of Bradford Metropolitan District Council
p.12	Wapping Wharf, Bristol	Umberslade and Muse Developments	Alec French Architects / Gillespies	Bristol City Council	© Simon Doling Photography
p. 13, image 1	Portobello Square, Kensington, London	Catalyst Housing Group	PRP	Royal Borough of Kensington and Chelsea	© PRP Architects LLP
p.13, image 2	The Piggeries, Frome, Somerset	Guinness Trust	APG Architecture	Mendip District Council	© Liz Kessler
p. 13, image 3	Timekeepers Square, Salford	The English Cities Fund	Buttress Architects / Hyland Edgar Driver	Salford City Council	© Daniel Hopkinson/Buttress Architects
p.14	Derwenthorpe, York	Joseph Rowntree Housing Trust/ David Wilson Homes	Studio Partington / FIRA	City of York Council	© Tim Crocker
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p. 17, image 3	Blackfriars Circus, Southwark, London	Barratt London	Maccreanor Lavington Architects	Southwark Council	© Tim Crocker
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Table 2: National Planning Policy Framework chapters and planning practice guidance relevant to the National Planning Policy Framework objectives for good design

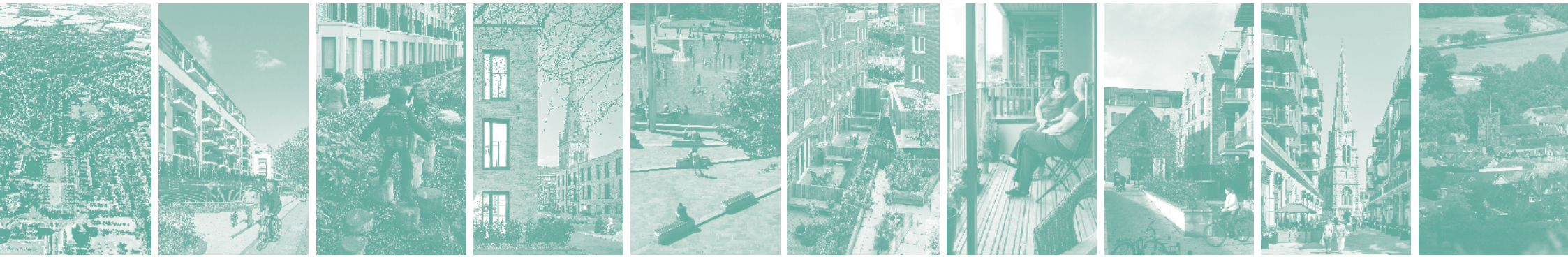
National Planning Policy Framework objective for good design	*National Planning Policy Framework chapter*	*Planning practice guidance*
Promote safety and security	8 Promoting healthy and safe communities 12 Achieving well-designed places	Healthy and safe communities
Health and well-being	8 Promoting healthy and safe communities 12 Achieving well-designed places	Healthy and safe communities
Inclusion	5 Delivering a sufficient supply of homes 8 Promoting healthy and safe communities 12 Achieving well-designed places	Housing for older and disabled people Healthy and safe communities
Address the needs of an ageing population	5 Delivering a sufficient supply of homes 8 Promoting healthy and safe communities	Housing for older and disabled people Healthy and safe communities
Community cohesion and resilience	8 Promoting healthy and safe communities 12 Achieving well-designed places	Healthy and safe communities
Creating mixed and balanced communities	5 Delivering a sufficient supply of homes	Housing needs of different groups
Help to make development acceptable to communities	12 Achieving well-designed places	Design
Visually attractive	12 Achieving well-designed places	Design
Sympathetic to local character/ local history	12 Achieving well-designed places 16 Conserving and enhancing the historic environment	Historic environment Light pollution Noise
Accessible	6 Building a strong, competitive economy 8 Promoting healthy and safe communities 9 Promoting sustainable transport 12 Achieving well-designed places	Sustainable transport and accessibility Healthy and safe communities
With a high standard of amenity	12 Achieving well-designed places	Open space, sports and recreation facilities, public rights of way and local green space Advertisements Historic environment Natural environment

National Planning Policy Framework objective for good design	*National Planning Policy Framework chapter*	*Planning practice guidance*
Well-functioning	12 Achieving well-designed places	Design
Supported by local facilities and transport networks	5 Delivering a sufficient supply of homes 8 Promoting healthy and safe communities 9 Promoting sustainable transport 12 Achieving well-designed places 15 Conserving and enhancing the natural environment.	Sustainable transport and accessibility
Last a lifetime	9 Promoting sustainable transport 12 Achieving well-designed places 14 Meeting the challenge of climate change, flooding and coastal change	Climate change Flood risk and coastal change Design Sustainable transport and accessibility
Optimise the potential of a site	11 Making effective use of land 12 Achieving well-designed places	Effective use of land
Addressing climate change, including resource and energy efficiency and risk of flooding	14 Meeting the challenge of climate change, flooding and coastal change	Renewable and low carbon energy Climate change Water supply, waste water and water quality Flood risk and coastal change
Promoting sustainable transport	9 Promoting sustainable transport	Sustainable transport and accessibility Air quality
Responding to technological change	9 Promoting sustainable transport 14 Meeting the challenge of climate change, flooding and coastal change	Sustainable transport and accessibility Climate change Renewable and low carbon energy

Table 3: National Planning Policy Framework chapters and planning practice guidance relevant to the ten characteristics

Characteristic	*National Planning Policy Framework chapter*	*Planning practice guidance*
Context	8 Promoting healthy and safe communities 12 Achieving well-designed places 14 Meeting the challenge of climate change, flooding and coastal change 15 Conserving and enhancing the natural environment 16 Conserving and enhancing the historic environment	Design Historic environment Natural environment Healthy and safe communities Flood risk and coastal change Climate change
Identity	8 Promoting healthy and safe communities 12 Achieving well-designed places 15 Conserving and enhancing the natural environment 16 Conserving and enhancing the historic environment	Design Healthy and safe communities Natural environment Historic environment
Built form	8 Promoting healthy and safe communities 9 Promoting sustainable transport 11 Making effective use of land 12 Achieving well-designed places	Design Healthy and safe communities Sustainable transport and accessibility Effective use of land
Movement	8 Promoting healthy and safe communities 9 Promoting sustainable transport 12 Achieving well-designed places	Design Healthy and safe communities Sustainable transport and accessibility Open space, sports and recreations facilities, public rights of way and local green space
Nature	8 Promoting healthy and safe communities 12 Achieving well-designed places 14 Meeting the challenge of climate change, flooding and coastal change 15 Conserving and enhancing the natural environment	Design Healthy and safe communities Climate change Natural environment Flood risk and coastal change Open space, sports and recreations facilities, public rights of way and local green space

Characteristic	*National Planning Policy Framework chapter*	*Planning practice guidance*
Public spaces	8 Promoting healthy and safe communities 9 Promoting sustainable transport 12 Achieving well-designed places	Design Healthy and safe communities Sustainable transport and accessibility Open space, sports and recreations facilities, public rights of way and local green space
Uses	2 Achieving sustainable development 5 Delivering a sufficient supply of homes 6 Building a strong, competitive economy 7 Ensuring the vitality of town centres 8 Promoting healthy and safe communities 12 Achieving well-designed places	Design Housing for older and disable people Healthy and safe communities Town centres and retail Effective use of land
Homes & buildings	8 Promoting healthy and safe communities 12 Achieving well-designed places	Design Healthy and safe communities Effective use of land Housing for older and disabled people Noise
Resources	12 Achieving well-designed places 14 Meeting the challenge of climate change, flooding and coastal change	Design Climate change Flood risk and coastal change Renewable and low carbon energy
Lifespan	10 Supporting high quality communications 12 Achieving well-designed places	Design Renewable and low carbon energy



National Model Design Code

Part 2 Guidance Notes









Ministry of Housing,
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Appendix

1. Area Type Worksheet
2. Area Type Matrix

* *Glossary, references and credits* are included in *Part 1 – The Coding Process* and cover the content of both *Part 1 - The Coding Process* and *Part 2 - Guidance Notes*

** Where reference is made to the *National Model Design Code (NMDC)* this refers to both *Part 1 – The Coding Process* and *Part 2 – The Guidance Notes*

Code Content



Introduction

1. The following guidance note sets out possible contents for a design code, modelled on the ten characteristics of well-designed places set out in the National Design Guide.

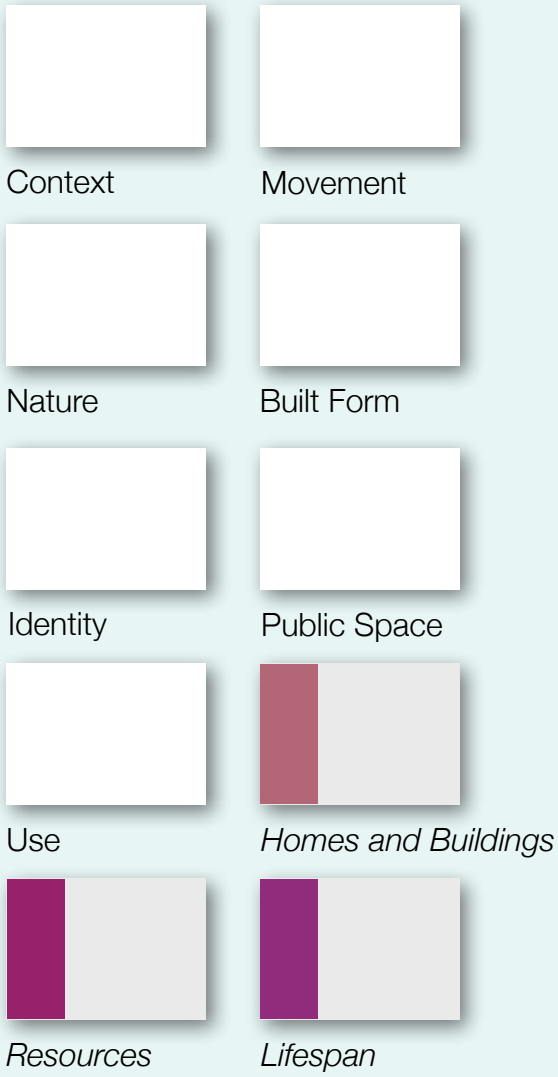
2. It is based on the key characteristics of context, movement, nature, built form, identity, public space, and use. Other sections dealing with homes and buildings, resources and lifespan provide important considerations in achieving design quality and should be used to inform the content of local plans, design codes or guides depending on local circumstances. These themes are interconnected, and users of this coding process should be mindful about the ways that they interrelate.

3. When following this process of selecting and setting parameters, it is essential that decisions are being made directly in response to the analysis and visioning exercises outlined in the main document. This guidance note sets out the potential content of a design code that can be developed into clear and, where possible, measurable guidance, subject to the context and type of development. The content outlined provides both a framework and some sample content from which design codes can be developed and adapted, to address the particular context to which the code will be applied.

4. Each theme is divided into subsections, and in each case, we describe the parameter/ issue, why it is important and how it might be used in a design code. In some cases these parameters / issues will vary by area type, while others will be applied equally across the local area. Not all parameters are relevant to every circumstance. Flexibility in local design codes can be introduced by setting an acceptable range for a parameter or not coding for it at all. Effective design codes are:

- ☐ Simple, concise and specific and;
- ☐ Rely on visual and numerical information rather than detailed policy wording.

1. Structure



Context

Introduction

5. The National Design Guide states that an understanding of the context, history and character of an area must influence the siting and design of new development. This context includes the immediate surroundings of the site, the neighbourhood in which it sits and the wider setting. This includes:

- ☐ C.1: An understanding of how the scheme relates to the site and its local and wider context.
- ☐ C.2: The value of the environment, heritage, history and culture.



C.1 Character Studies

6. Character includes all of the elements that go to make a place, how it looks and feels, its geography and landscape, its noises and smells, activity, people and businesses. This character should be understood as a starting point for all development. Character can be understood at three levels; The area type in which the site sits, its surroundings and the features of the site.

C.1.i Defining Area Types

7. The Design Code applies to a set of area types as described in Section 1. These are areas of similar character that allow elements of the design code to be set out depending upon which area type a development is within. This is illustrated in Figure 2, and the settings would be determined locally.

8. The aim of the design code is to work towards a vision of what each area type needs to be. The starting point will, be to undertake a series of area type studies through a combination of site visits, historical analysis and work with maps. The settings for each of the area types need to be based on a) an analysis of the existing character of these areas and b) a visioning exercise. A standard work sheet (See Appendix) can be used for each area type to systematise data collection.

2.Area Type Work Sheet Example - see Appendix for template



C.1.ii Site Context

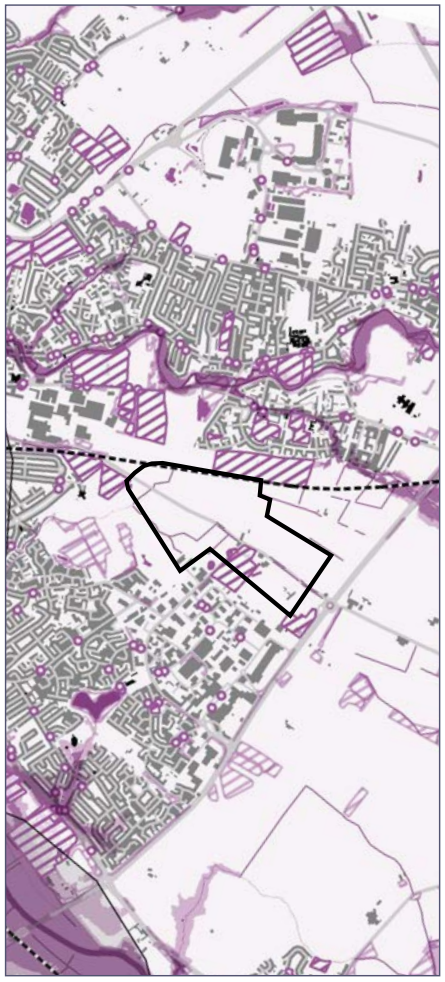
9. It is necessary to undertake a context study of the area surrounding the site and the wider area for a full understanding of the place in order to respond positively to its distinctive features. Well-designed buildings need to respect and enhance their built and natural environment surroundings whilst addressing local constraints, the vision for its area type and responding positively to new issues such as innovation and environmental sustainability.

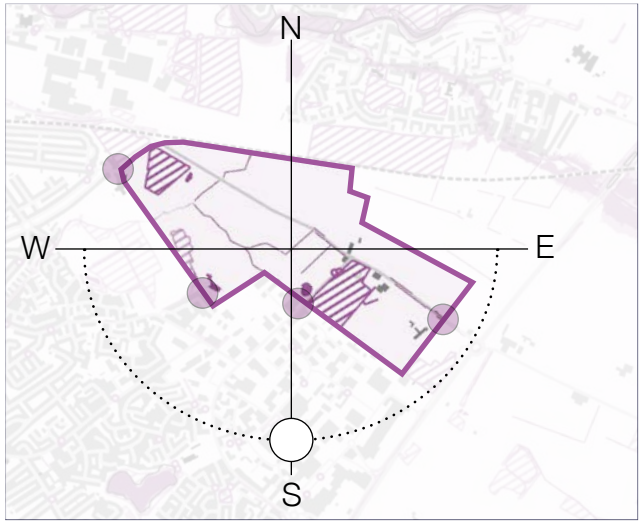
3.Context Study: A study of the surrounding area looking at the following:

- The network and hierarchy of surrounding streets.
- Public transport.
- Walking and cycling routes.
- Notable local buildings.
- The characteristics of the local community.
- Local shops and facilities.
- Views, vistas and landmarks, such as places of worship.
- Visual amenity and views.
- The grain of the area; variation in built form, street scene and roofscape.
- Landscape and natural features such as hedges, green spaces, trees and woodland.
- Boundary features such as walls, fences and hedges.
- Water features including groundwater, rivers, lakes, canals, flood risk and other water features.
- Topography and geology.
- The local building vernacular, architecture, proportion, façade pattern and proportion.
- Architectural details and materials such as the use of brick, stone or render for walls, slate or tile for roofs etc.
- Colours, textures, shapes and patterns.

C.1.iii Site Assessments

10. Developments need to respond to the site and the opportunities that are there to develop local character and distinctiveness, as shown in Figures 3 & 4.





4.Site Study:

- **Access points:** How these relate to local movement patterns, rights of way and routes to shops and schools.
- **Orientation:** The sun path and how it affects the site.
- **Topography:** Changing site levels.
- **Drainage:** Run-off and opportunities for water features and SuDS.
- **Existing structures:** Existing buildings and walls with opportunities for retention.
- **Existing utilities:** Existing infrastructure and services.
- **Ground conditions:** Contamination and fill.
- **Noise and Air Quality:** Traffic noise and fumes and disruptive uses.
- **Landscape and ecology:** Natural features and habitats such as trees, hedgerows, and other mature vegetation contributes to a sense of place and needs to be retained and enhanced.
- **Water:** Ponds, lakes and watercourses that can be incorporated as natural features including to possibly open-up and naturalise watercourses.

C.2 Cultural Heritage

11. Well-designed development adds a new layer to the history of a site while enhancing and respecting its past, with the expectation that new development will be valued for its heritage in the future as heritage assets are today.

C.2.i Historic Assessment

12. A study of the sites' history can be done by in-depth analysis of the place, including historic maps, as set out in Historic England's Understanding Place guidance. These include details such as former uses, natural features, cultural features, urban form, street patterns and place names. They can help explain features of the site and can be used as inspiration for new development, such as reinstating historic streets.

C.2.ii Heritage Assets

13. Development should always take account of heritage assets within or close to the site as defined in the NPPF.

14. The character and distinctiveness of a place is created by the richness of the buildings that have been built up over time. Not just the individual buildings or monuments, but how they relate to each other and how they have contributed to the evolution of the place has a whole.

15. The presence of such historic character, either directly on the site, or nearby, should always be seen as an opportunity to add value to any development by helping to provide inspiration.



5.Historic map assessment: A historic assessment with plans from the 1800s, 1900s and the present day.

Check List: Context

Local design codes should consider:

C.1 Character Studies

- Creating an area type matrix showing how the contents of the code relate to each area type.
- The preparation of context studies to inform the design of individual sites.

C.2 Cultural Heritage

- Historical assessments that can be used as a foundation for new development.
- Heritage assets and conservation area details that may influence the form of development and the relationship of these issues to the design code.

Movement

Introduction

16. The National Design Guide says that a well-designed place is accessible and easy to move around (p22-25). For movement, this means:

- ☐ M.1: A connected network for all modes of transport;
- ☐ M.2: Active travel and
- ☐ M.3: Well-considered parking, servicing, and utilities infrastructure for all modes and users.

A series of model design parameters may be coded for each of these, as identified on the following pages.



M.1 - A Connected Network

17. A connected network and hierarchy of routes for all modes of transport form the circulatory system of any settlement and its design will determine how easy and safe it is to get around for all and how it links destinations to public transport. These issues are particularly important when coding for large sites but may also influence local design codes for smaller infill sites and their physical connectivity.

M.1.i The Street Network

18. The street network is important because it sets a long-lasting framework for moving around. In most cases, it will outlive the buildings it originally served.

19. A connected street network is one that provides a variety and choice of streets for moving around a place. It is direct, allowing people to make efficient journeys. Direct routes make walking and cycling more attractive and increase activity, making the streets feel safer and more attractive. Connected street networks form the basis of most of our beautiful and well-used places. They are robust, flexible, consider environmental impacts and have been shown to stand the test of time.



6. Connected Street Networks: A connected network of streets reduces walking distances.

20. In a well-connected network, each street has more than one connection to another street. This applies both within a development or local area and in relation to streets outside it. Culs-de-sac are only found at the tertiary level of street type (see P1:3) for accessing development rather than for wider movement.

21. Permeability for different users, such as cars or delivery vehicles, can be controlled by measures within the street space, for instance, to prevent through movement or limit access to certain times of the day.

22. Consideration needs to be given to safety and security issues in respect of street layouts and footways, especially in areas in which a large number of people gather or pass through. Passive surveillance of the street, good lighting and high levels of street activity are desirable to deter criminal behaviour and to ensure people feel safe and secure using the street at all times.

23. Connected street networks may be linked to coding for street hierarchy, street types and public spaces (see P1).

M.1:ii Public Transport

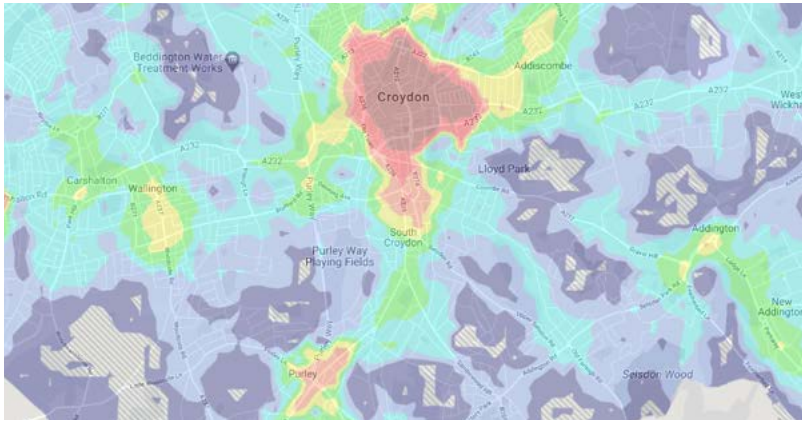
24. Access to public transport is key to providing people with choice for everyday journeys beyond the immediate neighbourhood, such as to town centres, schools and employment locations. Good access to public transport helps reduce reliance on the private car.

25. A site or location has good public transport accessibility when dwellings have a public transport stop within walking distance.

26. The distances that people are prepared to walk from their dwelling to reach public transport are determined by the nature and quality of the public transport service, how attractive and safe the walk feels, and the total length of their journey. Generally, people are prepared to walk further to a railway station or tram stop (10 minutes) than to a bus stop (5 minutes).

27. Accessibility to public transport may be linked to other coding on mix of uses, local amenities, housing types, densities, and parking arrangements.





7. **(above) Walking Isochrone Around Public Transport Stops:** Walking distances can be assessed approximately by drawing circles to show the potential catchment area of new or existing public transport. It is important to take account of the actual walking distance (walking isochrone) which will be smaller, particularly where there are barriers to movement – for instance lack of adequate lighting and wayfinding, absence of green spaces, lack of good-quality and accessible footways, high-traffic routes such as busy road or a railway line.

8. **(left) PTAL Plan:** An example of a public transport accessibility level plan for Croydon.

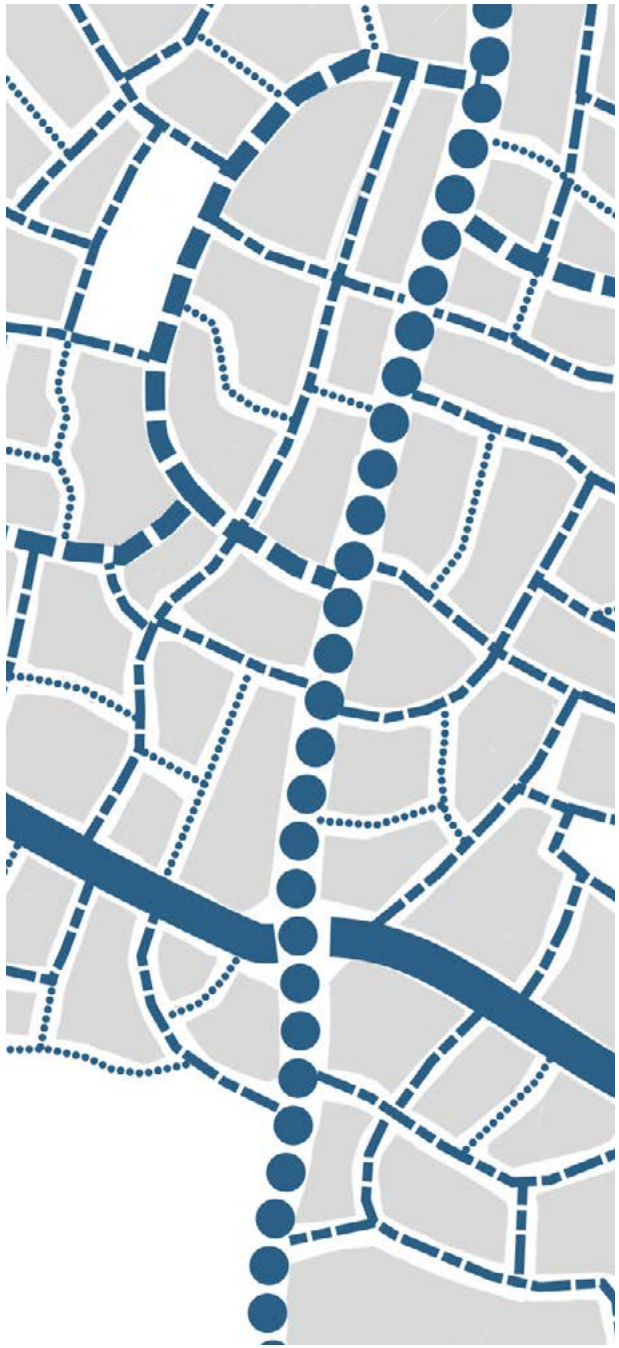
M.1.iii Street Hierarchy

28. The design of the street network plays an important role in determining how it is used. Different streets play different roles in a place depending on the movement upon them, the built form and uses around them and the design of the street space itself, including any natural features, landscaping, lighting and wayfinding.

29. A design code may categorise the streets in a network as different street types. Each street type has a distinct function in terms of both movement and place that will vary according to the area type. Movement includes all modes, walking, cycling, public transport and motor vehicles.

30. Manual for Streets editions 1& 2 define common street types and functions, which this code seeks to align with. These street types include multifunctional streets and spaces; arterial routes and high streets; relief road/ring road; boulevards; high streets and residential streets. All have different place and movement functions. The street hierarchy below includes these street types together with other street types that may form part of a design code.

31. Coding may also define the range of street types that are appropriate for a local area or large site. Some common street types associated with this street hierarchy are set out in the Public Space section. All street types should enable safe and secure movement for everyone, including mobility impaired people, visually impaired people, and people with non-visible disabilities.



9. **Street Hierarchy:** A typical neighbourhood street hierarchy. All of these streets would include frontage access.

Primary street: Arterial, ring road or relief road with dedicated lanes for cycles and public transport, where possible.

High Street: Primary or Secondary street that acts as a focus for retail and other services.

Secondary Street: Mainly carry local traffic and provide access into neighbourhoods; they are often the location of schools and community facilities and may also be residential streets in themselves.

Local Street: Residential streets with managed traffic flows to prioritise active travel. They provide access to homes and support active travel, social interaction and health and wellbeing.

Tertiary street: These are used for servicing or for access to small groups or clusters of homes. They can be lanes, mews courts, alleyways or cul-de-sacs.

Multi-functional streets and other spaces: High Streets and secondary streets are at the centre of public life and support a wide range of activity. They can prioritise pedestrian and cycle movement while making it easy to get to their edges and beyond by public transport.

M.2 Active Travel

32. 'Active travel' refers to non-motorised and sustainable forms of transport, primarily walking and cycling. Prioritising active travel is about making walking and cycling easy, comfortable and attractive for all users, so they are seen as genuine choices for travel on local journeys. Coding for active travel is based on the user hierarchy from Manual for Streets. This sets out that in designing streets, the needs of pedestrians and cyclists should be considered first, then public transport, service and emergency vehicles and only then motor vehicles.





M.2.i Walking and Cycling Routes

33. Coding should reflect the aim that walking and cycling should be the first choice for short local journeys, particularly those of 5 miles or less.

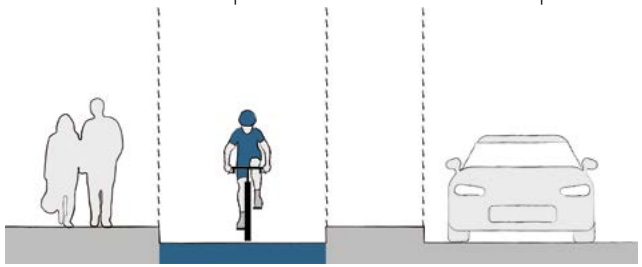
34. For local journeys, this means creating continuous, clear, relatively direct and attractive walking and cycling routes both within a large site and into the surroundings. Following desire lines can help make routes clearer. Good sightlines aid wayfinding. They need to be well-lit, well-surfaced and maintained, and overlooked by buildings, as people feel safer on streets and in spaces where there are other people around.

35. Streets should be designed to be inclusive and cater to the needs of all road users as far as possible, in particular, considering the needs that may relate to disability, age, gender and maternity.

36. This is relevant to all street types. Designing a street so that everyone can use it benefits the whole community. Accessibility needs to be designed in from the start, as a 'golden thread' running through the scheme. This includes considerations such as minimum footway widths, placement of street furniture, frequency and type of crossing points, and so on, forming a basic part of the design process. Walking and cycling routes are also linked to coding for street types, parking and public spaces and through green infrastructure routes.

10. Low Traffic Neighbourhoods On existing streets, Low Traffic Neighbourhoods preserve a connected street network for walking and cycling but prevent rat-running through traffic. This promotes walking and cycling and reduced car use. However, care is needed to ensure that displaced traffic doesn't cause problems on neighbouring streets beyond the neighbourhood.

11. Cycle Routes: Cycles should be separated from vehicles where possible.



M.2.ii Junctions and Crossings

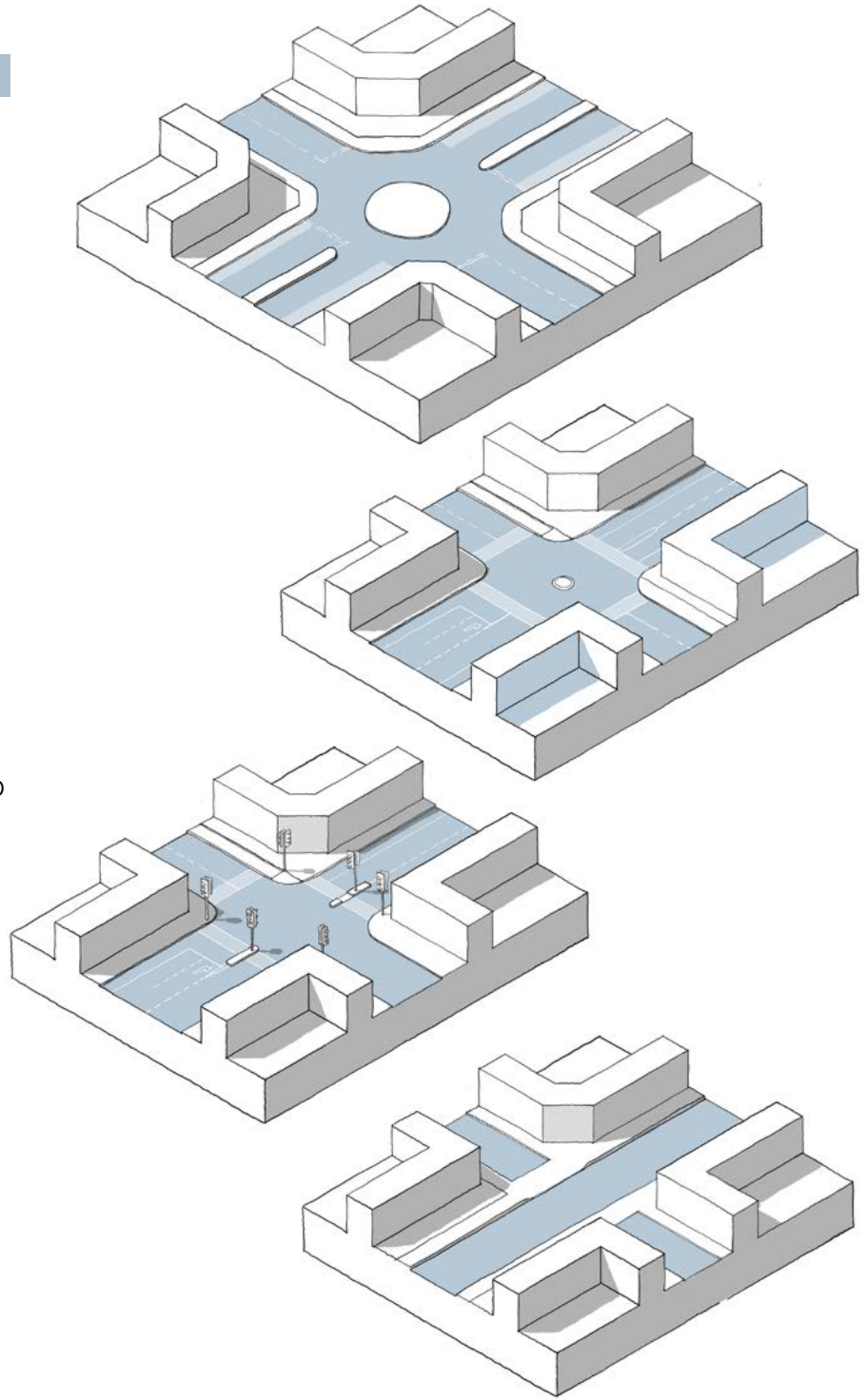
37. The way that streets join to each other and the way that people are able to cross streets and access points all have an important influence on walking and cycling.

38. The choice of junctions also influences where built form may be positioned and so the quality of the street as a public space.

39. All junctions and crossings need to be safe, convenient and attractive for all users.

40. Formal crossing facilities may be used on all street types, but may be particularly appropriate on primary streets and high streets. Siting a crossing on the pedestrian or cycle desire line will help to promote active travel and reduce accident risks by enabling a direct route, where people are more likely to use designated crossings. Manual for Streets sets out further detail on different types of crossing that can be appropriate.

41. Design codes may define appropriate junction types to manage vehicular priority and permeability on a connected street network and to promote active travel.



12. Junction Types: A range of different junction types can be used dependent on the type of street and the level of traffic.

Roundabouts: Maintain traffic flows and speeds but do not provide well for cyclists and pedestrians and require more land than other junction types.

Mini Roundabouts: Manage traffic priority on junctions between primary, secondary and high streets in the built-up area.

Traffic signals: These will be dependent on the vehicle and pedestrian flow. They allow direct crossing routes for pedestrians and should incorporate pedestrian and cycle facilities wherever possible.

Simple junctions: Give way priority or unmarked junctions are appropriate between local streets and all other types of street.

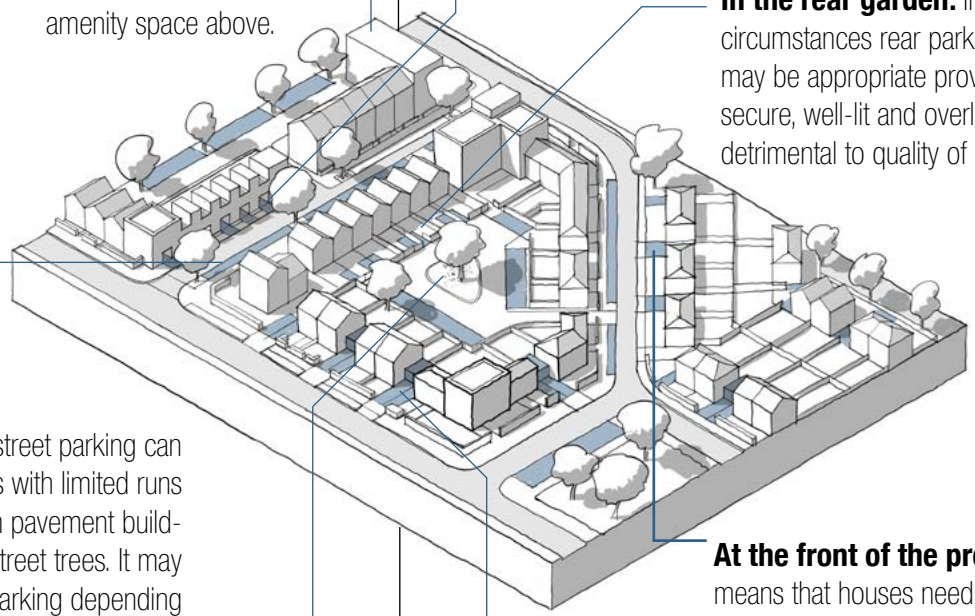
13. Residential Parking Options:

UNALLOCATED PARKING

ALLOCATED SPACES

Within an integral garage: Certain housing types such as three-storey townhouses may include an integral garage. This normally means there is limited living accommodation at ground floor level. The ground floor may also be dominated by garage doors.

Car barns: Decked parking structures. These may be free-standing multi-level parking structures or could include ground-level parking with a decked communal amenity space above.



In the rear garden: In some circumstances rear parking courts may be appropriate providing they are secure, well-lit and overlooked and not detrimental to quality of life.

On-street: On-street parking can be in defined bays with limited runs interspersed with pavement build-outs, planting and street trees. It may include chevron parking depending on the width of the street.

At the front of the property: This means that houses need to be set back at least 6m from the pavement. For terraced housing, most of the front garden may be taken up with parking but its impact may be screened by low evergreen hedges.

Parking courts: Parking courts within development blocks. These may be open or gated.

At the side of the property: For detached and semi-detached homes, the car may be accommodated to the side of the property, with one or more spaces and/or a garage tucked between buildings with overlooking for natural surveillance.

M.3 Parking and Servicing

M.3.i Car Parking

42. Car parking affects the quality of a place, both visually and in terms of how it is used, particularly by pedestrians.

43. Parking standards are set out in the local plan. Maximum parking standards can be considered in circumstances where there is a clear and compelling justification. Design codes are concerned with the design of parking and its impact on the quality of place. They may identify appropriate parking options for area types, street types and building types and detailed design requirements associated with them.

44. Well-considered parking is convenient, safe and attractive to use. It is also well-integrated into streets, blocks and plots, takes account of access to electric charging points and does not dominate the local environment.

45. The arrangement of parking may vary between different area types. It may also be influenced by the design of surrounding streets as set out in Section M1 above and public transport accessibility.

Unallocated parking:
46. Unallocated spaces are an efficient way to provide parking. A scheme provides for the average rather than the maximum level of car ownership. Its flexibility of use enables it to accommodate residents and visitors throughout the day.

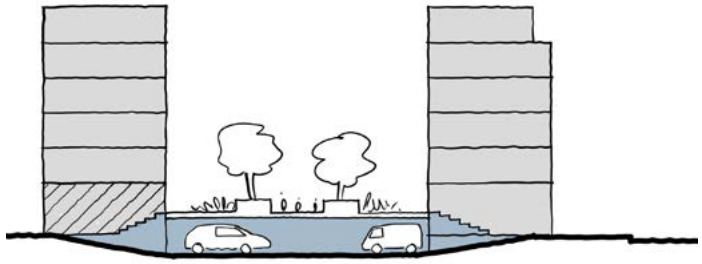
47. In some local areas, it may be possible to accommodate all parking requirements in this way. In high demand areas, it may be necessary to manage unallocated on-street parking through controlled parking zones and resident parking permits.

Allocated Parking:
48. Allocated parking is normally accommodated on plot or on site. It may also be provided on private land such as in parking courts or car barns.

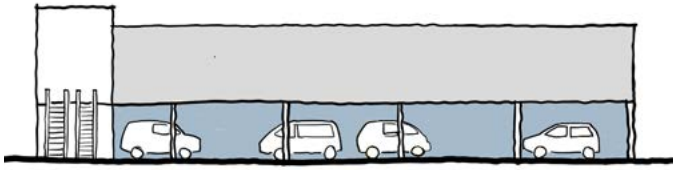
49. Non-residential parking may be integrated into the built form, either below ground in basements or semi-basements, or above ground using decks or multi-storey car parks.

50. Where large areas of surface-level parking are necessary, it may be located towards the rear of the plot or block, away from the main street frontage. Planting, including a grid of trees between bays, can reduce the visual impact. Short-term visitor parking may be positioned on-street or close to building frontages.

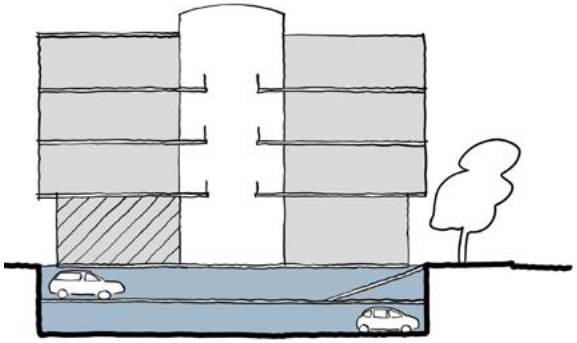
14. Urban Parking Options: Parking options to accommodate cars in higher density areas.



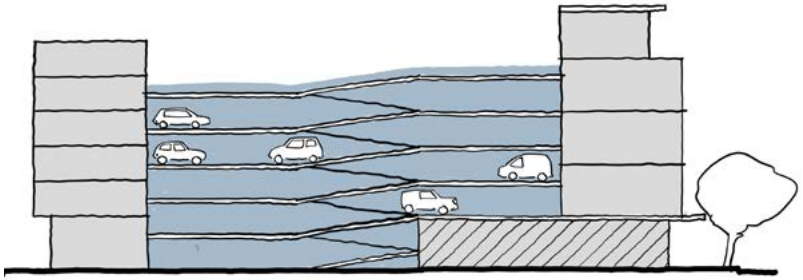
In mixed use blocks, semi-basement parking can be positioned under courtyards.



Supermarkets can be built over their car park



Office parking may take place at basement level



torey parking can be 'skinned' by other uses and active ground floor uses.

M.3.ii Cycle Parking

51. A design code may also define the appropriate locations and forms for cycle parking, in close proximity to homes and buildings, both for building occupants and for visitors.

52. Cycle parking for occupants must be secure if people are to use it. It also needs to be under cover to avoid problems with bad weather.

15. Cycle Parking Options:



Public cycle parking: Visitor parking may be provided via cycle racks in the public realm that are prominently located and well supervised, provided that they do not obstruct pavements or desire lines.



Housing: In lower density suburban housing bike parking can usually be provided within a garage or a separate structure within the garden. For terraced housing, provision for cycles needs to be made within the property, in the front garden or to the rear with access from a parking court. It is also possible to provide communal bike pods accommodating up to 10 cycles using a single parking bay.



Apartments: In apartment blocks cycle parking can be provided in apartments, provided the space is in addition to the Nationally Described Space Standards. It requires level access and an adequately sized lift. Communal bike stores may be provided externally, in basement car parks or in freestanding structures. These should be as near as possible to the entrance for convenience, and both the store and the individual bike stands should be lockable.



Workspaces: In workspaces cycle parking may be provided via dedicated facilities within the building, possibly as part of a basement car park. This may be linked to showers and lockers or even a bike repair hub.

M.3.iii Services and Utilities

53. New development needs to take into account a range of practical requirements for streets and public spaces such as servicing requirements, access to utilities and reinstatement of road surfaces. If these are not considered they can undermine the quality of space.

54. Design codes may include coding for servicing and utilities arrangements.

Emergency services:
55. All developments need to be accessible to emergency vehicles. Sites with limited vehicle access points need to ensure that ambulances and fire tenders can gain access if one of the roads is blocked. This can be a particular problem with unregulated on-street parking.

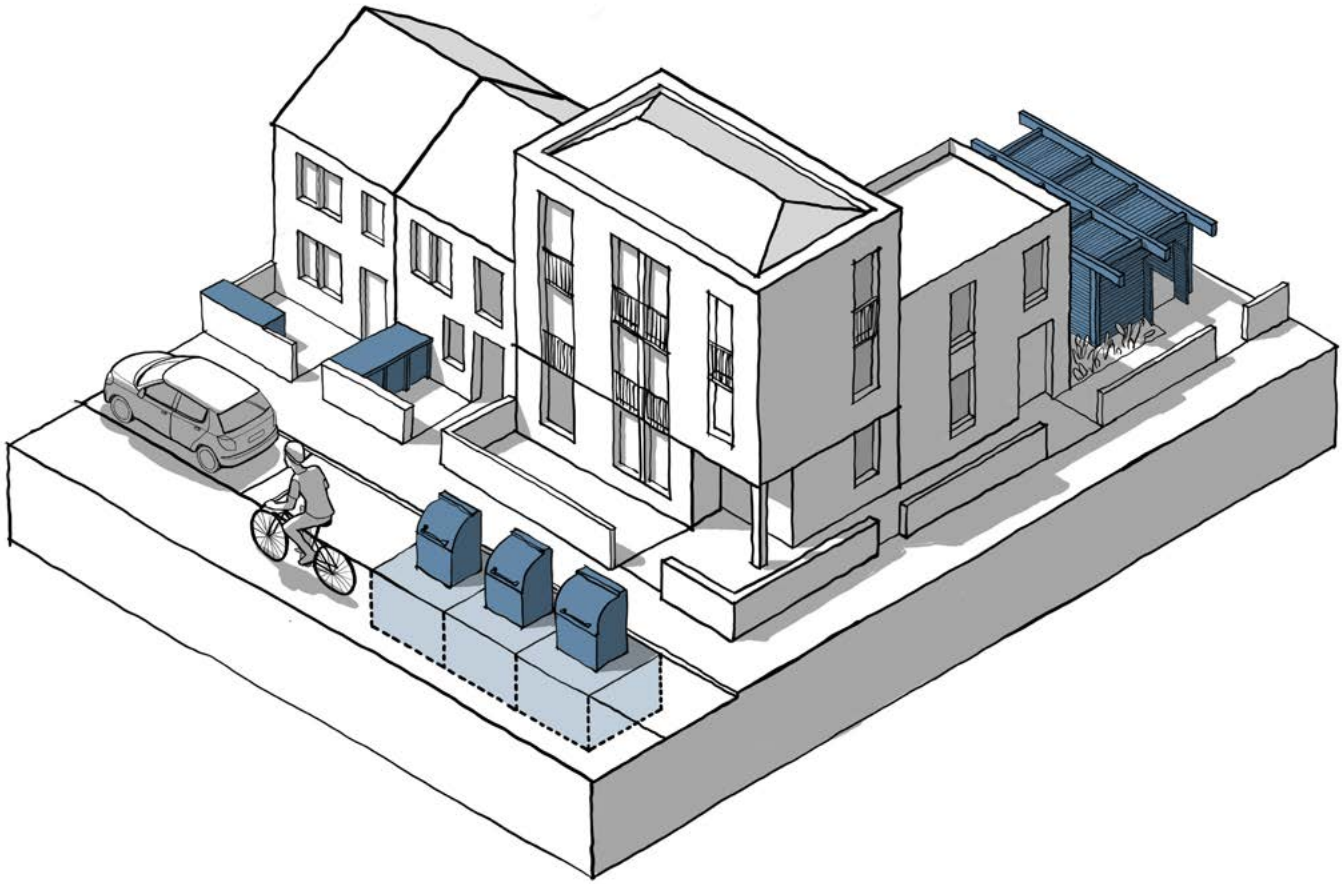
Refuse collection:
56. The road network needs to take account of access for refuse collection and emergency vehicles. The size of refuse collection vehicles varies between local authorities and depending on the waste collection system care needs to be taken to ensure that their turning requirements do not compromise the layout. Local authorities should also be mindful of the existing context to ensure local character and quality of place is not compromised by overestimating this requirement.

16. Refuse Collection Options

In-curtilage Provision: This can be provided to the side or rear of the property in detached housing. For terraced housing, collection needs to either be from the rear or a bin store needs to be provided at the front.

Communal Provision: An alternative for terraced housing as well as for apartments is communal provision. Reference should be given to guidance on carry distances and distances to collection points.

Bring Points: An alternative is to use underground waste storage bins, although this requires a specialist collection vehicle.



Check List Movement

Local design codes should consider:

M.1 Connected Places

- The way in which new development contributes to the creation of an overlooked and well lit permeable street network.
- The provision of public transport and the distance of all dwellings from a stop.
- A framework plan indicating the street hierarchy for the district.
- Safety and security considerations in respect to the layout of streets and footways for all.

M.2 Active Travel

- Encouraging walking and cycling and the design of cycle routes.
- Balancing the needs of cyclists, pedestrians with those of vehicles.
- A toolkit of street junctions, layouts in accordance with Manual for Streets.
- Guidance on multi-functional streets including the situations in which they can be used and their design principles.

M.3 Parking and Servicing

- How to accommodate the local plan's parking requirements including:
  - Acceptable locations and design of unallocated parking.
  - Accommodation of bays for disabled spaces, electric charging and car share.
  - Position of on-plot parking.
  - Guidance on the design of parking for other uses.
- The design and location of cycle parking.
- The design of bins and refuse collection services.

Nature

Introduction

57. Development should enhance the natural as well as the built environment. Nature is essential for health and wellbeing, for biodiversity, shading and cooling, noise mitigation, air quality and mitigating flood risk as well as contributing to tackling the climate emergency. Nature is also central to the creation of beautiful places.

58. Design codes need to ensure that nature and the historic landscape is woven into the design of places. This may include the amount and type of open space, the response to flood risk and the protection, enhancement and promotion of biodiversity.

59. The design coding guidance will be updated to reflect policy changes that are anticipated to drive improvements to our natural environment. Government is committed in the 25 Year Environment Plan to embed a ‘net environmental gain’ principle for development to deliver environmental improvements locally and nationally and to green our towns and cities by creating and improving green infrastructure. Local Nature Recovery Strategies will have a role in identifying land that should be safeguarded for nature and a National Framework of Green Infrastructure Standards for blue and green infrastructure in development.



N.1 Green Infrastructure

60. Green infrastructure is a network of multi-functional urban and rural green and blue space which is capable of delivering a wide range of environmental and quality of life benefits. It covers everything from country parks to green roofs and street trees. In terms of new development, the design code may specify levels of green infrastructure provision and guidance on design. The National Framework of Green Infrastructure Standards will provide further detail on principles to guide design.

N.1.i Network of Spaces

61. There is a hierarchy of green spaces which play a distinctive role in terms of nature, leisure and quality of life. Urban greening factor tools can determine amounts of green space. Consideration needs to be given to the way that these spaces are linked to provide a network of multi-functional green space and natural features.

Rural areas: Around 90% of England lies outside urban areas including pasture and arable land, forests, moors, wetland, natural spaces and National Parks and Areas of Outstanding Natural Beauty.

Natural spaces: Within built-up areas these include land that has never been developed as well as formerly developed sites that have been reclaimed by nature. They include canals, rivers, railway lines, roadside verges and other transitionary land that form important green corridors.

Parks and formal green spaces: Most settlements have a legacy of parks and other public green spaces like sports pitches, recreation grounds, and cemeteries.

Semi-public spaces: Many institutions like schools and churches are custodians of green spaces.

Squares, village greens and pocket parks: At the neighbourhood level there are smaller areas of green space that are used for local recreation and play.

17. Hierarchy of Green Spaces







Streets: Can include street trees, verges and planting areas that bring the benefits of green infrastructure to the heart of the built environment.

Communal gardens: Residential areas can include communal gardens within the block or at roof level.

Allotments and food growing: This can include community gardens, orchards, and urban farms.

Private gardens: Within built-up areas a large part of the land is private gardens that contribute significantly to biodiversity.

Balconies: External spaces in apartments can be important for wellbeing and nature.

Green walls and roofs: There are opportunities for greenery and biodiversity through green walls and roofs.













N.1.ii Open Space Provision

62. Local open space and wider green infrastructure provision is used for sport, play, multi-use and informal recreation spaces as well as being important for nature. Government is updating open space and recreation guidance on Accessibility to Natural Greenspace (ANGSt) to ensure there is sufficient high- quality open space in the right locations, that is attractive to users and is well managed and maintained.

63. The design code can consider the provision of new and enhanced green space as part of new development building in existing open space strategies and standards in the local plan. Approaches to setting open space standards include:

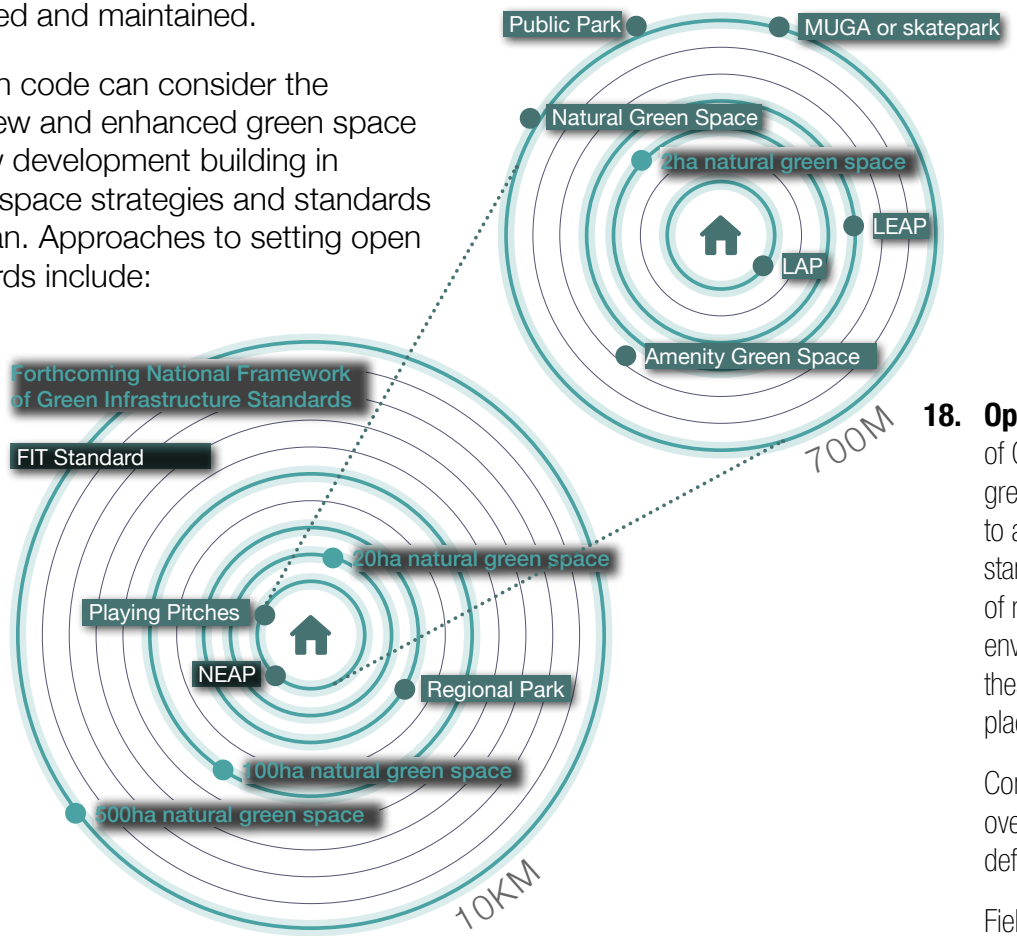
Population-based Standards

64. The most common of these is the FIT standard (what is still often known as the National Playing Field Association 6 Acre Standard). This is widely used to define sports provision and informal outdoor space requirements. The provision of new and enhanced outdoor sports facilities should be considered in order to meet locally defined needs.

65. It can be difficult to achieve at higher densities, and the design code may provide guidance on how this is to be interpreted. This could include an assessment of existing open space provision set against ward population data to assess the extent to which the standard is being met. New schemes may then be asked to contribute towards meeting any shortfall.

Accessible Greenspace Standards

66. An alternative is to look at the distance to different types of open space. Thus higher residential densities would not increase the amount of open space required, subject to its quality. The code would map each type of open space and show walking distance around them as circles and isochrones. This will highlight poorly served areas where new development may address the shortfall.



NEAP
Neighbourhood Equipped Area for Play
MUGA
Multi Use Games Area
LEAP
Local Equipped Area for Play
LAP
Local Area for Play
(See next page for more information)

18. Open Space Accessibility Standards: The forthcoming National Framework of Green Infrastructure Standards by Natural England will provide new standards for green infrastructure (ANGSt standards) suggesting that all people should have access to a natural green space close to home. Benchmarks in the green infrastructure standards will include guidance on size/ distance criteria and the implications of residential densities on provision of green space, particularly in dense urban environments; and will be accompanied by a national map which will show where these criteria are not currently met, to help guide provision of green spaces to the places that need it most.

Communal areas, such as playgrounds, play areas, seating facilities need to be overlooked by nearby buildings, have safe and accessible routes for users and clear definition of boundaries to ensure they are secure.

Fields in Trust suggests that all homes should be within recommended distances to parks, playing pitches, NEAPs, MUGAs, LEAPs and LAPs.

N.1.iii Open Space Design

67. The way in which spaces are designed is crucial to their success. The design considerations vary with the type of space, a formal park being very different to a large natural open space. The situation where the design code is likely to be most relevant is in the design of new smaller open space within new development. In this case, the following principles are important:

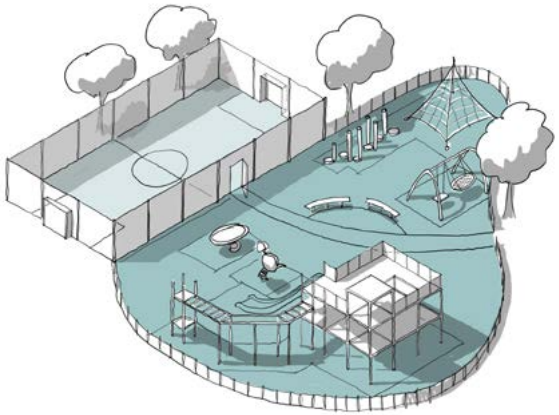
19. Types of Play Space: Policy for play areas is based on three levels of provision for play friendly spaces that are accessible and inclusive for all. This could include other bespoke approaches such as adventure play, play for older children including teen play, the concept of doorstep play in higher density housing and integrated approaches to play with nature and the built environment. These relate to the size and level of equipment provided but also the age of the children for which it is designed. The three levels are:



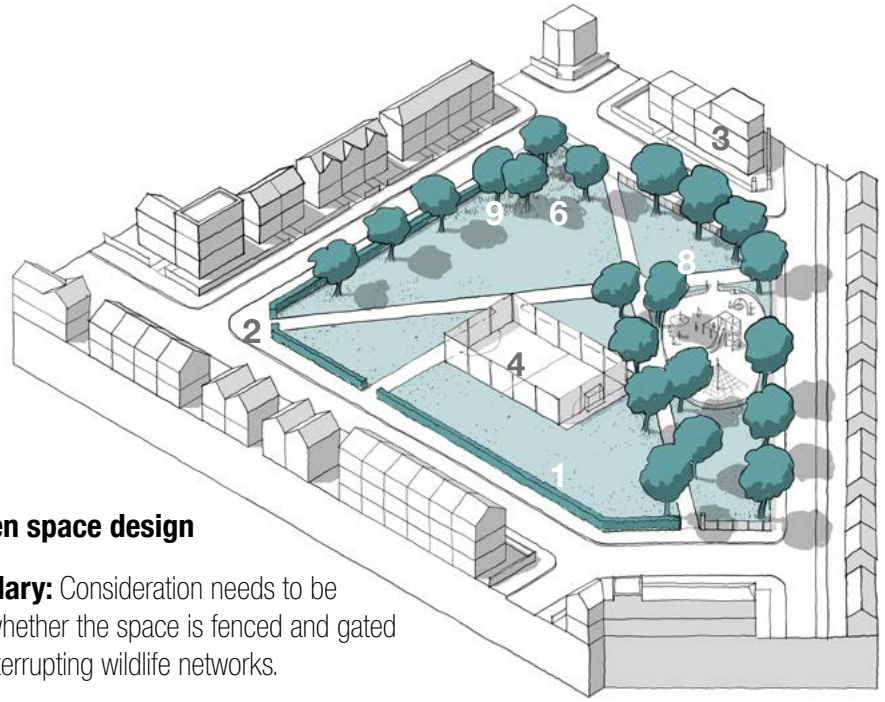
Local Areas of Play (LAP), with a few fixed items of play near to the home.



Local Equipped Areas of Play (LEAP) With at least five pieces of equipment for slightly older children.



Neighbourhood Equipped Area of Play (NEAP) With at least eight pieces of equipment along with a Multi-use games area (MUGA) and/or a skate park/bike track.



20. Open space design

1. Boundary: Consideration needs to be given to whether the space is fenced and gated without interrupting wildlife networks.

2. Entrances: Access points and paths need to be conveniently located on desire lines for walking and cycling.

3. Surveillance: Open spaces need to be overseen from surrounding buildings, streets and public spaces.

4. Activity: Sufficient space needs to be provided for sports pitches and play areas to avoid conflict with other uses.

5. Maintenance: The design of the space needs to take account of maintenance and adoption requirements.

6. Ecology: Green spaces need to include areas that are nature-rich.

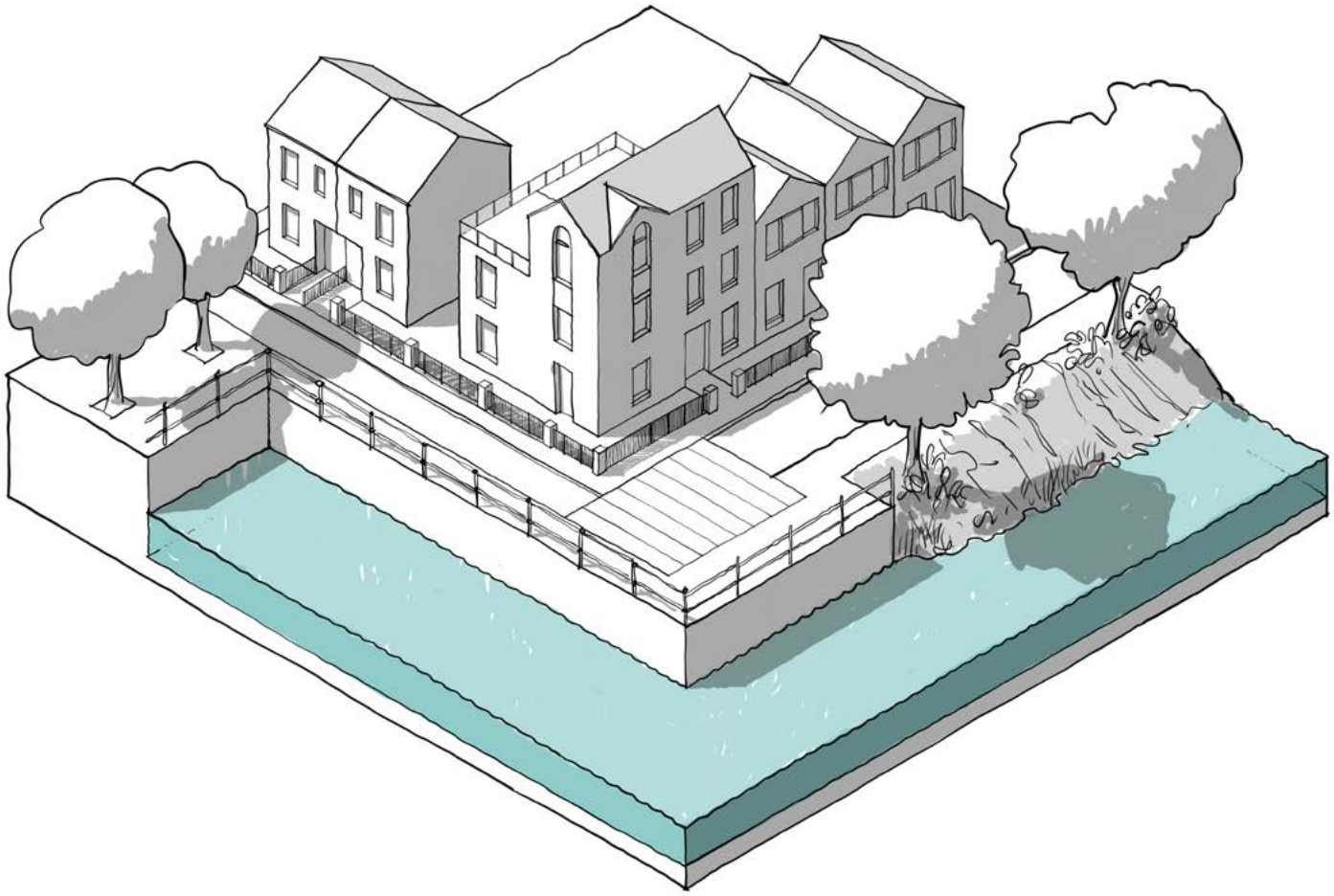
7. Access: Public open space needs to be accessible and welcoming to everyone.

8. Lighting: Needs to be considered for well-used footpaths and games areas but should avoid light spillage that causes nuisance and harms wildlife.

9. Allotments and community growing: need to consider community growing projects for food production, learning and community engagement on large developments

N.2 Water and Drainage

68. Managing water is an important element of a site's response to nature. It can reduce flood risk and improve water quality while providing habitats and recreational activities and dealing with flooding when it happens.



21. Development next to water

N.2.i Working with Water

69. Many sites will include water in some form, and the National Design Guide can provide guidance on maximising the benefits.

70. Development adjacent to existing water features, including rivers, lakes, canals, docks and wetlands has an important role to play in enhancing the value of blue infrastructure as public realm, habitat, ecological corridor and natural capital asset.

71. Buildings may face the water and leave a sufficient buffer zone to allow for watercourses and banks to be maintained and for current and potential future flood defences. Opportunities to create walking and cycling routes along watercourses where appropriate need to be encouraged.

72. Opening up culverts, reinstating meanders and restoring and naturalising river beds and banks can benefit wildlife and improve public access and flood attenuation.



N.2.ii Sustainable Drainage

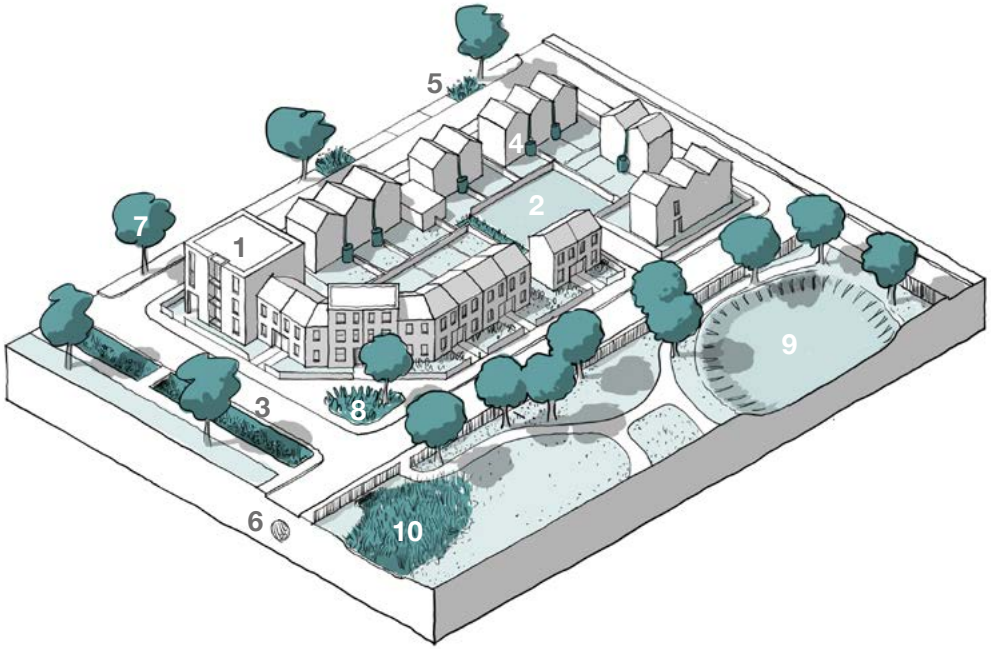
73. Sustainable drainage systems or SuDS mimic natural drainage in delivering effective surface water management, controlling surface water close to where it falls. They are designed to reduce the rate of rainwater run-off from new development, mitigating the risk of flooding elsewhere whilst delivering benefits for biodiversity, water quality and amenity. Ideally water needs to be captured for use on site for irrigation and non-potable uses. Where this is not possible schemes need to follow the hierarchy set out in guidance, by which water is:

- ☐ Allowed to infiltrate into the ground in a way that mimics natural drainage.
- ☐ Attenuated for gradual release to a water body.
- ☐ Released into a water sewer, highway drain, or another drainage system.
- ☐ Released into a combined sewer.

74. The approach to each site will depend on its density, the position of watercourses, the ground conditions including water permeability, contamination and the sensitivity of groundwater receptors.

75. SuDS need to be considered early in the design process to ensure ease of access for maintenance and efficient use of land by integrating them with other aspects of design

22. Sustainable Drainage Systems



such as public open space, biodiversity provision, and highways . Multi-functional SuDS need to be prioritised allowing for attenuation features which can also be used for biodiversity and recreation.

1. Green roofs and walls: Provide capacity to hold and attenuate water run-off as well as ecological and leisure benefits..

2. Permeable surfacing: Surfaces that allow water to percolate into the ground including, natural surfaces, gravel and low traffic volume engineered road surfaces and hard-standings in front gardens.

3. Swales: Shallow channels that provide attenuation while also channelling water to other features such as ponds.

4. Rain capture: Water butts and other rainwater harvesting systems collect rainwater for use in gardens or for non-potable uses reducing water consumption.

5. Soakaways and filter drains: Shallow ditches and trenches filled with gravel or stones that collect uncontaminated water and allow it to percolate into the ground.

6. Retention tanks: In high density schemes water can be attenuated in underground structures.

7. Street tree planting: SuDS designed into highway provision can provide dual use benefits when integrated with street tree provision.

8. Rain gardens: Containers and ditches with native drought tolerant plants release water gradually and filter-out pollutants.

9. Basins and ponds: Attenuation ponds that are normally dry but fill during a rain event and then either store or gradually discharge water to the system.

10. Reedbeds and wetlands: Topography can be used to create wetlands that provide attenuation capacity as well as filtering out pollutants and providing habitat for wildlife.

N.2.iii Flood Risk

76. Flood risk needs to be considered early in the design process based on an understanding of all sources of current and future flood risk and alongside other design factors.

77. The sequential test should be used to steer development away from flood risk areas. Where flood risk areas are unavoidable, development should be designed to ensure it will be safe from flooding throughout its lifetime, without increasing flood risk elsewhere.

78. Vulnerable uses need to be laid out and designed using flood avoidance measures such as:

- Locating buildings on the lowest risk parts of the site
- Raising finished floor levels above predicted flood levels
- Using upper storeys for habitable areas of housing, with ground floors used for less vulnerable or non-habitable uses (e.g. garages).

79. Lower vulnerability uses should also be located and designed to avoid flooding. However, if flood risk is unavoidable, low vulnerability uses should incorporate resilience measures in accordance with the Property Flood Resilience Code of Practice to resist flood water and ensure they can recover quickly in the event of flooding.

80. Where the safety of development relies on emergency planning measures it should include safe, signposted access and escape routes in accordance with the ADEPT/EA guidance on flood risk emergency plans for new development. Wherever possible these routes need to remain dry, but as a minimum, they should be designed to ensure people will not be exposed to hazardous flooding. It may also be necessary to include a place of refuge above predicted flood levels.

81. All developments should seek to reduce flood risk. This could be through making more space for water, increasing infiltration, providing new or improved flood defences or through natural flood management techniques.



23. Flood Resilience Principles

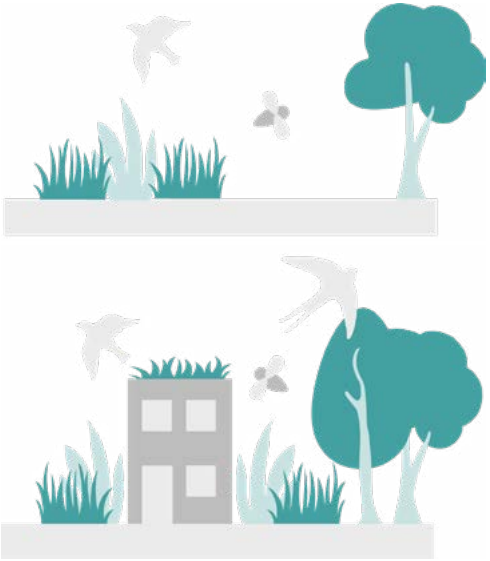
- Steer development away from flood risk areas
- Use flood avoidance measures
- Use flood resistance and recovery techniques
- Provide safe means of access, escape and refuge
- Seek to reduce flood risk

N.3 Biodiversity

82. All new development needs to use, retain and improve existing habitats or create new habitats to achieve measurable gains for biodiversity. This includes landscaping and tree planting.

N.3.i Biodiversity Net Gain

83. Local Nature Recovery Strategies (LNRS) to map and identify opportunities to create and enhance local biodiversity will be included in the Environment Bill. These strategies are intended to assist developers in achieving biodiversity net gain and need to be referenced in the design code.



24. Biodiversity Net Gain:
Development will be expected to produce a +10% increase in biodiversity





25. Integrating Habitats:
Biodiversity can be enhanced through facilitating habitats and routes for wildlife, for example, incorporating trees, wildflowers, ponds, bat and bird boxes, bee and bird bricks and hedgehog highways.

84. Design codes will be expected to reflect the minimum 10% net increase in biodiversity compared to the situation prior to development. The broader environmental net gain approach includes wider beneficial environmental outcomes that can be delivered such as flood protection, recreation and improved water and air quality.

85. Natural assets such as ancient woodlands, designated sites, mature trees, and protected species should be protected and enhanced in the design of the schemes. Priority habitats and priority species should also be considered within the design process.

86. A baseline assessment needs to be undertaken prior to development using the Natural England Biodiversity Metric 3.0 to measure the existing value of the site (this will become mandatory under the Environment Bill). The proposed post-development design will similarly be assessed to show a minimum 10% improvement (including any offsite provision where necessary)

N.3.ii Planning for Biodiversity

87. The design code should be based on a hierarchy that first seeks to avoid damaging habitats, then to mitigate that damage and then, if this is not possible, to consider replacement habitats.

88. Measures using green/infiltration SuDS that improve water quality and create habitats should be included where possible.

26. Biodiversity Design Principles:

Planting: To provide nectar, nuts, seeds, native vegetation and berries along with trees and shrubs, logs and stones. Native plant and tree species are generally, but not always, better for wildlife.

Existing features: Natural assets such as trees, woodlands, hedges, wetland areas and other natural features need to be retained and enhanced where possible.

Mosaics: A range of elements and structures as small patches of bare ground, tall flower-rich vegetation, or scattered trees and scrub to support a range of species and their life-cycles.

Trees and hedgerows: These should be incorporated into public realm and other open spaces as well as private development where appropriate.

Creating habitats: Strategies need to be considered for creating natural habitats, for example, through use of trees, wildflowers and ponds as well as bat and bird boxes, bee and bird bricks and hedgehog highways.



SuDS and rain gardens: These can be designed to provide benefits to nature by including planting and habitat niches.

Enhancing Habitats: Management of native planting, foraging grounds for bats, feeding grounds and wetlands for birds and forest floor habitats.

Ecological network: Masterplans should create an interconnected ecological network that encompasses everything from doorstep spaces and private gardens to the surrounding countryside.

Ecological niches: Can create a range of ecological conditions from woodland transition zones to wetland areas and open grassland.

Rivers: Restoration techniques create habitat and reduce flood risk.

Green roofs & walls: Green facades provide nesting opportunities and food for bees. Habitats can also be created on roofs and are especially beneficial for birds and insects.

N.3.iii Street Trees

89. Street trees and other landscape features in streetscapes provide habitat, shading, cooling, air quality improvements and carbon sequestration, as well as being a vital component of attractive places. It is the government's intention that all new streets include trees and the Urban Tree Challenge Fund is planting 130,000 urban trees across England. Guidance on installation, management and maintenance is available in the Urban Tree Manual and considerations include:

27. Street Tree Design Principles:

Species: Codes may include a list of species as a palette for use by developers including non-native species which can provide valuable habitat. These help to establish different area types and need to take account of local climate, shape, size, fruit and pollen. A variety of trees provides biodiversity and biosecurity resilience.

Position: Careful positioning to allow space for the mature tree without causing obstruction or interfering with property, infrastructure, street lighting or junction sightlines. This can be on median strips, verges or interspersed with parking bays but only on pavements where the mature tree will not block access.



27. Street Tree Design Principles

Function: Ensure street trees and green infrastructure provide for a range of functions and benefits and sufficient to help improve air quality and reduce noise from the street network.

Services: Coordinating tree planting with utilities providers and service ducts early in the lifetime of a scheme can ensure that trees do not interfere with underground services.

Specification: Care is needed in heavily trafficked areas to avoid the compaction of the soil around the tree. Guidance on tree planting, pits, guards and other technical specifications are widely available and have a significant impact on the tree's survival prospects.

Check List: Nature

Local design codes should consider:

N.1 Green Infrastructure

- The creation of a network of green spaces and other green infrastructure such as green corridors and street trees, which provide multiple benefits for biodiversity, nature, recreation, climate change resilience and support health and wellbeing.
- The provision of open space based on the government's Open Space and Recreation Guidance and an open space framework plan.
- The provision of children's play in accordance with national guidance including its location, size and design.
- Guidance on the design of green spaces.
- The use of greening factors to deliver quantifiable levels of greening.

N.2 Water and Drainage

- Guidance on the design of development next to water.
- Performance standard and the design of sustainable drainage systems.
- Guidance on development within flood risk areas based on Environment Agency guidance including flood mitigation and resilience.

N.3 Biodiversity

- Implementation of the government's Biodiversity Net Gain Policy and the Local Nature Recovery Strategies.
- The retention of natural features such as trees, woodlands and hedgerows and other ecological features.
- Guidance on design for biodiversity.
- The provision of street trees relating to types of streets plus the design, placement and species to be used.

Built Form

Introduction

90. The National Design Guide defines the 'built form' of an area as the 'three-dimensional pattern or arrangement of development blocks, streets, buildings and open spaces' that make up any built-up area or development. It says that a well-designed place has a coherent form of development. For built form this means:

- ☐ A compact form of development;
- ☐ Appropriate building types and forms



B.1 Compact Form of Development

91. A compact form of development is more likely to accommodate enough people to support shops, local facilities and viable public transport, maximise social interaction in a local area, and make it feel a safe, lively and attractive place. In this way, it may help to promote active travel to local facilities and services, so reducing dependence on the private car.

92. What is meant by compact will vary according to area type and context. A design code may define an appropriate measure of compactness for new development in relation to an area type.

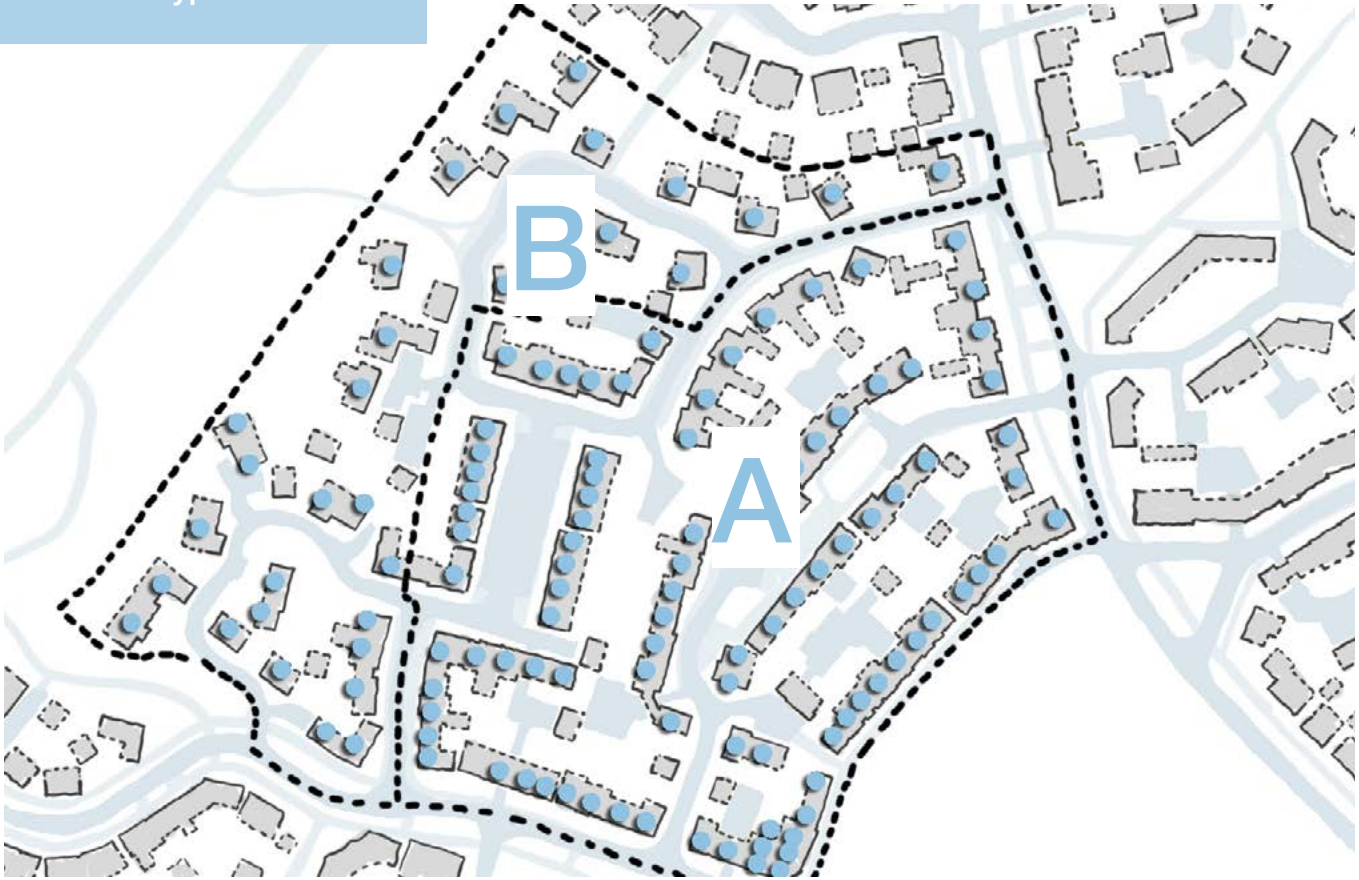
B.1.i Density

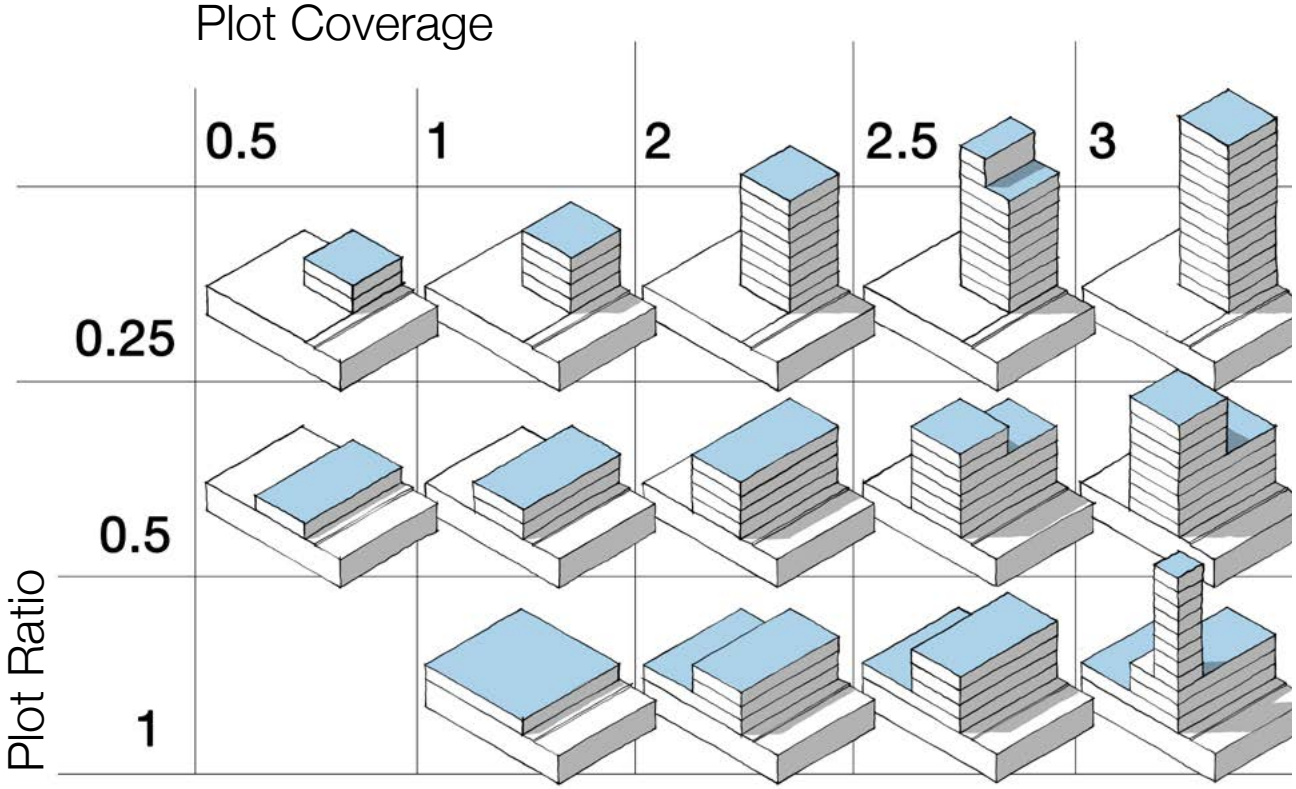
93. Density is one indicator for how compact a development or place will be and how intensively it will be developed. However, in itself it is not a measure of how appropriate a particular development may be within an area type. For this it needs to be combined with coding for other design parameters, including those set out below.

Residential density

94. A design code may set out local densities or ranges of density, particularly on large sites with an average overall density, where local variations in density may be desirable in order to create a variety of identity without harming local character as set out in Historic England guidance.

28. Measuring density: A local variation in density creates a variety of built form character in Cambourne. Area A has 94 homes on 2.6 ha – a net density or 36 dph. Area B has 32 homes on 1.8ha, so is around 20 dph. Note the area measure runs to the back of each plot and the centre line of the roads.





95. For housing development, density can be measured using plot ratio, dwellings per hectare, or bed spaces per hectare. Density in dwellings per hectare may be measured using gross or net density. Design codes may consider the appropriate measure of density for a given situation.

Density for other uses

96. For non-residential or mixed-use development, density can be measured by plot ratio or plot coverage. The former indicates how much of the site the building is able to occupy while the latter is the ratio of site area to the area of development.

97. A design code may set out local densities or ranges of density for non-residential or mixed-use development.

29. Plot Ratio and Plot Coverage: The former is the ratio between site area and the total building floor area while the latter is the proportion of the site area occupied by buildings. These two measures can be combined to control development and should be used alongside good urban design principles. For instance, a Plot Ratio of 2 means that the floor area can be twice the site area while a Plot Coverage of 0.5 means that only half of the site area can be developed.

B.1.ii Whether buildings join

98. When buildings join to neighbouring buildings the form of development is more compact than when they do not. Free-standing buildings generally occupy wider plots, which affects both density and compactness.

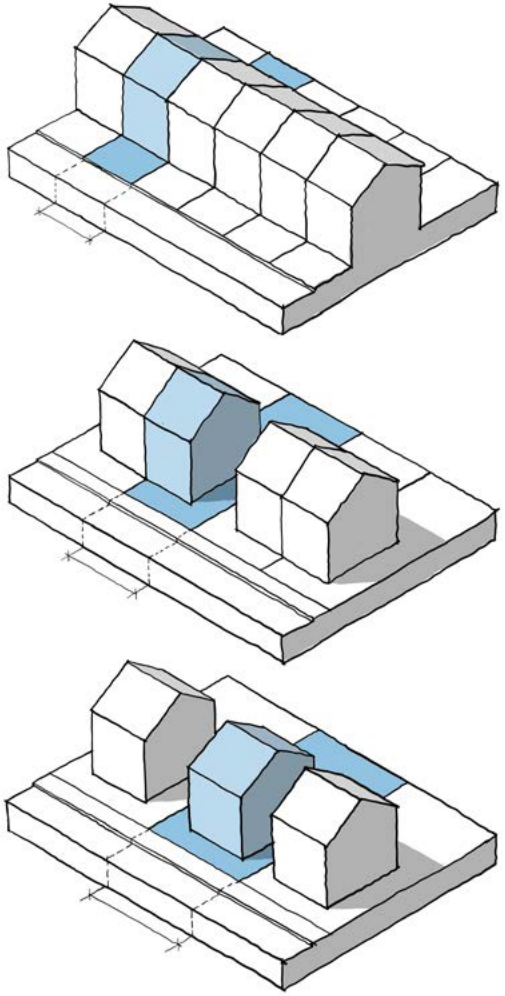
99. Design codes may include coding that enables or prevents buildings from joining to each other, depending upon the area type. Alternatively, coding for building lines (see B2.2) may be used to achieve a similar outcome.

B.1.iii Building Types and Forms

100. The character of an area is also influenced by the variety of building forms. This relates to the size and uniformity of the buildings. Large buildings may occupy an entire block, whereas the same area could be developed with a variety of smaller buildings. In many places it is the rhythm and variety of these smaller buildings that is intrinsic to the character of the area. While large buildings will be appropriate in places, an area made up entirely of large buildings can be dull.

101. This is referred to as urban grain and it derives from the size and configuration of plots. Masterplans needs to indicate this plot structure, which together with the way that buildings join will determine the character of the development. Plot based masterplans can also be used to accommodate custom-build and self-build development (see section U2:2) with the Code parameters summarised in a plot passport, where relevant.

30. Buildings joining

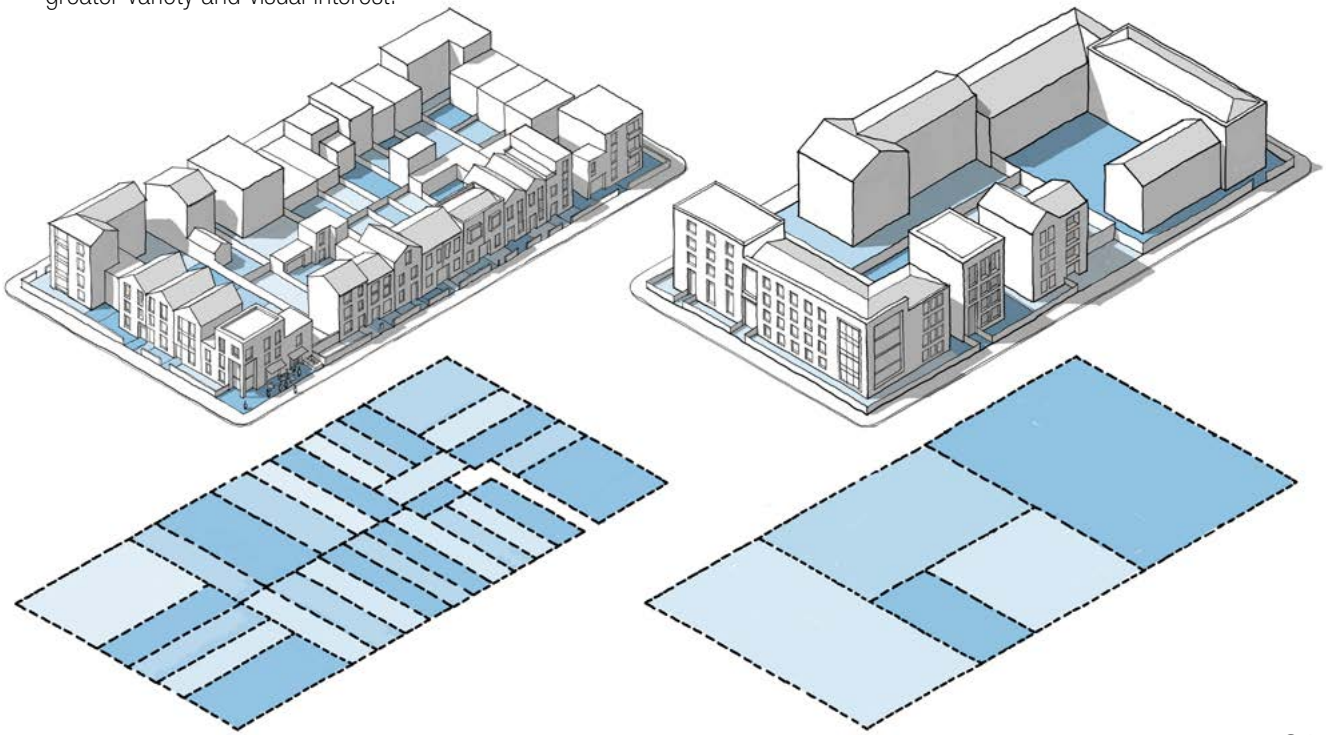


Joining on both si
Party walls c
both sides le
terraced hou

Buildings on one sid
to semi-deta
housing.

Buildings joining: Le
detached ho
A code may also
specify a set-off
distance, say 1m,
from plot boundaries.

31. Urban Grain: Blocks can be developed with buildings of different sizes, based on the arrangements of plots. A larger number of smaller buildings can create greater variety and visual interest.



B.2 Built Form

102. A design code may define a three-dimensional envelope for new buildings. The size and shape of this will vary depending on the nature of the area type and the blocks within it. This envelope consists of three separate measures: the development blocks established by the street network, the alignment of the front face of the building, and the height of the building.

B.2.i Blocks

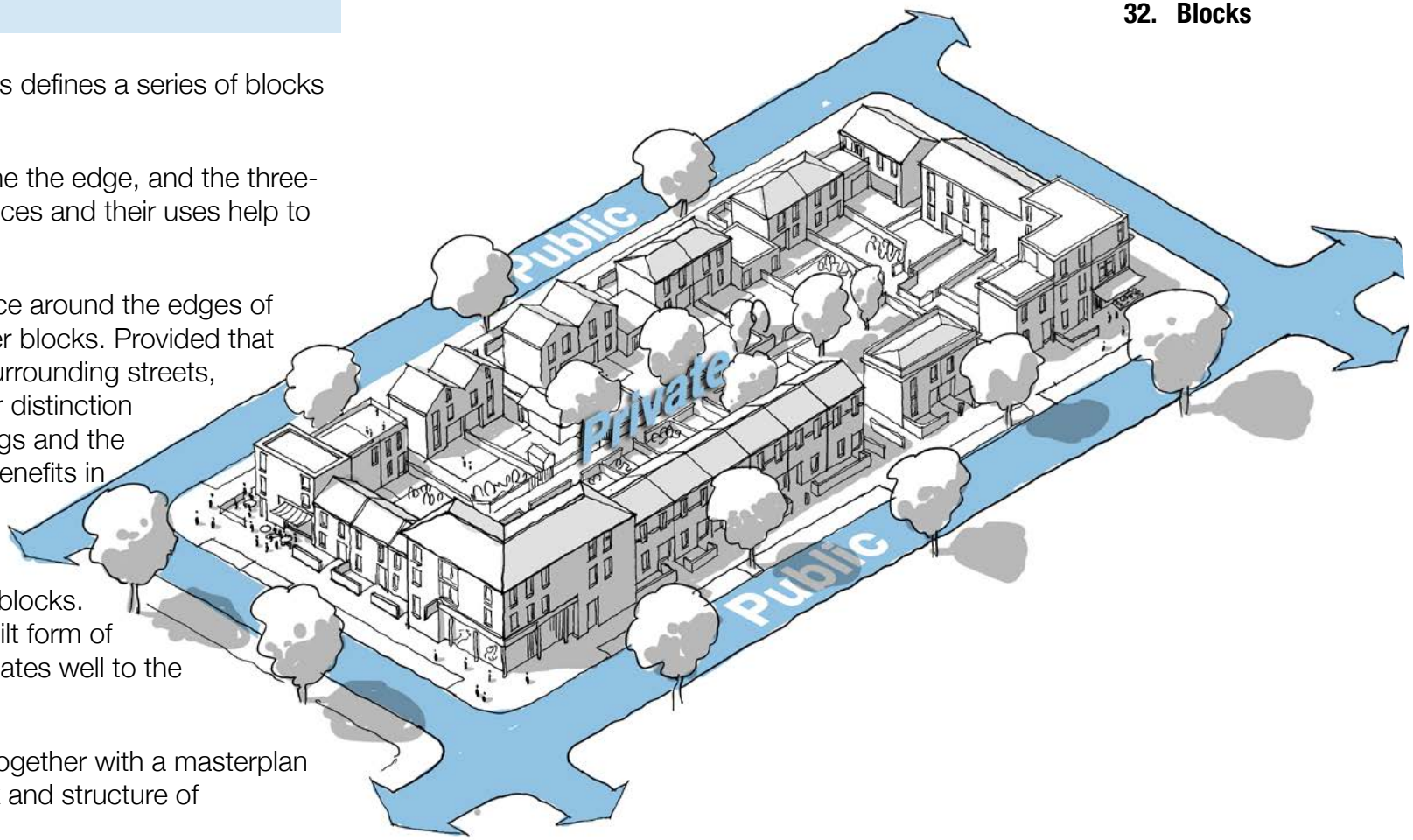
103. A connected network of streets defines a series of blocks for development.

104. Built development blocks define the edge, and the three-dimensional enclosure of street spaces and their uses help to animate them.

105. Where development takes place around the edges of blocks, they are known as perimeter blocks. Provided that buildings face outwards onto the surrounding streets, perimeter blocks also create a clear distinction between the public fronts of buildings and the private backs. This has important benefits in terms of safety and security.

106. Area types will have an established network of streets and blocks. Coding can help ensure that the built form of new development in these areas relates well to the existing pattern of development.

107. On large sites a design code together with a masterplan may establish a new street network and structure of development blocks.



32. Blocks

33. Examples from different places show how many of them are based on different types of perimeter block.



Leeds City Centre



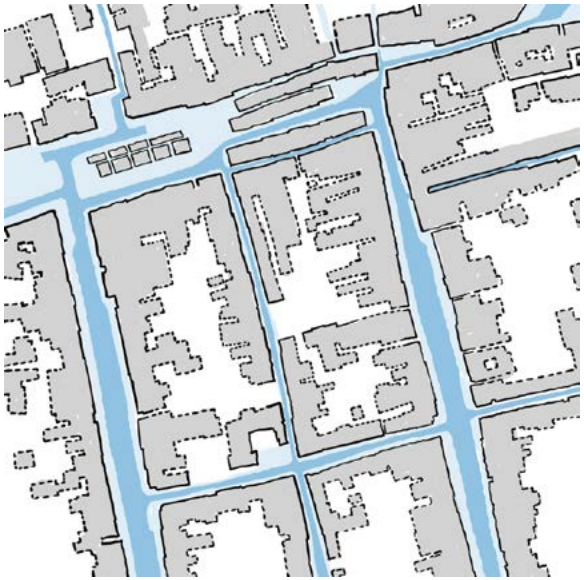
City of York



Letchworth Garden City



City of London



Ludlow



Bishop's Castle, Shropshire

34. Types of Block: There are a wide variety of perimeter block forms that can accommodate housing and other uses:



1. Perimeter block: A strip of development around a private courtyard/gardens. The private interior is not accessible to people from outside the scheme. It includes private and communal gardens and car parking.



2. Informal block: Blocks like this can be found in many modern housing schemes. The housing faces outwards onto the surrounding streets with front and back gardens. The extra width allows a parking court to be included alongside houses and garage blocks within the courtyard to provide natural surveillance.



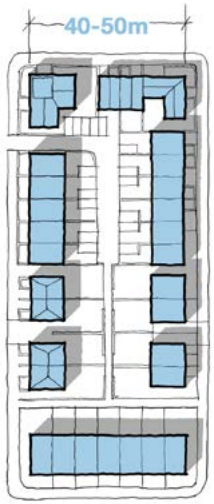
3. Terrace: The most common form is the typical English terrace which may include a rear alleyway. Codes for area types that include existing terraced housing need to consider reductions in back-to-back distances, compared to common practice so that new development relates to the context.

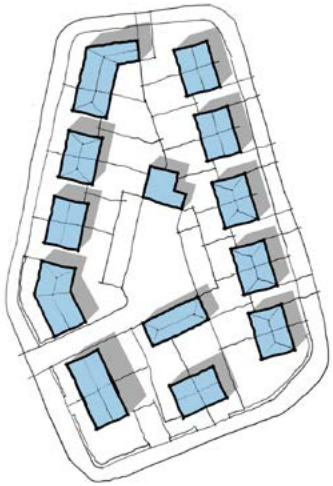


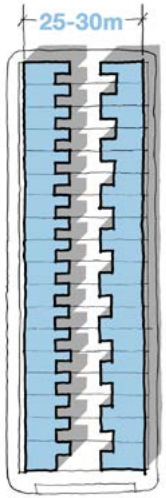
4. Mews block: Mews streets run through blocks, originally accommodating stable blocks to the rear of large houses. Now they have generally been converted to separate homes and workspaces. Modern versions of mews blocks include smaller single aspect homes above garages within the block.

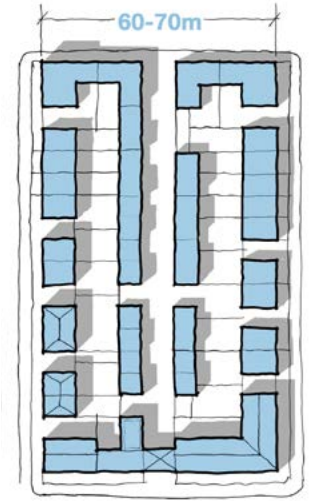


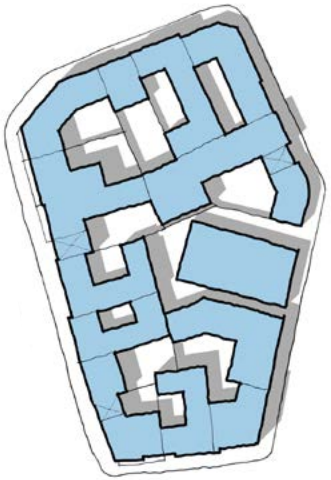
5. Courtyard block: Sometimes buildings join to each other (party wall) not just on either side but also to the rear. This is a characteristic form of many historic cities (like York on the previous page). There are also modern versions of this type of block with deep housing types with an internal courtyard.

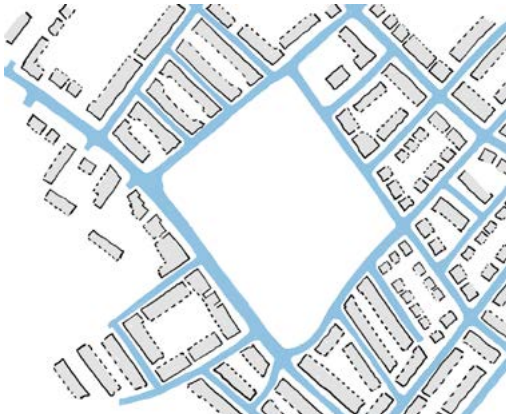




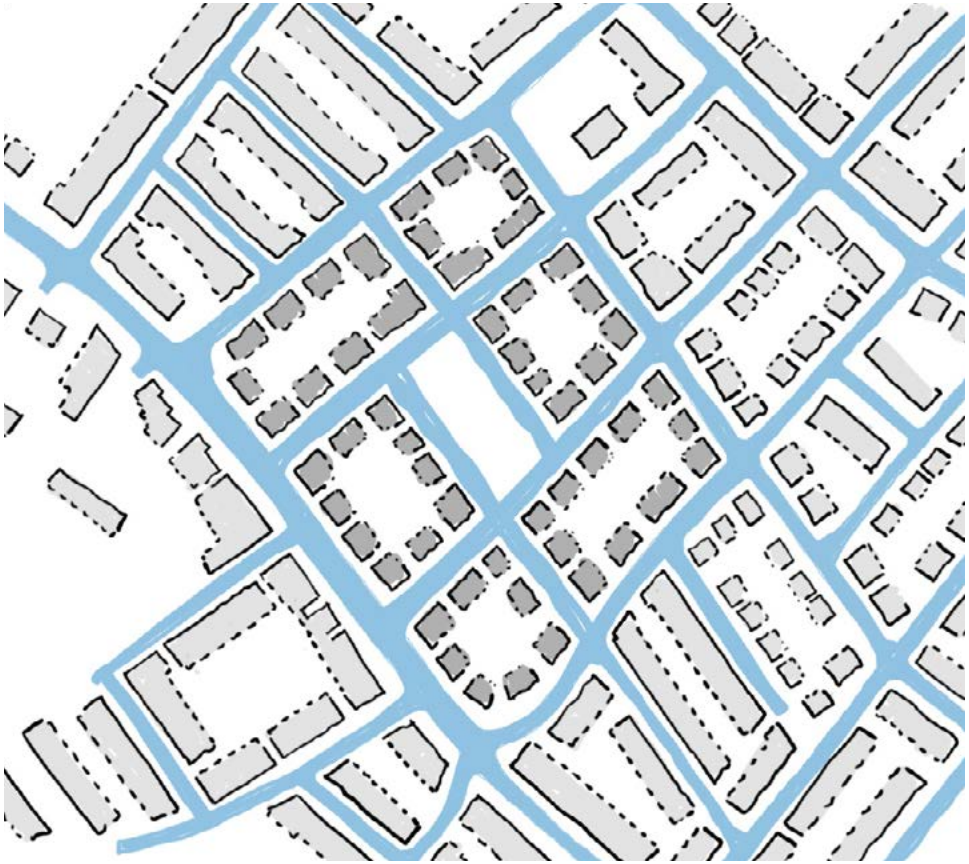








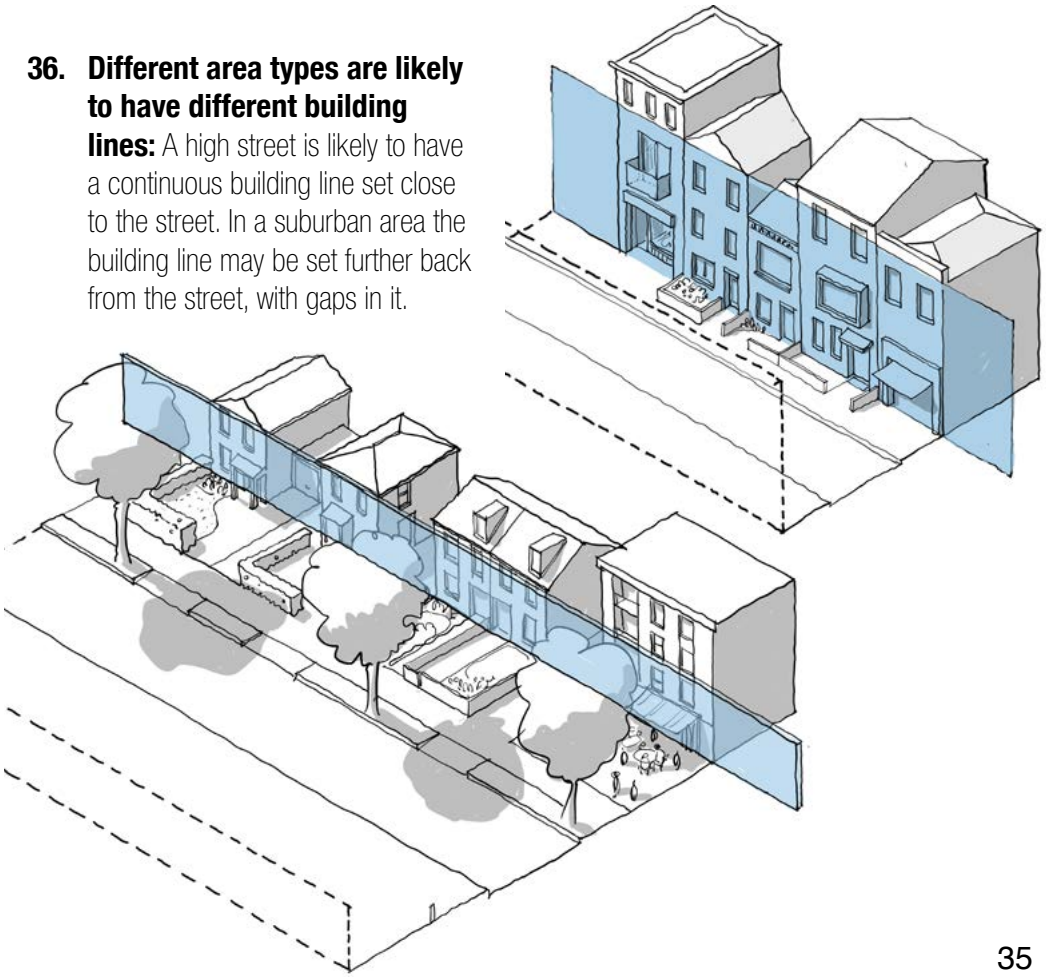
35. Repairing Urban Blocks: Infill sites can be an opportunity to repair the block structure and street grid of an area. This example shows an infill site that has been brought forward for housing development.



B.2.ii Building Line

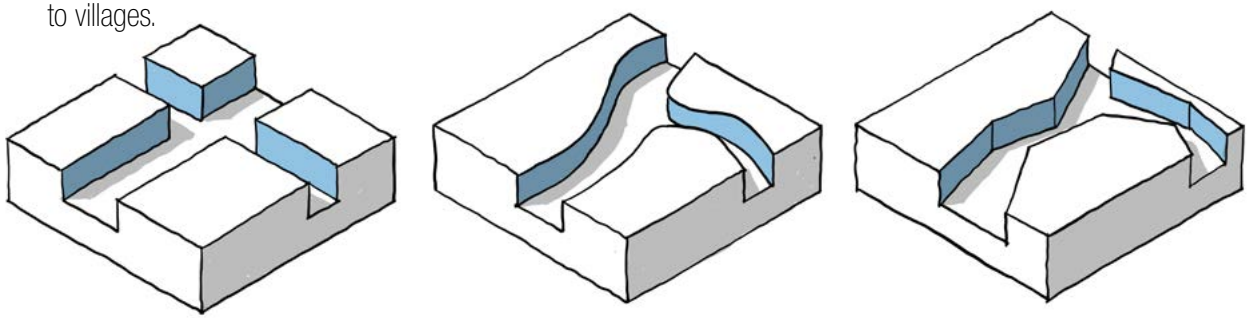
108. Attractive streets and other public spaces are generally defined by the frontages of buildings around their edges.

109. A building line represents the alignment of the front face of the buildings in relation to a street or other public space. The nature of this line and its position in relation to the street contribute to the character and identity of a place. It may be straight or irregular, continuous or broken. A consistent approach to building line in an area type or street type helps to give it a coherent identity.



36. Different area types are likely to have different building lines: A high street is likely to have a continuous building line set close to the street. In a suburban area the building line may be set further back from the street, with gaps in it.

37. Building Line Character: The shape of the building line will contribute to the character of the area. Orthogonal arrangements are more likely to be found in urban areas while curved streets are more suburban with detached building forms. The third option with irregular geometry that can be seen in some historic urban areas, from cities to villages.





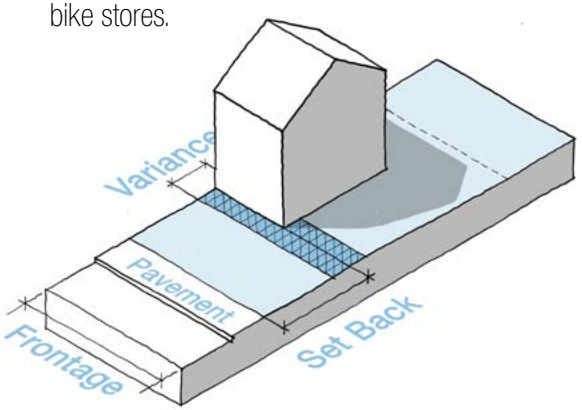
Coding for the Building Line

110. Design codes may identify building lines and their characteristics for each area type to guide new development, including circumstances that allow for exceptions, e.g. where a mature tree interrupts the existing building line or creates a public space or forecourt.

111. They may also identify the proposed building lines for a large site based on the agreed masterplan, taking into account the hierarchy of streets, as well as the proposed area types.

38. Building line plan: An example of a town centre building line plan. The solid lines show existing building lines and the dotted lines the places in which the building line is to be repaired or recreated.

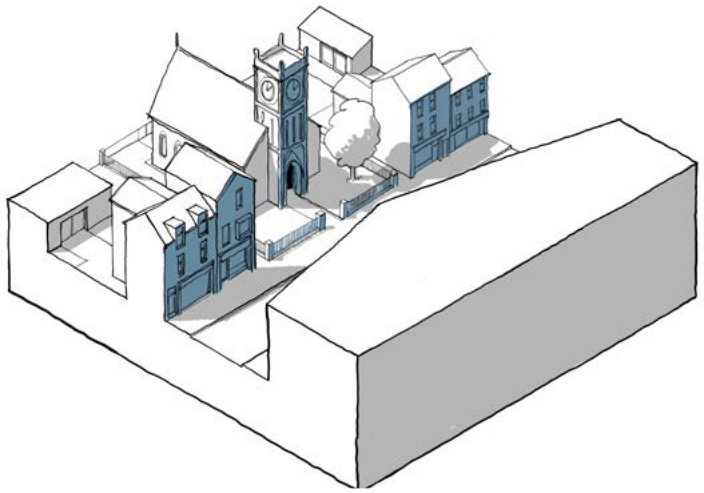
39. Set-back: The building line can also be established by a set-back provision. This is the distance from the back of pavement to the building. The size of set-back will vary with the nature of the street. The code may include rules for what can be built within a set-back zone such as low walls, fences and bin and bike stores.



Building Line Characteristics
112. A design code may set parameters that relate to the building line:

Variance: The code may specify how far buildings are able to depart from the building line. This will depend on the importance of the frontage. In certain areas no variance will be permitted. Elsewhere buildings or parts of buildings might be allowed to set back or project forward of the building line by a prescribed distance.

Compliance: The proportion of the building line occupied by buildings may be specified. In a centre, the building line is likely to be continuous. In a suburb, there are likely to be gaps between buildings.



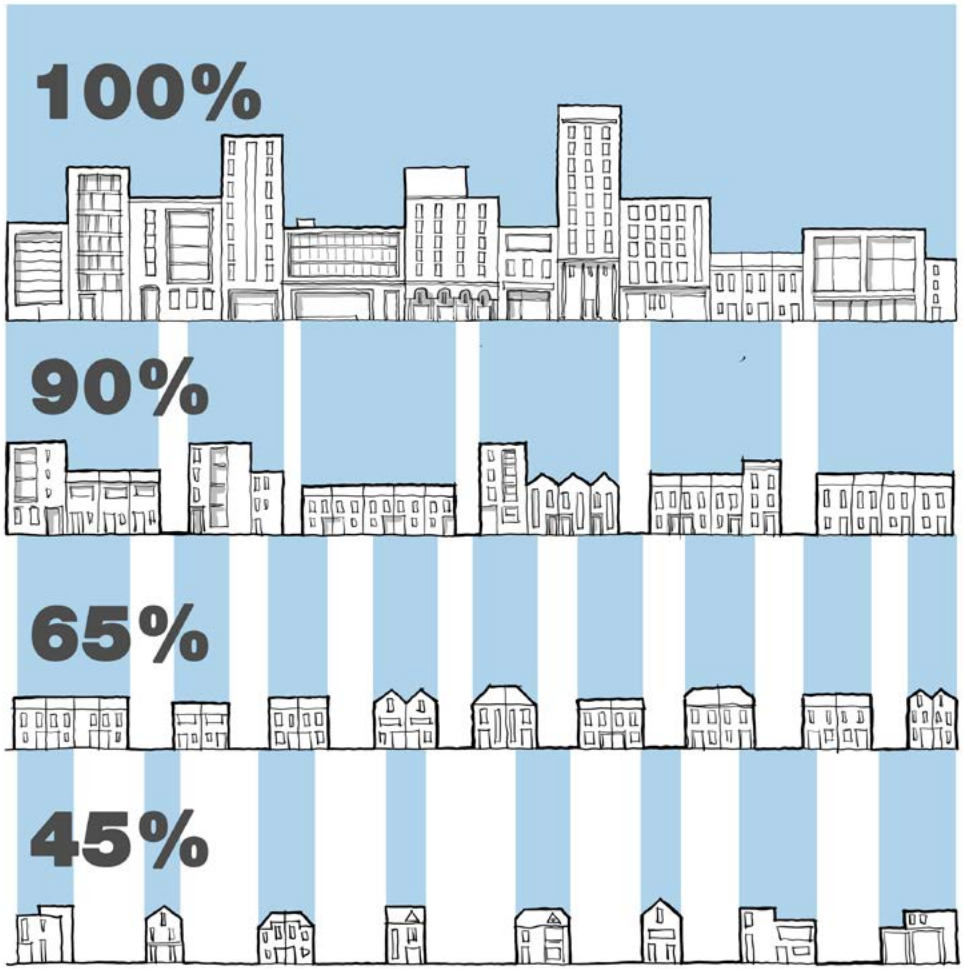
Activity: The building line is the interface between the interior of each building and the public life of the street. A design code may consider how the building line enables interaction with the street (see Section U1.3).

Access: Design codes may specify how buildings relate to the street in terms of access. It may be appropriate for vehicle access, servicing and secondary pedestrian access to be from the rear while the public or main entrance and 'address' is through the building line.

Eyes on the Street: Successful streets are characterised by active edges and natural surveillance, so that the street space is overlooked from homes and businesses.

40. **Exceptions:** Some buildings can be set back from the building line.

41. **Building Line Compliance:** Design codes could specify the percentage of the building line to be filled with buildings.

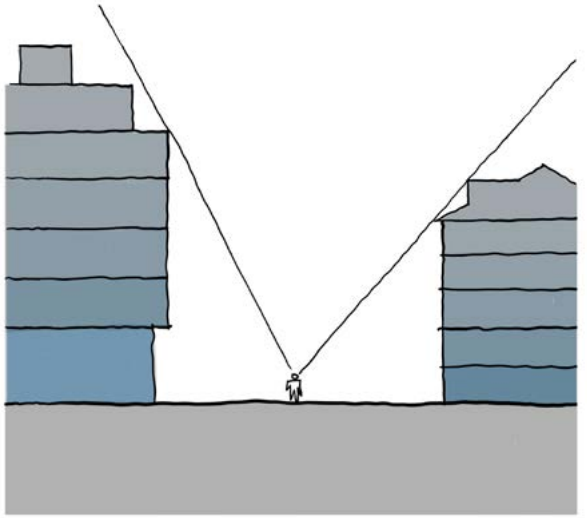


B.2.iii Height

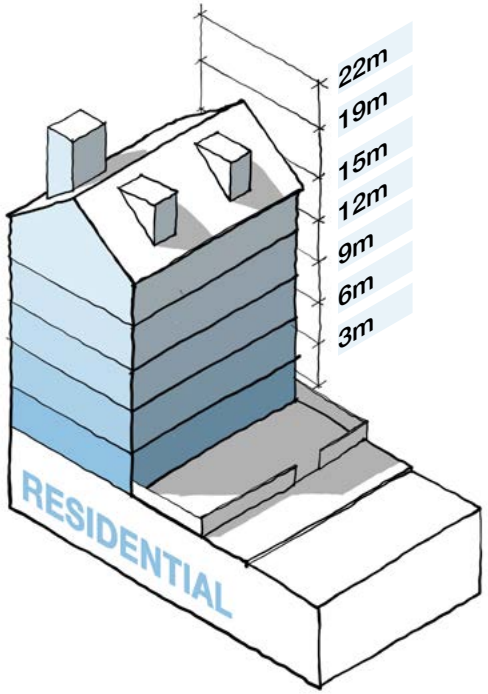
113. Building heights influence the quality of a place in terms of its identity and the environment for occupiers and users. Consistent building heights, or variation within a relatively narrow range, can help to make an area type feel coherent. Large variations in height can make an area feel dynamic.

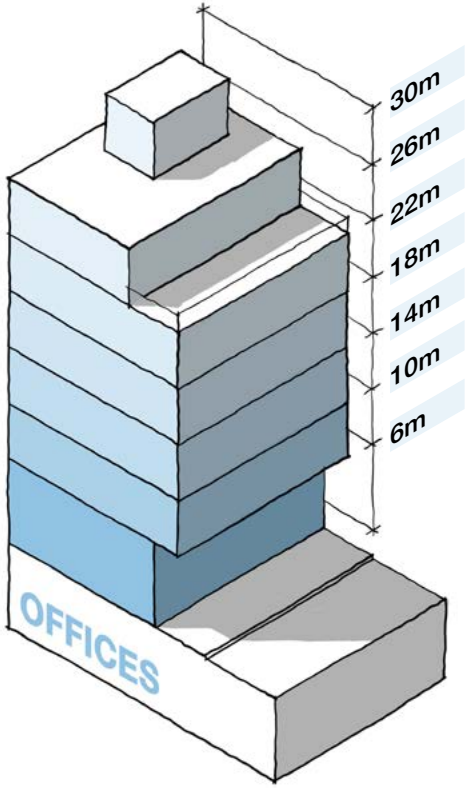
114. The identity of an area type may be influenced by building heights, including its overall scale, its skyline, key views and vistas and the relative prominence of landmark buildings. Building height may also have an impact on local environmental conditions in neighbouring properties, amenity spaces and public spaces in terms of daylight, sunlight, overshadowing, wind and micro-climate. The placing of tall buildings needs to maximise user comfort of spaces between buildings by taking into account their impact on orientation and overshadowing of public and private spaces, quality of external spaces at ground level, wind tunnel effect, noise pollution and enable safe dispersion of pollutants.

115. The number of storeys is a common way to estimate the height of reside development in suburban and rural area types. In urban area types and for m development, a more precise measure



43. The Street Section: The eaves height will contribute to the apparent height of buildings and therefore the character of the street.





42. Heights: A design code may regulate one or more of the following: eaves or parapet height, roof height and total height. Many building types have projections that rise above the general height of a roof. A code may either allow for projections above a roof height or define a total height including for projections. In both cases the area of any projections may need to be defined in the code.

Eaves or parapet heights: In simple terms multiplying the storey height by the number of storeys will generate the eaves or parapet height. This is the height of the building's walls excluding the roof. The eaves or parapet height will usually be the apparent height of the building from the street and so determine the cross-section of the street. A code may set out a maximum and possibly a minimum eaves or parapet height for each area type and type of street.

Measuring height: It is also important to specify how building height is to be measured. Typically this will be the height above pavement level. An alternative approach is to use AOD (Above Ordnance Datum) measurements. These are likely to be more appropriate in area types with slopes, or where ground levels may be reconfigured.

Variances: There may be situations or locations where it is appropriate for a building to be taller than those in its immediate context, to create a local landmark or, in certain area types, a tall building (see overleaf). A design code may define criteria to allow exceptions to height parameters in specified circumstances.

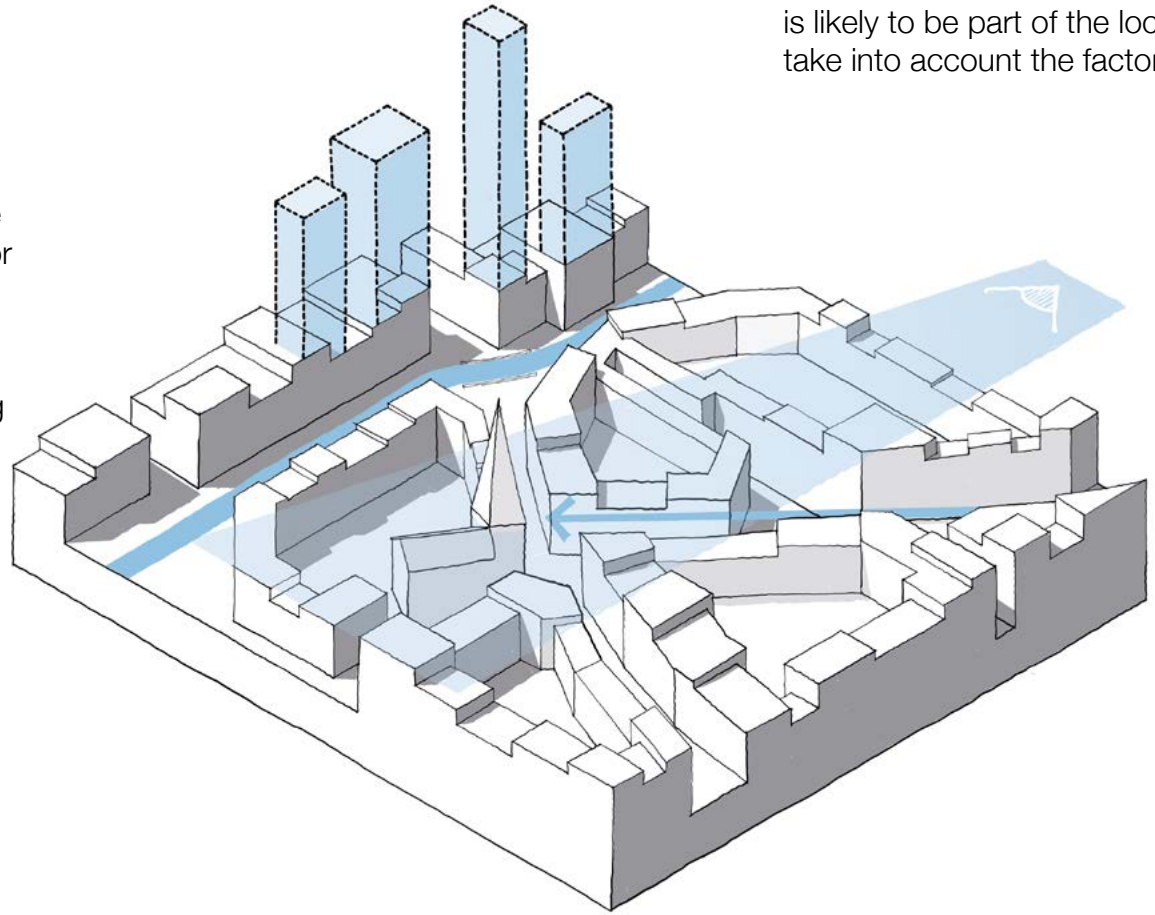
Tall Buildings

116. Tall buildings can be considered in design codes. It may be appropriate to include criteria for the locations of tall buildings in some area types.

117. A tall building for the purpose of the code would be any structure that exceeded the general height guidance for a particular area type. Tools that can assist with this include:

- Accessibility measures such as distances and travel times to key facilities, including public transport stops or hubs;
- Characterisation studies and design strategies, dealing with issues such as urban form, historic character, building typologies, prevailing sunlight and daylight levels, green infrastructure, amenity space and quality of external spaces at ground level.

118. The policy on the location of tall buildings is likely to be part of the local plan and would take into account the factors in Figure 44.



44. Tall Building Principles: Topography, characterisation studies heritage assets, local historic character and conservation areas, transport accessibility, identified long views and skylines to be protected, sensitive local views, vistas and gateways.

Check List: Built Form

Local design codes should consider:

B.1 Compact Development

- The maximum and minimum residential densities relating to each area type.
- Plot ratio or plot coverage for commercial development relating to each area type.
- The way that buildings join in each area type

B.2 Built Form

- The separation of public and private space and the use of blocks, including cul-de-sacs and gated communities.
- The design and types of block.
- The use of infill sites to repair block structures.
- Establishing and repairing building lines.
- The setback, variance, and compliance with the building line for each area type.
- The height of buildings for each area type.
- The location and height of tall buildings.

Identity

Introduction

119. The identity of a place comes not just from the form and appearance of the buildings and spaces but also from the way that it is planned, its natural environment and the use of its buildings. This includes the way that it responds to the character of the local area and the design of its buildings and public spaces.

120. Identity may come out of respecting and enhancing the existing character of the area and also from adapting and shaping to develop new character. The architectural approach needs to be influenced by its surrounding architectural character.



I.1 A Sense of Place

121. A sense of place is the quality that makes a place special and lodges it in the memory so that people want to stay or return. It results from the combination of many factors. Design codes may include guidance on how to draw inspiration from the existing context, to create or enhance a sense of place through new development, and to follow some simple principles of scale and proportion in the design of new buildings.

I.1.i Local Character

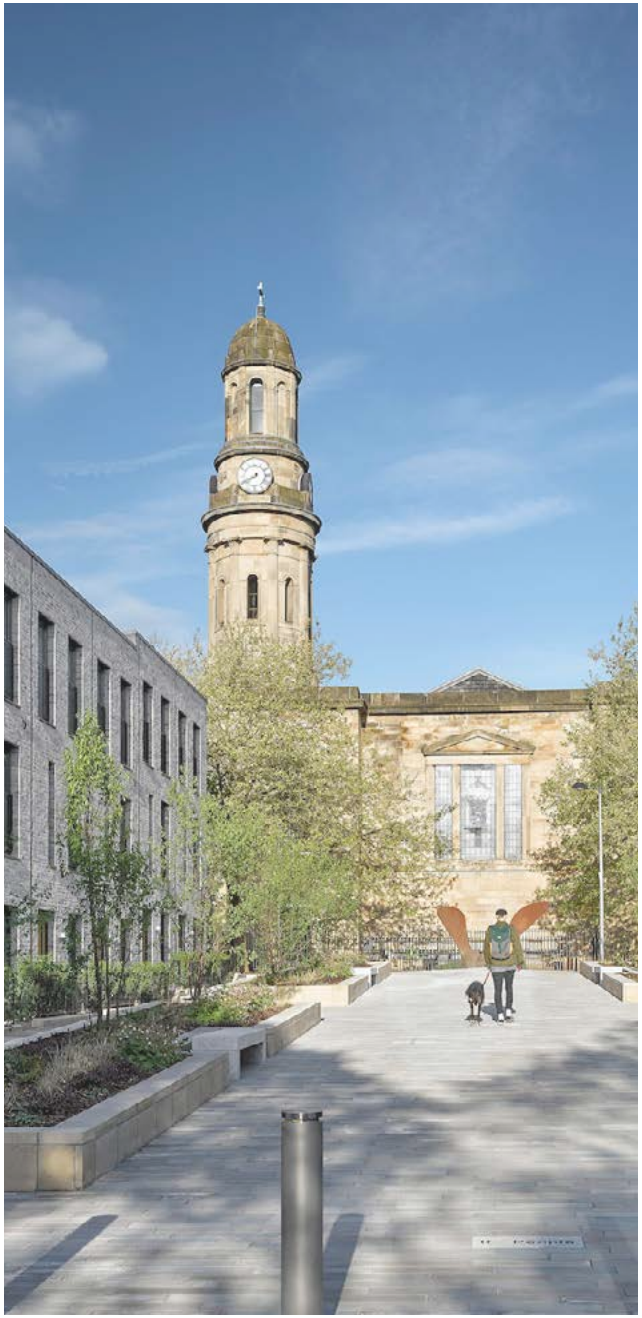
122. The Context section sets out how a design code starts from an analysis of its area type, in order to understand the place. This analysis informs the elements of a design code and has particular importance when addressing local identity.

123. The analysis will include local building types, architectural styles, materials, detailing and colour. While there are many beautiful neighbourhoods, towns and historic villages, there are also places whose existing character is not particularly attractive. Existing character is therefore something that must be understood as a starting point for the design of layouts and buildings so that they fit into and also enhance the character of the local area. Historic England guidance sets out approaches to assessing the character of places.

I.1.ii Legibility

124. The legibility of a place relates to how easy it is for people to find their way around. Certain characteristics of urban areas may help make them easier to navigate. This is particularly important to meet the needs of specific people including those with dementia, and other visual and mental disabilities through use of inclusive wayfinding strategies. These include: (See next page)



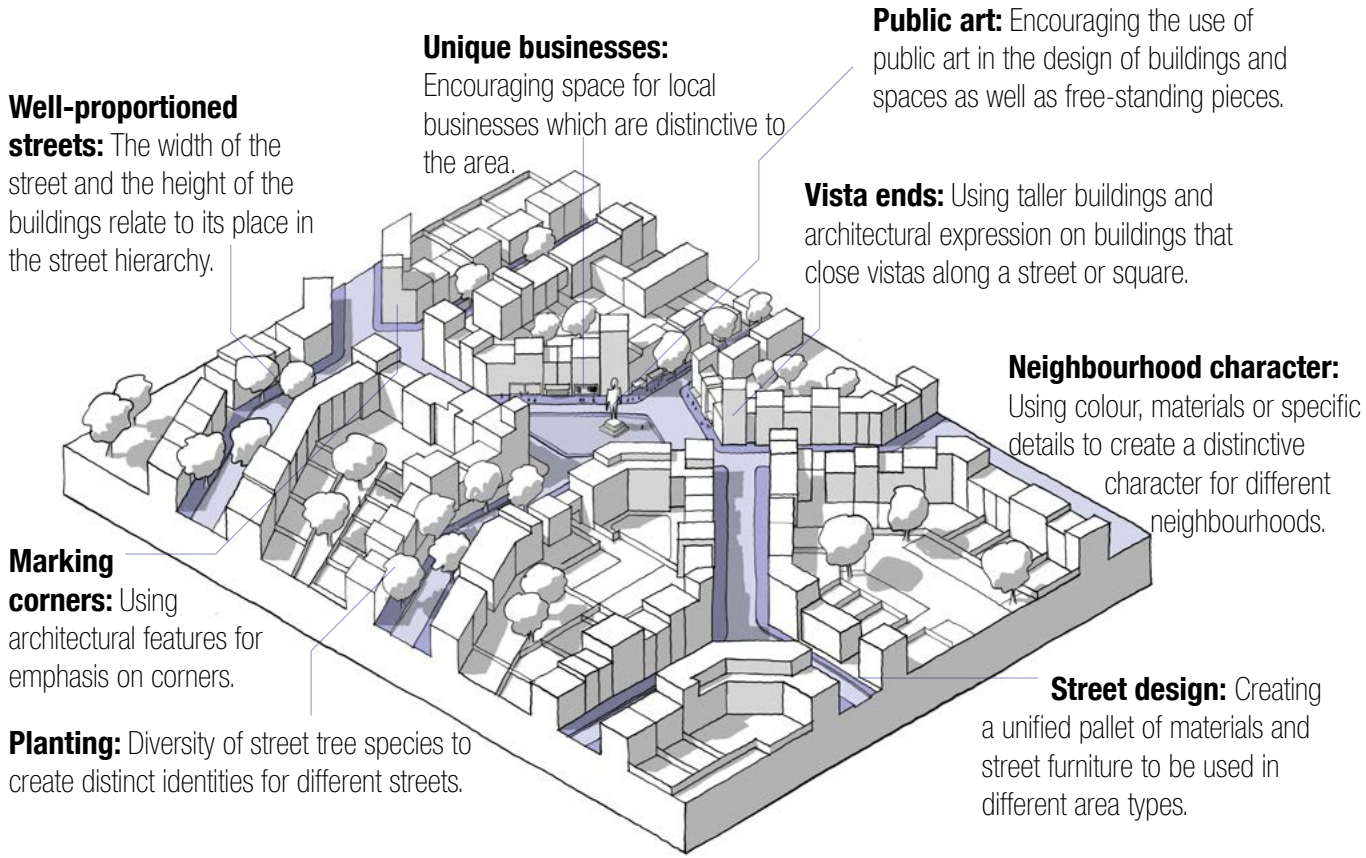


- **Paths:** A clear and walkable network of streets and other routes that doesn't involve diversions for pedestrians because of the way that highways are designed. (see Section M2).
- **Street hierarchy:** A clear hierarchy of streets whereby movement is related to land uses and street character, for instance so that shops and public uses are on a high street.
- **Neighbourhoods:** Places with names and a distinctive identity
- **Nodes:** Meeting places and intersections that are perceived as the centre of a neighbourhood.
- **Intensity:** The idea that the density and height of development rises towards nodes including town centres and high streets.
- **Landmarks:** Memorable built form including landmarks (see B2.3)
- **Wayfinding:** Clear, inclusive and logical signage, maps and local information.

I.1.iii Masterplanning

125. On larger sites the first step in enhancing and creating local identity is to create a distinctive masterplan for the site. Masterplans can take many forms and will need to be influenced by the character of the surrounding area. In some cases, a formal masterplan with a grid of streets will be appropriate, whereas elsewhere a more organic plan will fit better with the surrounding context. However, there are a number of ways in which all masterplans can create a sense of identity and character.

45. Creating Identity: Masterplans can be used to create a strong sense of place



I.2 The Identity of Buildings

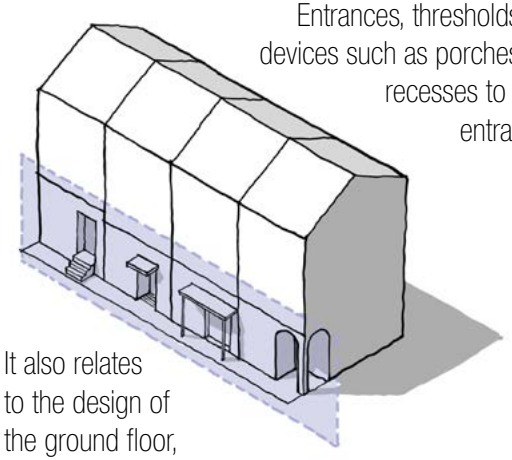
126. The design of buildings includes their size and shape and configuration, their relationship to their surroundings as well as their internal layout. All of this is dealt with elsewhere in this code. It is also important to consider the way that the building is designed, its elevations, the arrangements of windows, the way it relates to the street, the design of its roof, the details of its construction and the materials that it uses.

127. This relates to all buildings, although exceptions may be agreed for high-profile new buildings for example those commissioned by public bodies or the private sector through competitions. The role of design codes is to influence the design of the majority of buildings, the housing, shops and workspaces that make up the fabric of places.

I.2.i Building Design Principles

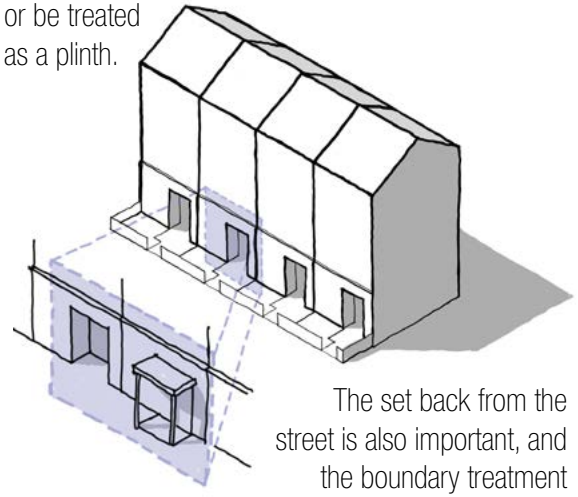
128. It is important that these buildings respond to the parameters of height and building line set out in the Built Form section. Their design also needs to consider the principles set out on the following pages which deal with houses, mid-rise apartment or office buildings and tall buildings. These principles are independent of style, and for each type we show examples of how they can be applied to different types of building.

Meeting the ground: It is important to consider how buildings are grounded and relate to the street. The following elements need to be considered:



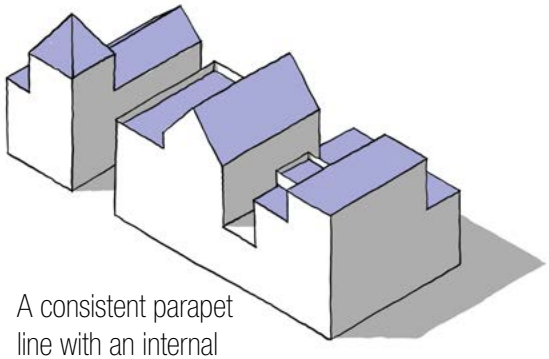
Entrances, thresholds and devices such as porches and recesses to mark entrances.

It also relates to the design of the ground floor, which may use different materials or be treated as a plinth.

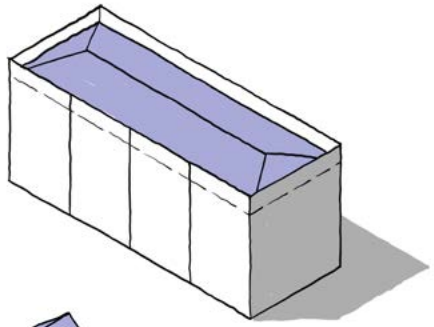


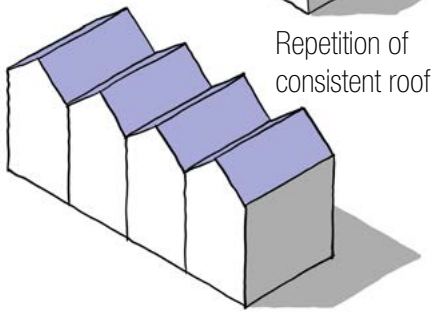
The set back from the street is also important, and the boundary treatment that can be a wall, fence or railing depending on the local vernacular.

Meeting the sky: Townscape can be enriched by using varied roof heights and forms. Alternatively, a more formal character can be created with a consistent roofline. This relates to both the roofline and the eaves line.



A consistent parapet line with an internal gutter and concealed roof

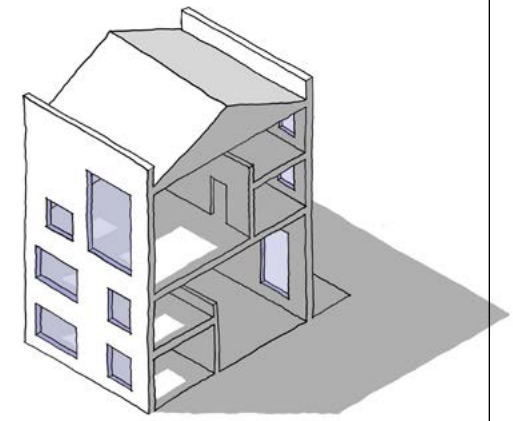


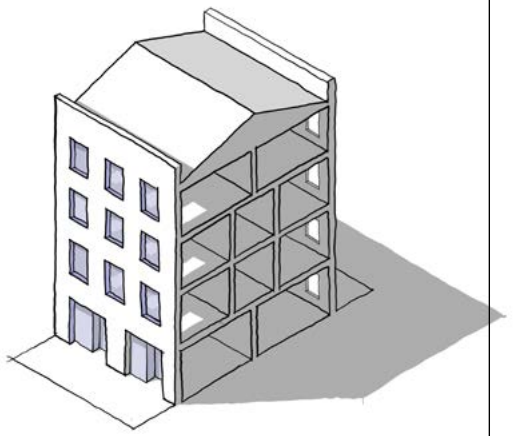


Repetition of consistent roof forms

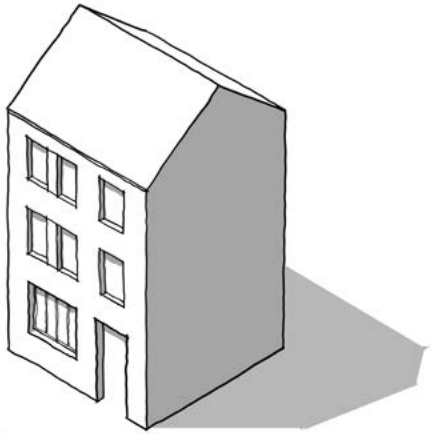
46. Façade Design: Regardless of architectural style, there are a number of architectural principles that all buildings need to consider in their design.

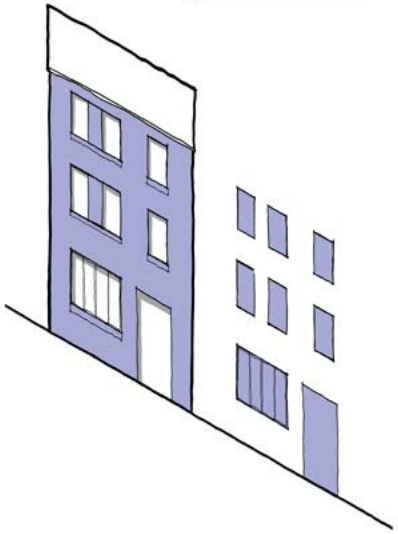
Composition: The façade needs to relate to both the external context and the arrangement of internal spaces. Windows need to be composed to reflect the daylight needs and hierarchy of these spaces.



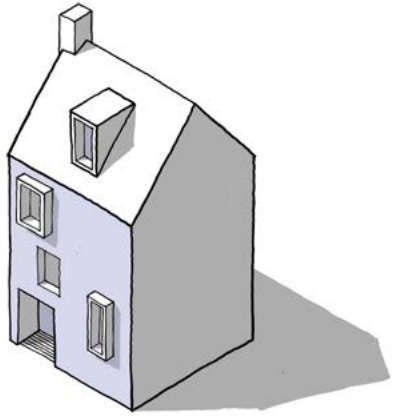


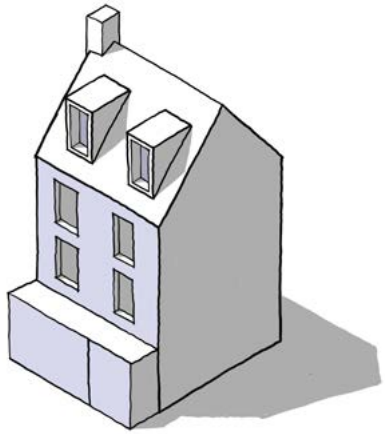
Windows: Elevations work best with a wall to window ratio of 15-35% whilst taking account of requirements to avoid overheating. The proportion and design of windows can shape the facade based on whether they are horizontal or vertical, and the depth of the reveals.



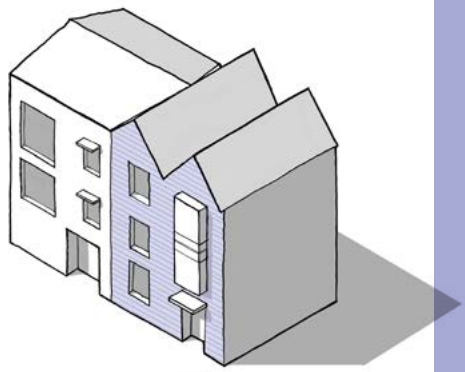


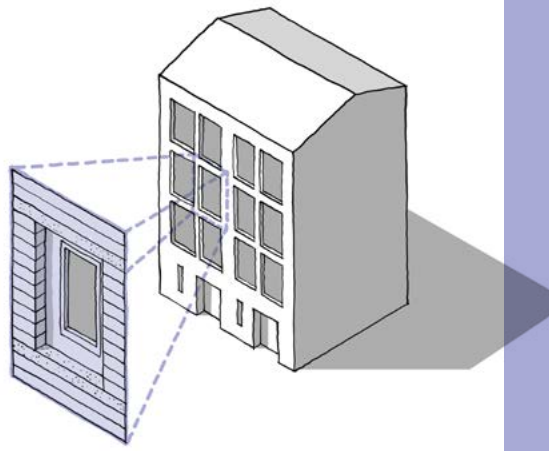
Articulation: Façades can benefit from depth and articulation. This may be achieved with architectural features such as setbacks, balconies, porches and bays. These set forward or back from the main facade that relates to the building line.



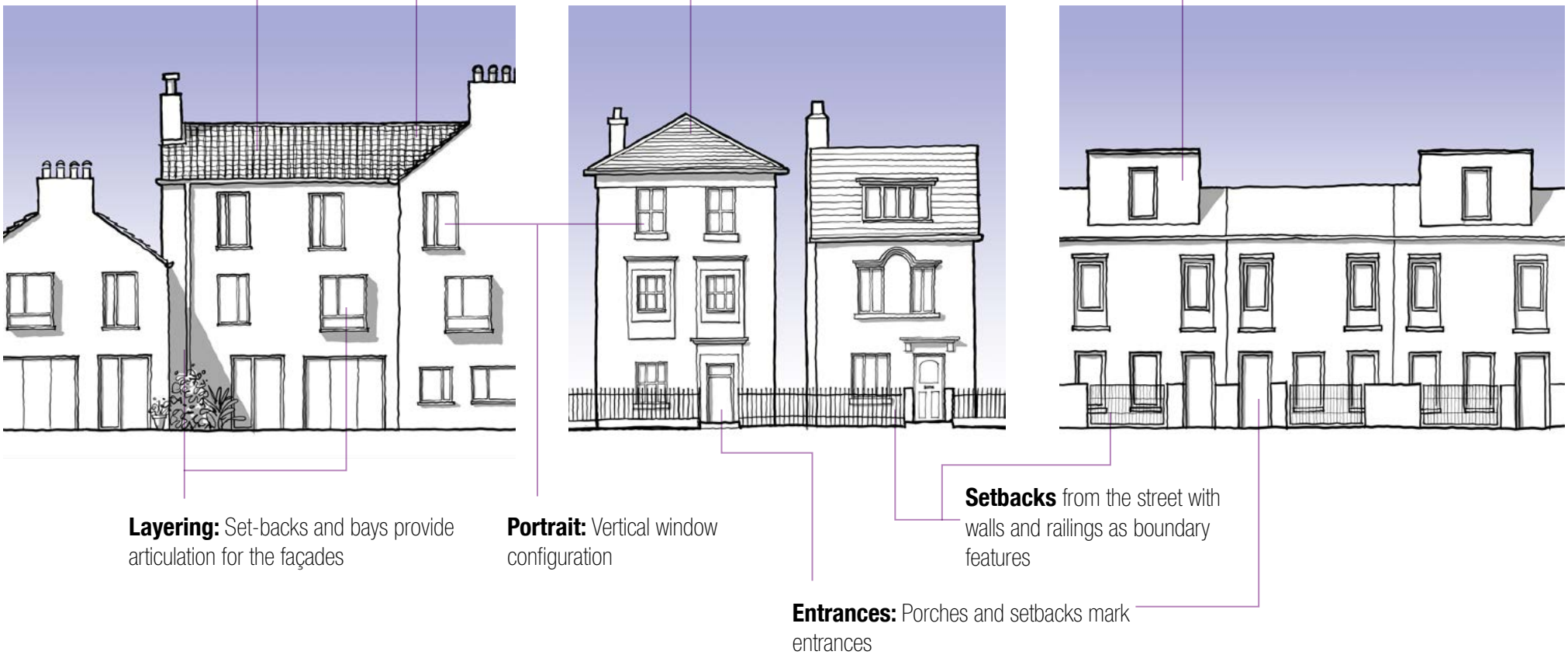


Materials and detail: The details of design combine to enhance the building. The choice of symmetry or conscious asymmetry, the use of colour, quality materials and detailing – preferably drawn from the surrounding context. A degree of complexity will ensure that buildings are attractive from a distance and close-up.





47. Housing Design Principles: The principles set out in Figure 46 can be applied to the design of housing regardless of style. These three examples show housing of very different styles, but they all follow the guidelines:



48. Mid Rise Design Principles: Similar principles can be applied to the design of mid-rise buildings, including both apartments and offices.

Layering: Set backs and bays provide articulation for the façades

Varied roof line: A variety of heights and roof configurations

Plinth: Where the building meets the ground





Portrait: Vertical window configuration

Setbacks from the street with privacy strip

Entrances: Porches mark entrances

49. Tall Buildings Design Principles: Tall buildings are, by their nature, one-offs and need to be designed to the highest architectural quality because of their prominence. They can be designed in a variety of architectural styles, but the following principles apply to all tall buildings:

- **Top:** The top of the building and its impact on the skyline needs to be carefully considered. Services needs to be concealed and both the street views and the long views need to be considered.
- **Form:** The form and silhouette of the building needs to be considered. The long and short elevations need to be well-proportioned in terms of their slenderness.
- **Materials:** The use of materials need to be consistent and simple.
- **Base:** The tall building needs to follow the building line at street level. To do this it may rise from a base or plinth that is scaled to the surrounding buildings.
- **Public realm:** Public spaces around the base of tall buildings need to be generous, well designed and contribute positively to the local context.
- **Entrance:** The entrance to the tall building needs to clearly marked.
- **Micro-climate:** The tall building needs to be considered in terms of overshadowing and wind. It may be necessary to protect the surrounding public realm from down draughts.
- **Active Frontage:** If required by the design code the ground floor of the tall building needs to include active frontages.

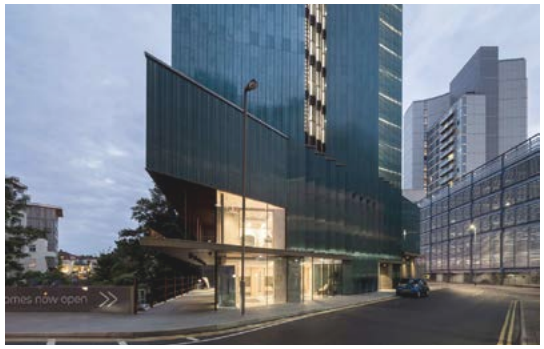




Composition, active frontage, top



Public realm



Entrance

Check List: Identity

Local design codes should consider:

I.1 A Sense of Place

- Guidance on local character, heritage materials and detailing to be used locally.
- Wayfinding and legibility strategies.
- Masterplanning to create distinctive new development.

I.2 The Identity of Buildings

- Design guidance for the design of buildings based on local character assessments.
- Tall building design guidance.

Public Space

Introduction

129. The quality of public spaces is partly about the way they are enclosed by buildings and partly the way that they are designed. In this section we set out guidance for different types of street and public space relating to the hierarchy described in the Movement section. We cover the scale and proportion of the space, how their design can encourage social interaction, the way it deals with movement and traffic and the design elements that contribute to its success. These guidelines should be adjusted to local conditions in design codes.

130. Streets and roads make up three-quarters of all public space. How they are designed therefore has a significant impact on people's lives. Manual for Streets defines common street types and functions, which this code seeks to align with. These street types include multifunctional streets and spaces, each with different place and movement functions. Further detail on how each of these can be designed for, as part of a code are set out below, and how these can be coded for with additional street types that could also be considered as part of a design code. A forthcoming update of Manual for Streets will seek to align with this guidance.



50. Streets and Character Types:
The street types described in this section should be adjusted in response to local character and to the area type in which the street sits.

	Primary Streets	High Streets with Traffic	High Streets without Traffic	Secondary Streets	Local Streets	Home Zones	Lanes	Mews/Burgage Courts	Arcades	Alleyways/Back Streets
High Rise City										
Town/City Centre										
Urban Neighbourhood										
Inner Suburb										
Industrial Area										
High Streets										
Outer Suburb										
Urban Green Space										
Rural										
Village										

P.1 Streets

131. Section M2 described a hierarchy of streets that characterise most places and developments, based on the street types and functions defined in Manual for Streets and Manual for Streets 2, together with other street types that may be considered. All of these streets need to balance the dual functions of movement and place. Their design will vary both by their position in the street hierarchy and the area type that they pass through. Other parts of the design code including built form, movement, nature and use will need to be considered in the design of streets. Each type of street also needs to take account of emerging trends: the changing nature of transport, for increased levels of active travel, with space being reallocated from private motor traffic to cycling and public transport; addressing the needs of people with disabilities, children and young people, older people and businesses to meet local community needs; and climate change, with space being allocated from vehicle parking spaces to provide sustainable drainage and incorporate street trees.

132. A code may set out parameters for these different street types as set out below:

P.1.i Primary Streets

133. Primary streets are the main routes carrying through traffic within settlements.

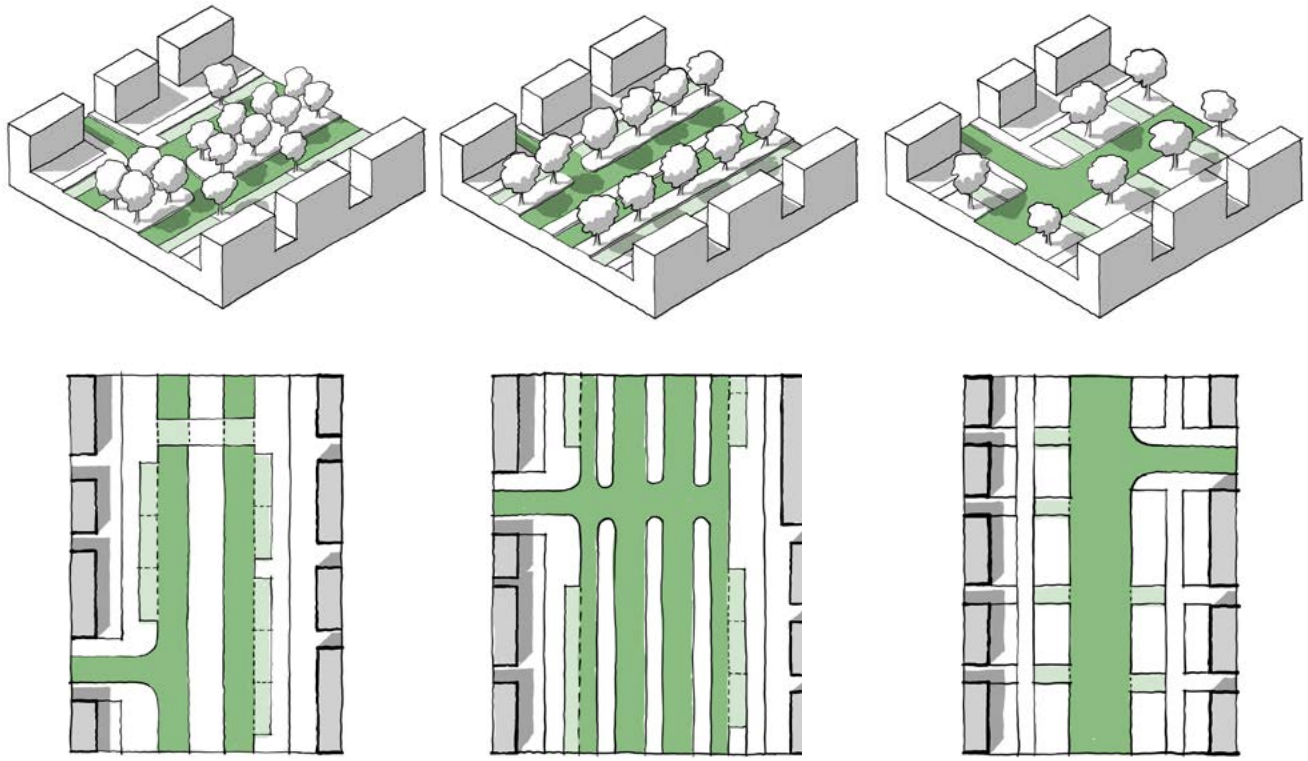
134. Many relief roads and ring roads have been designed to prioritise the flow of motor traffic with grade-separated pedestrian crossings and no frontage access. In many cases, there is potential to convert them into pedestrian-friendly streets. However, many arterial routes and high streets do already successfully accommodate pedestrians, cyclists and frontage access.

51. Primary Streets - Ring Roads/ Relief Roads: These streets can often be designed to emphasise the sense of place, for example as avenues.

Parkways: Streets with a wide central grass reservation with trees, along with carriageways and pavements. These are sometimes known as 'parkways' and are suitable for suburban locations.

Boulevards: Streets with a central carriageway for through traffic with secondary one-way carriageways for local traffic and parking with trees along the median strip.

Avenues: Streets with a central carriageway and wide tree-lined verges, also known as an 'Avenue'



Primary Streets, Arterial and High Streets: The following illustrations show examples of different types of primary street. These vary according to the following factors:

Enclosure: The proportion of width to building height will change by area type. In city centres, local centres and on high streets, the space will feel comfortable with building heights equal to or greater than the width of the space between them. In other area types, the space will feel comfortable with building heights at half the width of the space between them.

Frontage: Buildings need to front onto and take their main access from the street. If frontage access is difficult secondary carriageways may be used.

Active frontage and supervision: Depends upon the area type: For city and local centres and on high streets, there will be active frontages including shops and other services. For other area types, there will be building frontages with eyes on the street.

Security: measures which can be blended into the streetscape to protect against hostile vehicles.

Setbacks: The setback of buildings will vary by area type: For city and local centres and on high streets, there may be little or no setback, and this would normally be a zone for outdoor seating or displays. For other area types, the setback may be substantial. Where buildings do not provide enclosure, street trees can create a sense of enclosure, subject to local character.

Footways: The street should have pavements of at least 2m unobstructed width for pedestrians with crossings as necessary. Street furniture may be provided such as seating, appropriate to projected users, space and where clear access can be maintained. Further information on designing footways can be found in Manual for Streets.

Service Roads: In some circumstances one-way service roads can run on either side of a main carriageway to provide servicing and frontage access.

On street parking: May be provided.

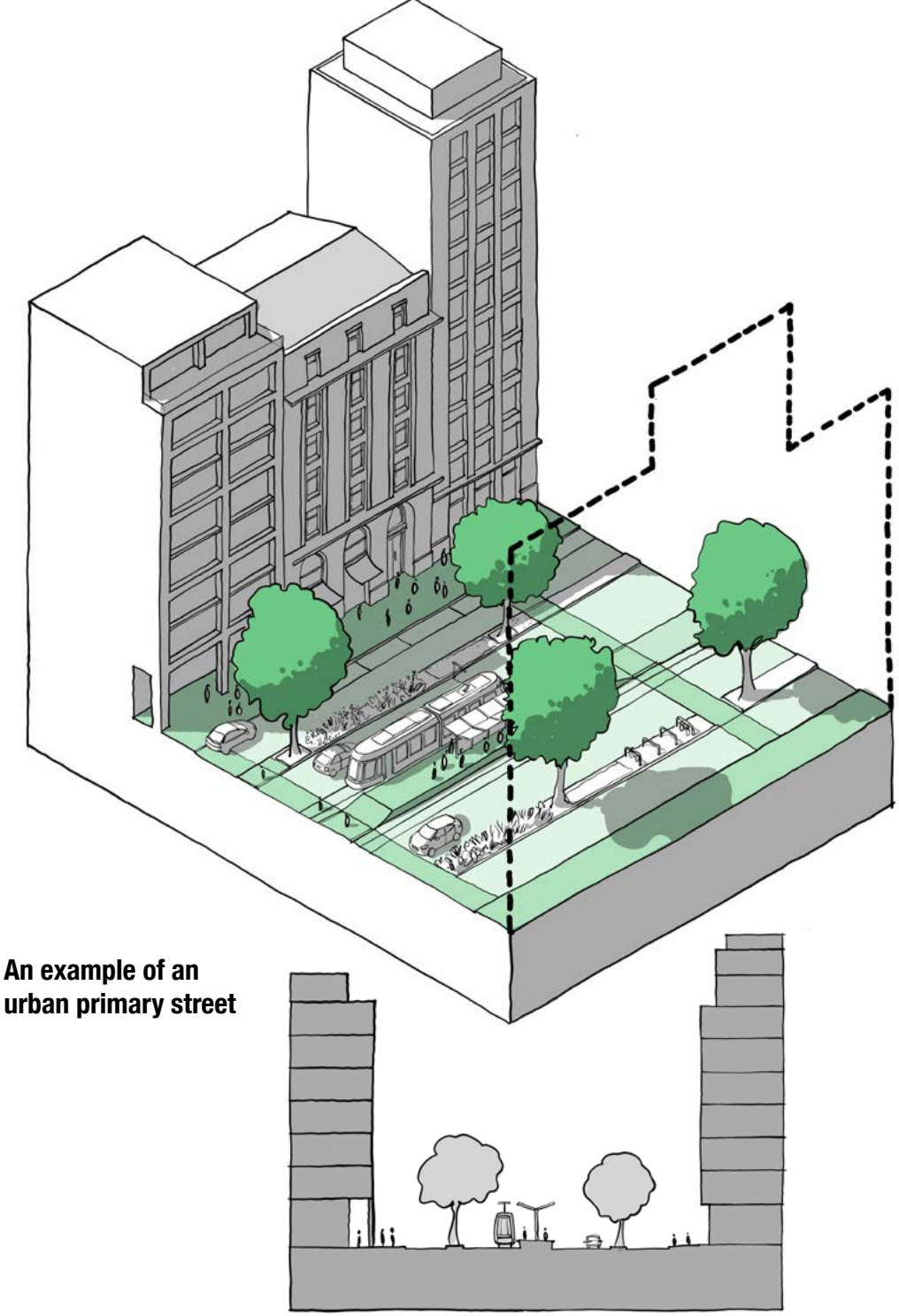
Verges and median strips: Can be considered where space is available.

Green infrastructure: Street trees, planting and swales can be provided.

Bus/tram lanes: Where possible dedicated lanes should be provided for buses or trams. Care will be needed to ensure that stops are accessible and safe for pedestrians.

Cycle facilities: Dedicated cycle routes in both directions wherever possible.

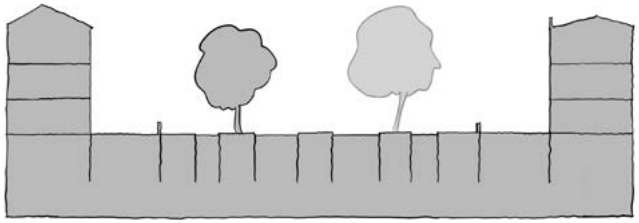
Carriageways: One or two lanes for through traffic in one or each direction.

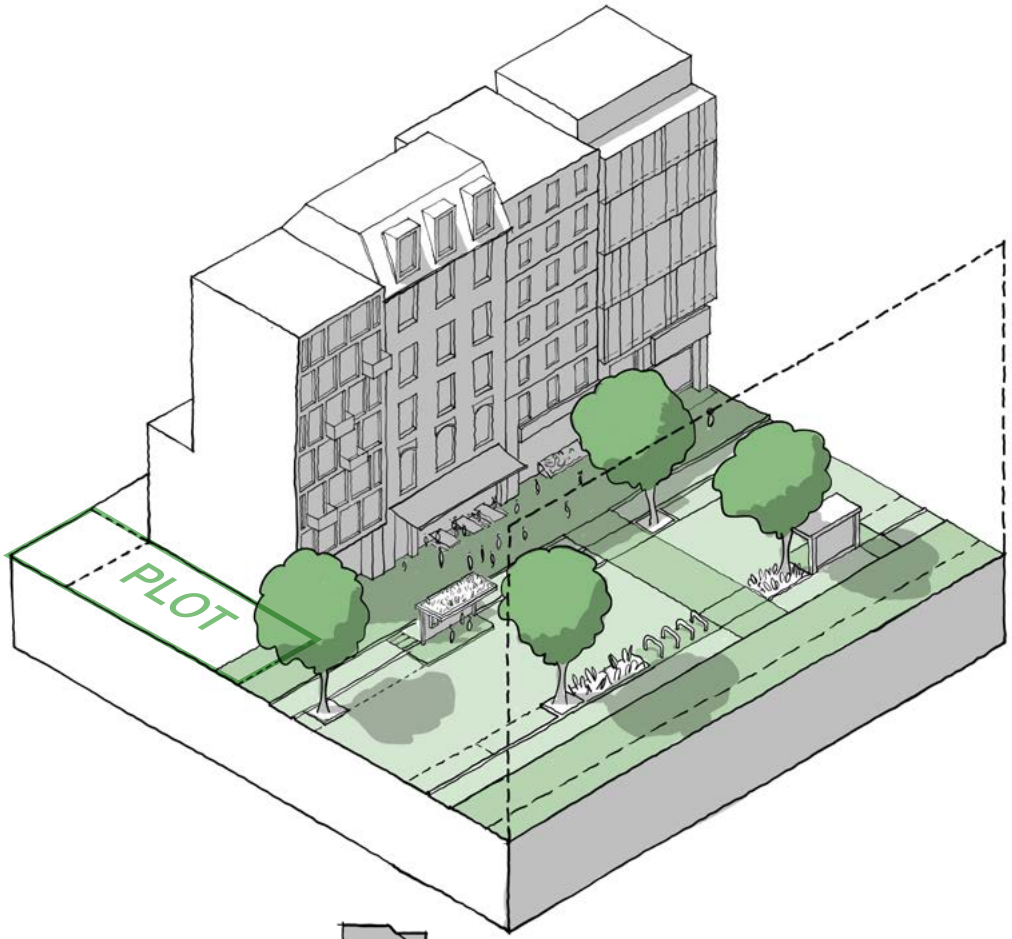


52. An example of an urban primary street



53. An example of a suburban primary street



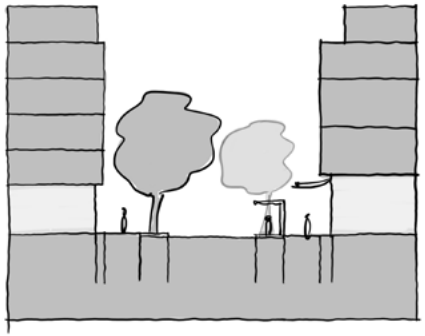


54. An example of a retail high street with traffic



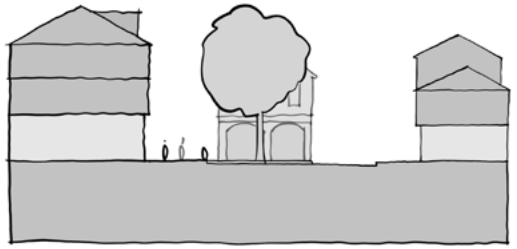


55. An example of a low traffic / traffic free high street.





56. An example of a market town high street



P.1.ii Local and Secondary Streets

135. Secondary streets perform an important function within settlements. They normally link to high streets and provide access into neighbourhoods. Without them more traffic would be forced to use the local street network. Secondary streets can accommodate shops and retail space. They can also be good locations for cafés and restaurants as well as community facilities such as schools, health service and community centres.

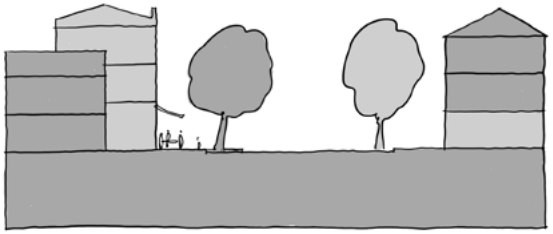
136. These streets need to be designed to meet their movement functions, including traffic, cycling and walking and also to create a pleasant environment for their users.

137. Most of the streets in a settlement are local streets. These have a number of roles:

- ☐ First and foremost, as an attractive community focus for the people who live and work there.
- ☐ As safe and convenient routes for walking and cycling.
- ☐ Providing for emergency access and servicing, including access for emergency services, accommodating refuse storage and collection and allowing deliveries.
- ☐ Accommodating low levels of traffic at low speeds.

57. Secondary street and local high streets:
These are important streets that sit between primary streets and local streets. This is an example of a potential layout.





Local Streets:

58. (top) An example of a 14m wide urban street with three-storey buildings creating an enclosure ratio of 1:1.5

59. (bottom) An example of a 24m wide suburban street with two-storey buildings creating an enclosure ratio of 1:4.

Enclosure: Will vary by area type: In urban neighbourhoods, streets feel comfortable where the width of the space is only a little wider than the height of the buildings. In suburban neighbourhoods the width of the street is likely to be at least twice that of the building height.

Frontage: Buildings can front onto the street and take their main access from it. In urban neighbourhoods, many of the buildings will be terraced. In suburban neighbourhoods, many of the buildings may be semi-detached or detached and they may have crossovers or drives.

Active frontage and supervision: In urban neighbourhoods and inner suburbs, active frontages will be permitted but not required. There will be eyes on the street. In suburban neighbourhoods, active frontages may be permitted or not permitted. Eyes on the street may not be a requirement for an area type with strongly planted plot boundaries.

Setbacks: Will vary by area type. In urban neighbourhoods, housing may be set back by between 0.5 and 3m to provide a privacy strip or small front garden. This may also accommodate a bin store and a low boundary wall, railing or fence. In suburban neighbourhoods, setbacks may be larger than this to provide larger front gardens.

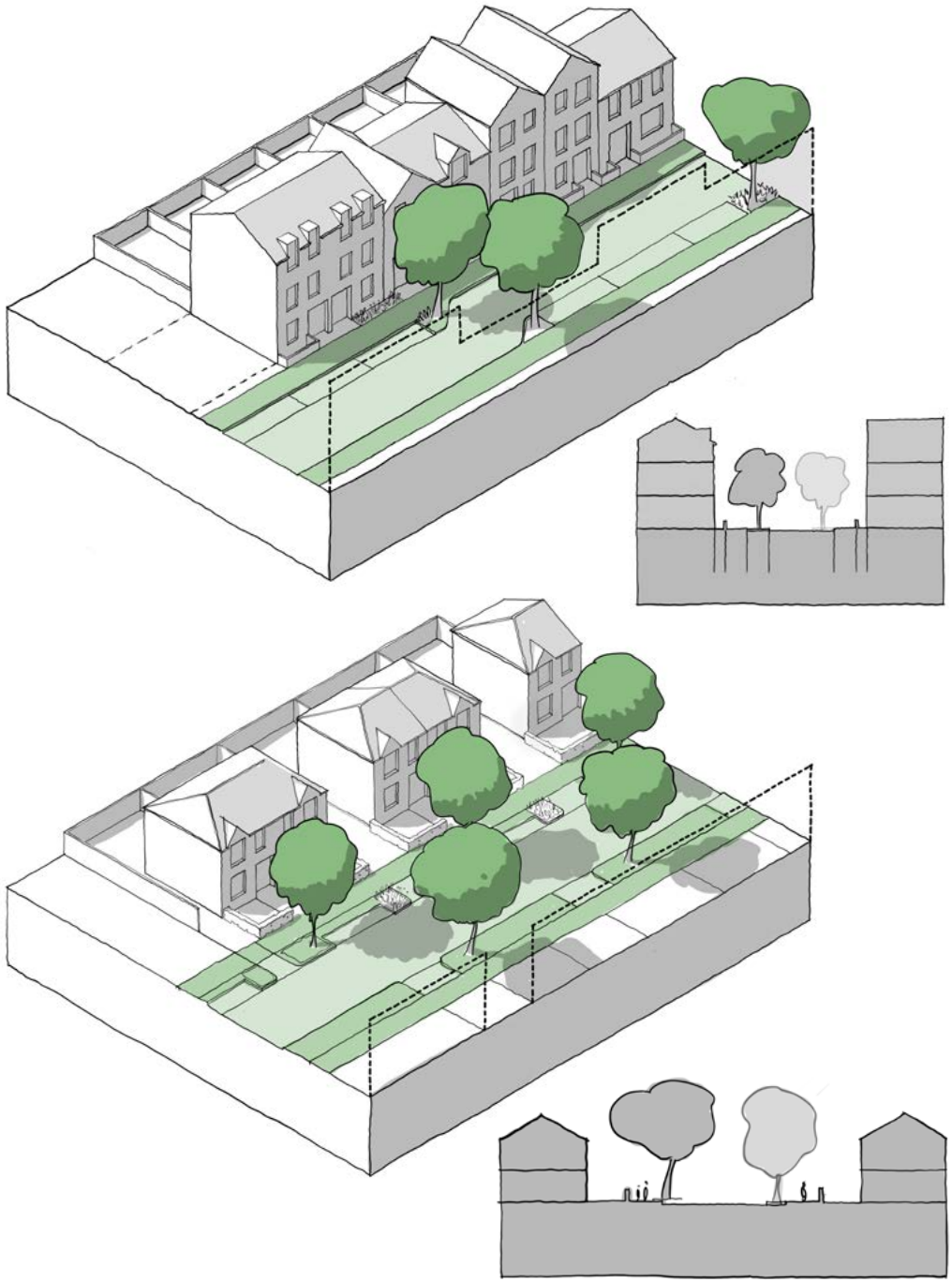
Footways: The street should have pavements of at least 2m unobstructed width for pedestrians with crossings as necessary. Street furniture may be provided such as seating, appropriate to projected users, space and where clear access can be maintained. Further information on designing for footways can be found in Manual for Streets.

Servicing: Deliveries and refuse collection will take place from the front of the property. There may be a separate access to the back garden.

On-street parking: May be provided in designated bays where space is available.

Green infrastructure: Street trees may be provided on at least one side of the street within the parking zone. Verges/ swales/ rain gardens may be provided.

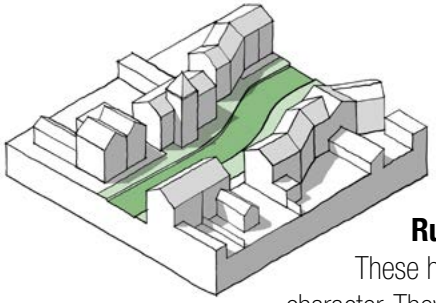
Cycle facilities: As traffic levels are low, segregated facilities are less likely to be necessary



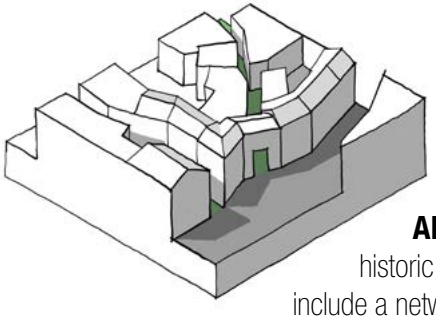
P.1.iii Tertiary Streets

138. In some area types there will be other existing or proposed street types that perform different functions and have different design parameters. It may be appropriate for design codes to be specific about these depending on local conditions.

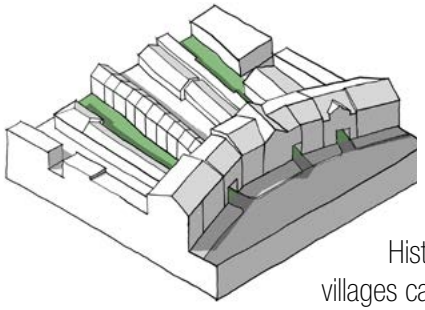
60. Types of Tertiary Street: There are a wide variety of other street types that characterise existing development and may be used to inform new schemes.



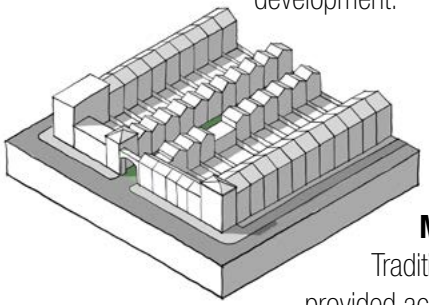
Rural/village lanes: These have a distinctive character. They may not have separate footpath or street lighting and may have constrained vehicular access, depending on local character. Design codes may seek to extend this character, particularly where lanes are to be incorporated into new development.



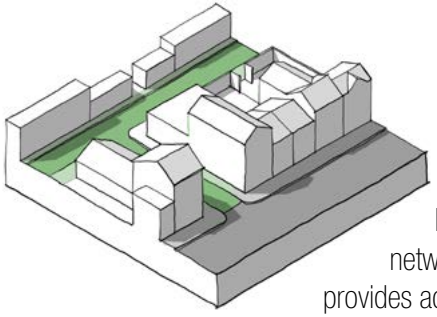
Alleyways: Many historic towns and cities include a network of alleyways. They can provide established and well-used pedestrian routes that need to be preserved in new development. 19th century housing areas can include rear alleyways that provide access to back yards.



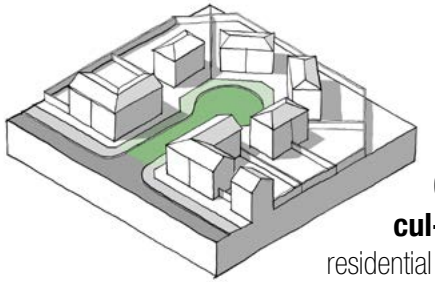
Burgage courts: Historic towns and villages can have burgage courts. These provide access into deep burgage plots and can be fronted by cottages. They provide access off the high street, often through an archway and may allow vehicle access.



Mews streets: Traditional mews streets provided access to the rear of large houses. They can be accessed through an archway from the main street and have no pavements.



Back streets: A network of back streets provides access to the rear of properties for servicing. These are often narrow without pavements.



Closes and cul-de-sacs: Short residential streets to open up sites where through streets are not possible.

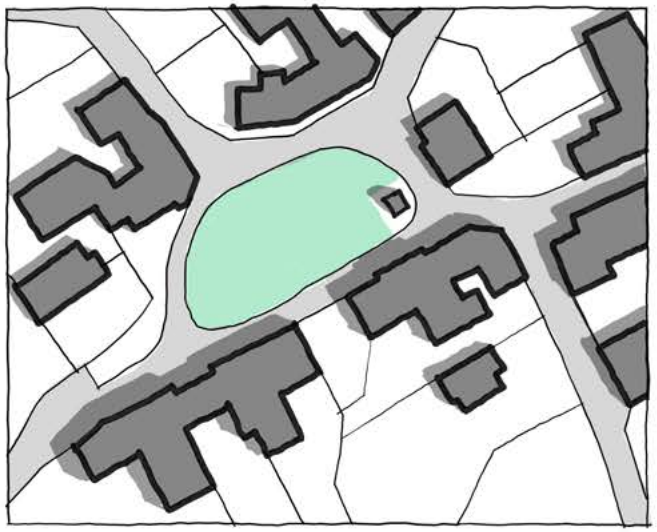
P.2 Social Interaction

139. Streets and other public spaces such as public squares have an important social function to bring people together and to act as a focus for community life. Parks and other green spaces described in section N1 also contribute towards social interaction. Special consideration needs to be given to safety, multi-functional and generational spaces and reducing the risk of crime.

P.2.i Meeting Places

140. Many neighbourhoods include public spaces as focal points at the heart of the community. They may include city and town squares, market places and village greens. Squares can be green spaces enclosed by railings, or paved surfaces for use as markets and public events. All of these spaces provide informal settings for activities such as meeting, resting, playing, holding events and parking.

61. Types of Public Square



Village green: One of the oldest forms of public space. It is normally grassed with roads around its edge and also possibly a pub or local shop.



Town square: An example of a town square, with hard standing, roads on three sides, and opportunities for markets and other public events. This type of square would often be the setting for a public building and sculpture.



Garden square: An example of a garden square typically found in London but also common in new development. Roads on four sides enclose a green space bounded by railings.

62. Principles of Public Space Design.

Scale: Public spaces need to be appropriately sized and proportioned. In new development, it is good practice to identify suitable precedents to inform their dimensions.

Enclosure: The size of a square is informed by the scale of surrounding buildings. Typically, the enclosure ratio of the short dimension of a square is at least twice the height of the buildings.

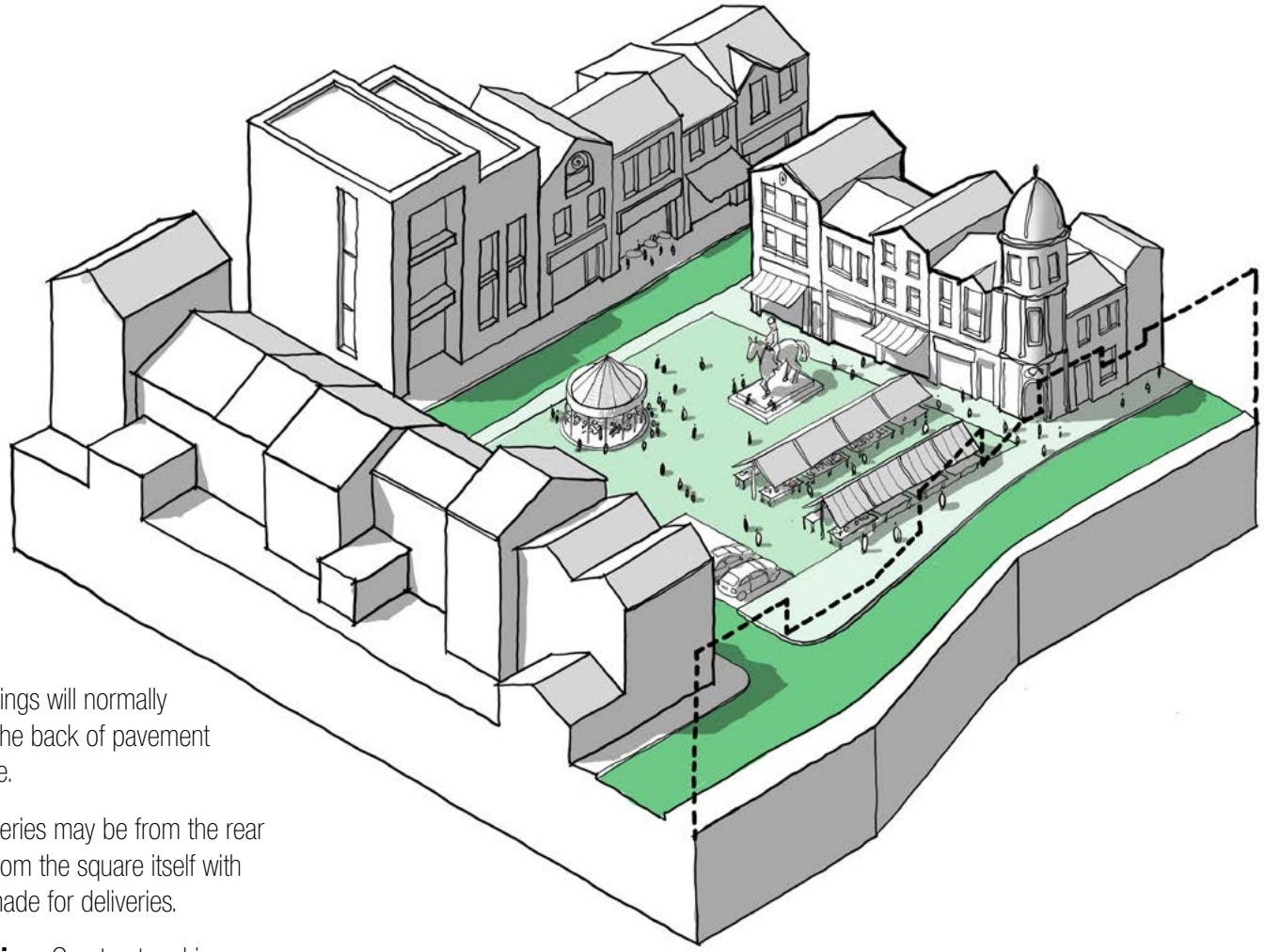
Public uses: Squares may act as a focus for public uses such as educational buildings, churches, pubs, restaurants and cafes. They are also gathering space for uses that draw large numbers of people.

Events: Facilities can be provided for various types of event, ranging from outdoor stages and tiered seating to market stalls, or power supply and lighting.

Traffic: Squares can accommodate some local traffic around their edge, ideally not on all four sides.

Frontage: Buildings can frame a square, take their main access from it and provide a continuous building line around it.

Active frontage: Active frontages need to be provided around a public square, preferably at least two sides of it.



Setbacks: Buildings will normally be positioned at the back of pavement around the square.

Servicing: Deliveries may be from the rear of properties or from the square itself with provision being made for deliveries.

On-street parking: On-street parking may be accommodated either permanently or when not being used for other activities.

Green infrastructure: Trees may be provided within squares. The type of trees and their position will depend on the function of the square, so as not to compromise the flexibility of the space.



P.2.ii Multi-functional Streets

141. Many high streets have been pedestrianised, and where this is done well, it can help boost trade and create a more welcoming environment. Pedestrianisation can be done in various ways – either full time, during shopping hours only or at weekends only. Alternatively, where full pedestrianisation is not appropriate, access for vehicles may be retained but the street design rebalanced to give more road space to walking and cycling. There are often concerns that reallocating road space will have a negative impact on business. However, evidence shows that people who walk and cycle take more trips to the high street over the course of a month than people who drive. Making access to high streets easier by walking and cycling has a proven economic benefit.

P.2.iii Home Zones

142. Home zone principles can be applied on local streets. They are defined in guidance as residential streets where 'people and vehicles share the whole of the street space safely and on equal terms, where quality of life takes precedence over ease of traffic movement'. Vehicle speeds are reduced to walking pace. They can form part of the street hierarchy in new development or be retrofitted into existing streets. Many homes zones use one-way streets and chevron parking to slow traffic and create space for planting and local play space.

63. Home Zones

Surfacing: Home zones often include shared surfacing but can also include low kerbs and separately marked pavements.

Street furniture: Can create sitting areas and act as barriers for cars.

Play: Small play areas create community space.

Planting: The street can accommodate planters and trees.

Cars: Speeds are reduced to walking pace with parking potentially accommodated in chevron spaces.

Signs: Should clearly mark the entrance to the zone.



P.3 Security and Public Space

143. Reducing crime has a significant impact on building strong communities and ensuring the long-term sustainability of a development. The increasing threat of terrorism also needs to be considered in the design of public spaces.

P.3.i Secured by Design

144. Neighbourhoods need to be designed to make all people feel safe and to reduce the incidence of crime in accordance with the recommendations of Secured by Design which includes guidance for housing, commercial space, schools, hospitals and sheltered accommodation. Support and advice is available from the police through a network of Designing Out Crime Officers (DOCOs) across the UK. Secured by Design advice incorporates proven crime prevention techniques and measures into the layout and design of places and spaces.

145. Insecure places can disproportionately affect some of the groups with protected characteristics. Local authorities will need to take this into account when devising and implementing design principles, having regard to the Public Sector Equality Duty, under the Equality Act 2010, which includes the need to have due regard to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Act.



64. Secured by Design Principles

Access and movement: Places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security.

Safe routes: Creating safe routes that are as straight as possible, wide, well lit, without hiding places and well-maintained and overlooked for security and provide a sense of security for all users.

Structure: Places that are structured so that different uses do not cause conflict.

Lighting: Ensuring appropriate and non-obtrusive lighting levels are achieved.

Private space: Creating a clear separation between public and private spaces, avoiding public routes next to back gardens.

Surveillance: Places where all publicly accessible spaces are overlooked.

Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community.

Physical protection: Places that include necessary, well-designed security features.

Activity: Places where the level of human activity is appropriate to the location reduces the risk of crime and creates a sense of safety at all times.

Management and maintenance: Places that are designed with management and maintenance in mind, to discourage crime in the present and the future.

P.3.ii Counter Terrorism

146. The design of town centres, shopping streets and other public spaces needs to take account of potential terrorist attacks. Preventing hostile vehicles reduces the risk of vehicle borne attack and road traffic collisions involving pedestrians. Urban design principles and detailed landscape design solutions need to be considered at the early design stages to mitigate risks.

Further guidance on Hostile Vehicle Mitigation is available in the References section. Local authorities should consult their local police Counter Terrorism Security Advisor for relevant advice.

Check List: Public Space

Local design codes should consider:

P.1 Streets

- A framework plan showing the existing street hierarchy for the authority area.
- Guidance on the design of new - and the upgrade of existing - streets related to the area type that they run through and relating to Manual for Streets.

P.2 Social Interaction

- Guidance on the design of public spaces and squares.
- Multi-functional streets and Home Zones including where they can be used and how they should be designed.

P.3 Security and Public Space

- Guidance on design to increase people's feeling of safety and to reduce incidents of crime.
- Guidance on appropriate and proportionate security measures.

Use

Introduction

147. Sustainable places include a mix of uses that support everyday activities, including to live, work and play. Well-designed places have:

- ☐ a mix of uses including local services and facilities to support daily life;
- ☐ an integrated mix of housing tenures and types to suit people at all stages of life; and
- ☐ well-integrated housing and other facilities that are designed to be tenure neutral and socially inclusive.

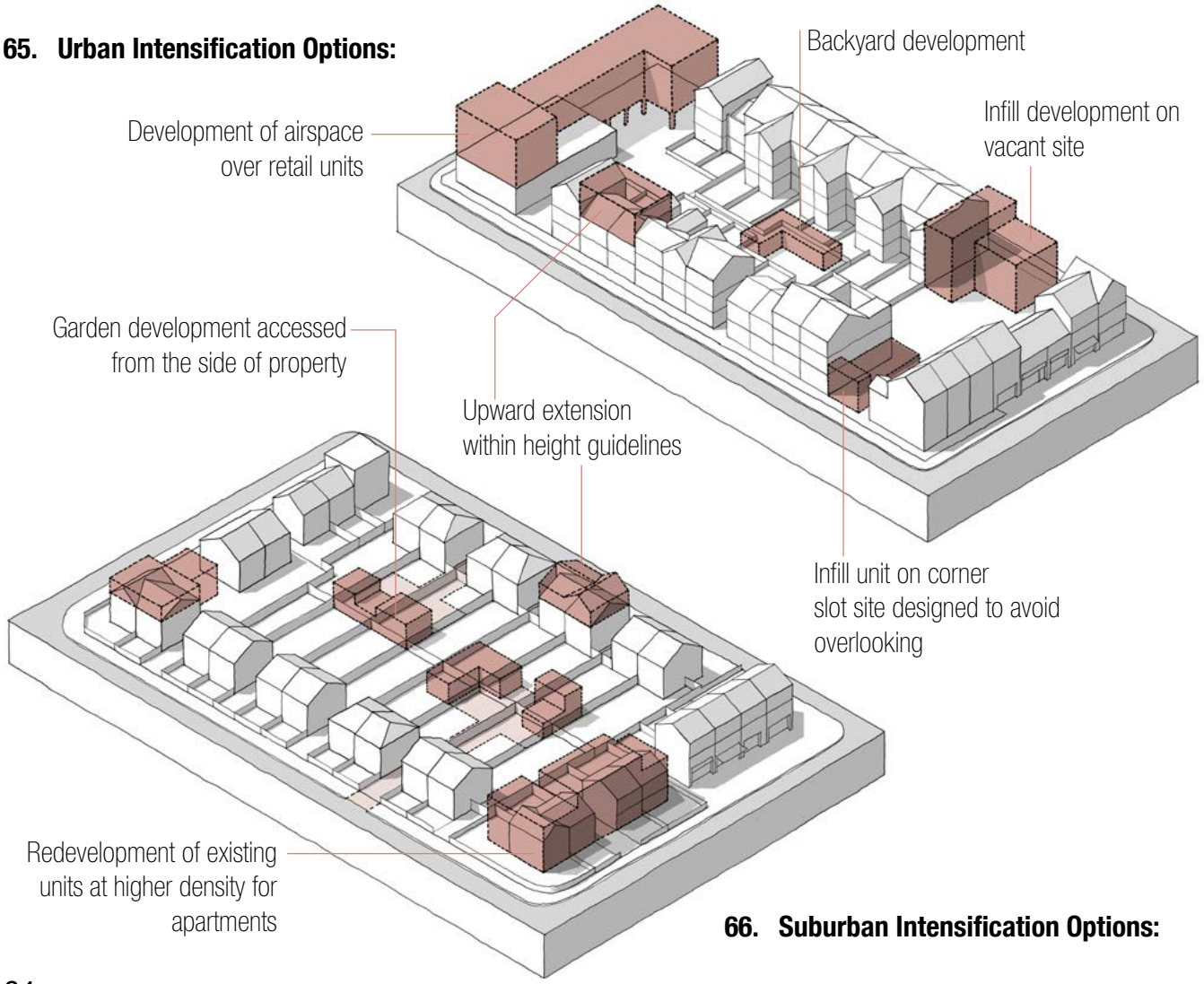
148. Design codes could seek to facilitate a mix of uses that reflect local needs and support community life.



U.1 Variety and Activity

149. Successful places generally contain a mixed community and mix of uses creating variety and activity. The degree will vary within different area types, but opportunities need to be sought in all circumstances to make efficient use of land, promote a mix of uses that meet local needs and create vitality through activity in compact development.

65. Urban Intensification Options:



66. Suburban Intensification Options:

U.1.i Efficient Use of Land

150. Using land efficiently means getting the maximum possible benefit from a site or area, taking into account relevant constraints.

151. This can help to achieve desirable social and environmental outcomes, facilitate the efficient use of resources and infrastructure and reduce pressure on greenfield sites.

152. Efficient land use could involve:

- ☐ Co-locating higher density housing with shops, services and public transport nodes
- ☐ Coding for the intensification of lower density areas that use land inefficiently.
- ☐ Providing substantial, accessible, useable green/public spaces rather than multiple small strips and verges.
- ☐ Consolidating surface parking infrastructure into multi-storey car parks or car barns.
- ☐ Building over surface car parks.

U.1.ii Mix

153. A mix of uses involves the co-location of different types of development within a single walkable area.

154. The correct balance of uses will help increase the amount of activity in an area throughout the day, reduce overall travel, encourage sustainable travel and support shops and services with a critical mass of people. This will contribute to the creation of sustainable and successful places.

155. Design codes could help to facilitate a mix of uses by:

- Coding for specific uses (if a desired mix is known).
- Coding for flexible building typologies in new development that would allow for changing uses over time.
- Flexibility of established use classes.
- Enabling the conversion of existing buildings for different uses.

U.1.iii Active Frontage

156. An active frontage means that buildings have ground (and sometimes upper) floors with windows and doors facing onto the street, creating interest and activity. Related uses might include shops, cafés, commercial premises or services but can also include residential uses.

157. Active frontages can provide informal surveillance opportunities improving the safety of an area and creating vitality through the presence and interaction of people.

158. Active frontages are associated with uses that generate many visits, particularly on foot, over the course of the day. In a primarily residential area, active frontages might be achieved through doors and windows facing onto the street. In a local centre, this might be achieved by coding for active uses at ground floor.

159. Design codes could help facilitate active frontages by:

- Specifying a proportion of building frontage that should be active for each street.
- Specifying a proportion of active uses for a particular area.
- Specifying ground floor ceiling heights to allow flexibility of uses in town centres and high streets.
- Requiring new buildings to have main entrances and windows facing onto the street.
- Encouraging the inclusion of balconies and larger windows for higher density residential.
- Requiring commercial developments to use glazing at ground floor.

67. Active Ground Floor Uses: There are a variety of activities that can create an active ground floor in addition to shops, cafes, restaurants and bars.

Co-housing and student housing schemes can include communal facilities for residents. Office foyers have large windows and can even include cafes and other activities. Studios and workshops for crafts people and small businesses can be located on the ground floor. Community uses can also be included on ground floors and ground floor residential accommodation can also be designed to relate well to the street.



U.2 Housing Mix

160. Successful neighbourhoods contain a rich mix of people, including families and the elderly, young people and students, people with physical disabilities and those with mental health needs. This, in turn, requires a variety of housing in terms of tenure, type and construction.

U.2.i Housing for All

161. There are a wide variety of housing tenures and types with different user and operational requirements, that could form part of new development. Achieving the right mix will help to create diverse, equitable and resilient communities where people are able to access the homes they want or need.

162. The correct mix of tenures and types will depend on the socio-economic context of the local and wider area. Local plans and other local policies will include guidance around housing need and the provision of different tenures.

163. The design code could help facilitate an appropriate mix of tenures and fair approaches to provision by:

- ☐ Providing additional guidance about where the tenures required by local policy should be located.
- ☐ Illustrating the mix of tenures in an area. This could include a combination of the tenures set out opposite.
- ☐ Specifying tenure blind development (i.e. where there is no distinction between the visual appearance and general location of different tenures).
- ☐ Requiring the same shared entrances and facilities are available for all tenants within a building.

SOCIAL HOUSING: Housing provided at controlled rents for people in housing need by registered social housing providers and local

SPECIALIST HOUSING: Independent living, sheltered housing, extra care housing, care homes, inter-generational housing and retirement communities and other specialist

SHARED EQUITY: Housing that is partly sold and partly rented.

AFFORDABLE HOUSING: Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market.

HOUSING FOR YOUNGER PEOPLE: Specialist housing for younger people, student housing, co-living accommodation.

HOUSING FOR SALE: Housing built by private housebuilders for sale including various forms of discounted sale such as first-time buyer schemes and rent to buy initiatives.

PRIVATE RENTED: Housing available at market rents, including institutional investors, are creating bespoke rental blocks in the Private Rented Sector (PRS) often with communal facilities.

SUPPORTED HOUSING: Specialist housing to meet the needs of vulnerable people.

CO HOUSING: That allows people to buy a stake in the development rather than an individual home. This is increasingly popular with community housing schemes.

68. Toolkit of housing tenures

U.2.ii Type

164. Housing type refers to the size, purpose and arrangement of housing.

165. There are a wide variety of housing types and achieving the right mix is another component (along with tenure) of helping to create diverse, equitable and resilient communities where people are able to access the homes they want or need.

166. The correct mix of tenures will depend on the socio-economic context of the local and wider area. Local plans and other local policies will include guidance around housing need and the provision of different types.

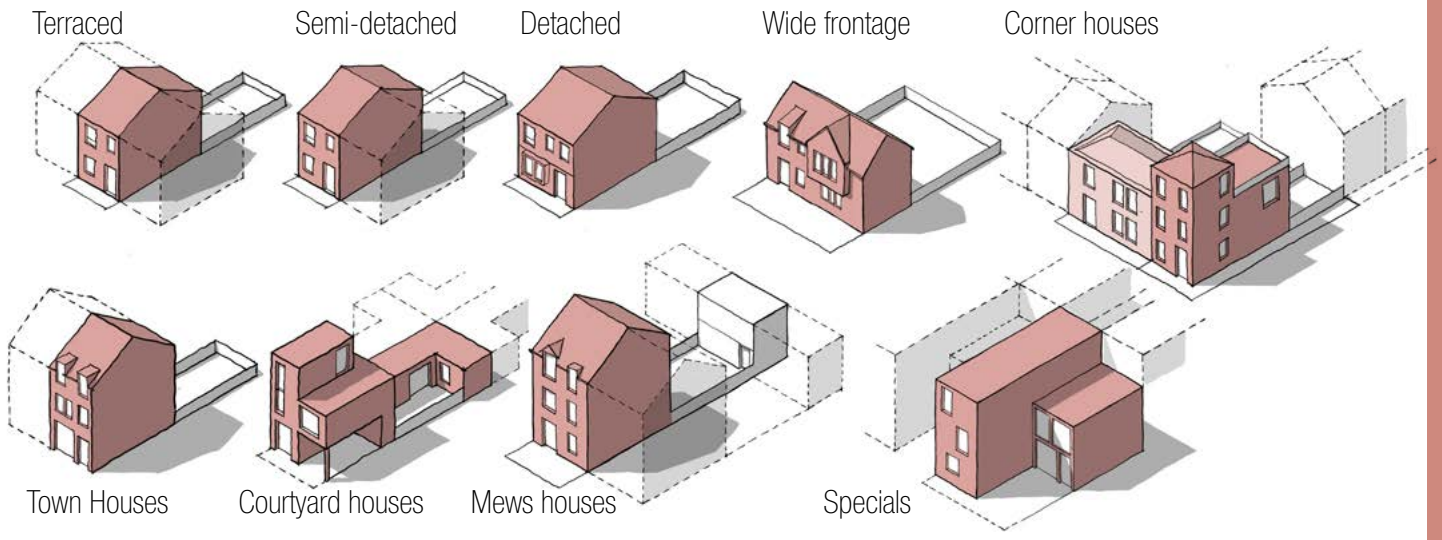
167. The design code could help facilitate an appropriate mix of housing types by:

- ☐ Providing additional guidance about where the types required by local policy should be located.
- ☐ Requiring a particular mix of types in a particular area. This could include a combination of the types set out below.
- ☐ Allowing/encouraging the conversion of existing housing into a different type.

Houses: Self-contained units with ground level access. They can be terraced, semi-detached or detached, with narrow, medium or wide frontages normally with a garden to the front and rear. Special house types may be appropriate for higher density schemes. These can include courtyard units, mews blocks, corner blocks and house types that sit below or above other accommodation while maintaining a ground floor access.

Apartments: Self-contained dwellings accessed from communal space. The most common form is the single aspect apartment which can cause environmental issues in terms of light and ventilation. Gallery access and limited apartments per core can facilitate dual aspect apartments that address such issues.

69. Toolkit of Housetypes:



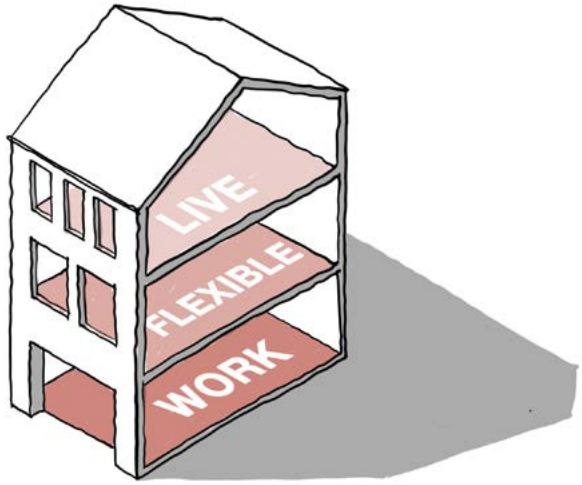
Live work units: All homes should preferably be designed with the flexibility to be used for homeworking. Live/work units go further by providing workspace on the ground floor, a flexible first floor and living accommodation above.

Shared housing: Including multi-generational homes and private rented schemes for single adults to share.

Specialist housing: Housing for older people and those with other needs. Retirement communities, independent living, sheltered housing, extra care, assisted living, care homes including nursing homes, residential homes and and high dependency units.

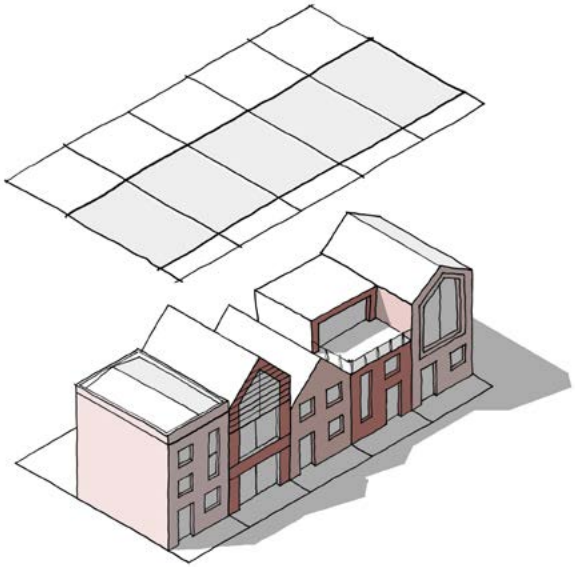
Co-housing: Schemes can be made up of a combination of the units described above with shared meeting, dining and leisure facilities.

Self-build and Custom-build: Homes built to the plans or specifications decided by their occupants. Design codes can facilitate self and custom-build homes both on infill sites and on larger schemes where plot-based masterplans enable individuals to build or commission their own homes.



70. **A live/work unit:** With ground floor workspace, top floor housing and a flexible middle floor that can be used for either.

71. **Custom-build homes:** New homes built on serviced building plots where homes are designed or customised for the occupant and the purchaser has input into designs. Custom build can include different house types and tenures.



U.3 Community

168. Local community is fostered by a mix of housing and public spaces and the type of activities permitted within them. It is also nurtured by community involvement in design and management (see Lifespan section). It is important to provide a mix of community facilities integrated into the scheme, including schools, healthcare, other local facilities and community spaces.

U.3.i Schools

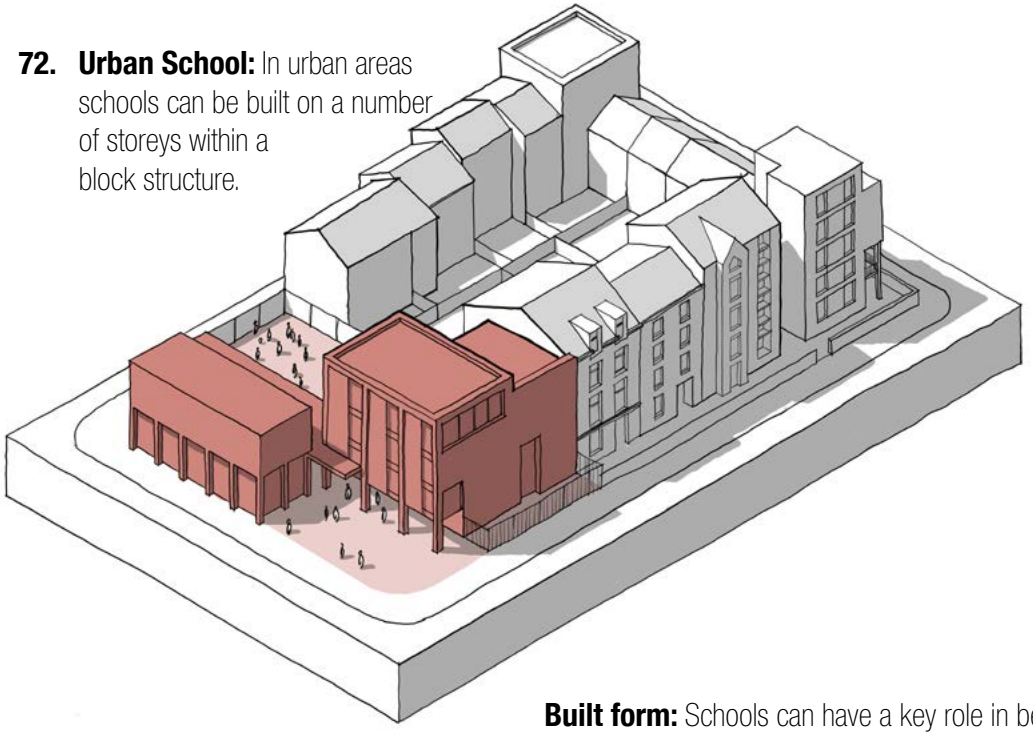
169. Schools and nurseries comprise an important part of the community facilities serving an area. They can provide a focus for community life and incorporate important facilities beyond educational uses. They can also create activity that supports local shops and other services. Guidance on the provision, land requirements and design of schools is provided by the Department for Education.

170. Schools need to be located to be as accessible as possible to the communities which they serve and to provide maximum support to local shops and services. There needs to be sufficient provision to serve local need where appropriate.

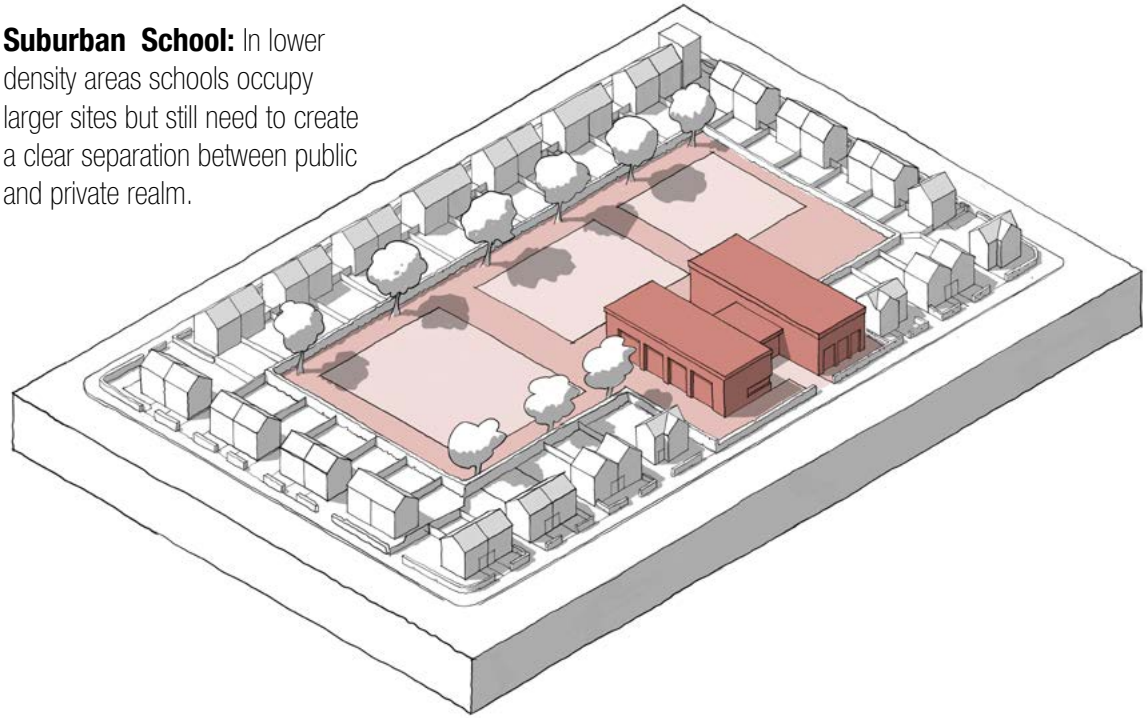
171. Design codes could support the positive delivery and integration of schools into the urban fabric by the following measures. Guidance on design codes for schools to be provided by the Department for Education.

- ☐ Suggesting locations for schools that maximise usability for the community and supports local shops and services, where appropriate.
- ☐ Providing guidance on factors that need to be considered when integrating a school into a neighbourhood (e.g. noise, traffic congestion, overlooking).
- ☐ Providing guidance on the design of schools, taking into account the following components:

72. Urban School: In urban areas schools can be built on a number of storeys within a block structure.



73. Suburban School: In lower density areas schools occupy larger sites but still need to create a clear separation between public and private realm.



Built form: Schools can have a key role in being nodes/markers and as public buildings could have a different character/scale/form from the main fabric of a settlement.

Building line: New school buildings could face onto streets and squares and could relate to the identified building line. Set-backs may be appropriate to create a setting for the building.

Height: Heights of school buildings will be determined by DfE guidance and could be appropriate to the area types in which they sit.

Access: There may be separate entrances for children and visitors, and the former will need to take account of school drop-off and collection while encouraging active travel with car use and parking reduced where possible. Entrances need to be from the street or public places.

Public and private space: A key issue is the management of public and private space. Ideally the setting of the school building and associated safeguarding measures would consider the transition from the street into the managed space of the school.

U.3.ii Community Facilities

172. Community spaces are those that can be used by the wider public or specific resident groups for a range of activities. They play a vital role in the social life of communities, acting as a self-organising public service and supporting community cohesion. They can also create activity that supports local shops and other services.

173. Such spaces need to be located to be as accessible as possible to the communities which they serve and to provide maximum support to local shops and services. There needs to be sufficient provision to serve local need.

174. Design codes could support the positive delivery and integration of community spaces into the urban fabric by:

- Requiring the provision of community spaces within new development dependent on scheme size and mix.
- Providing guidance about the location and design of community spaces to maximise accessibility to the community, minimise disruption and ensure security/safety.
- Allowing/encouraging the conversion of existing buildings to community uses.

1.Cultural and community facilities: village halls, community hubs and other cultural facilities.

2. Local shops: The design code needs to provide guidance for the design of and access to local shopping facilities.

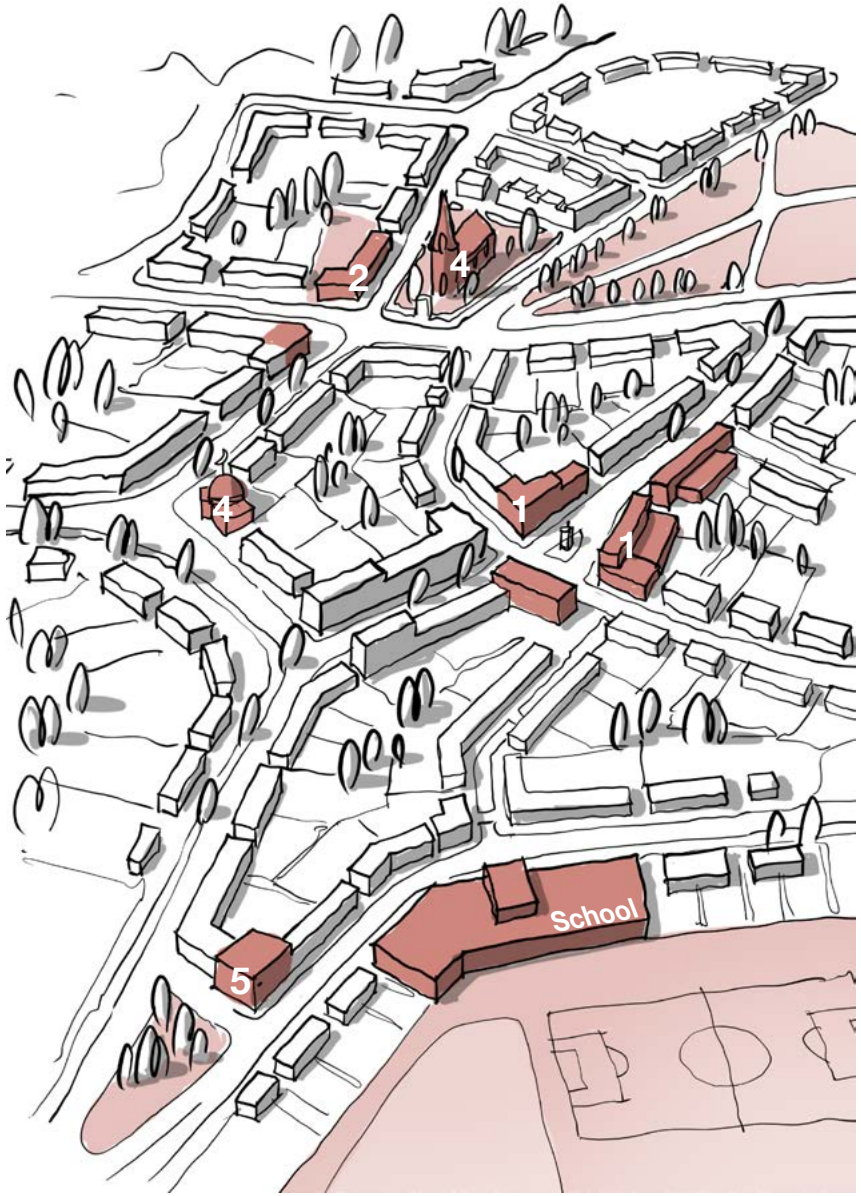
3. Pubs/cafés: Local shops can include cafés and other food and beverage uses where people can meet and, increasingly, work.

4. Medical facilities: All areas need medical facilities, including doctor's surgeries, district nurses, dentists and chemists. GP's mostly work in group practices in health centres, so only the largest schemes will be required to include them. Health facilities need to be in accessible locations at the heart of a community and planned in co-operation with relevant health and care organisations.

5. Places of worship: New buildings for religious worship are an important community function as places of congregation and community and need to be integrated into new development.

6. Homeworking hubs: Homeworking employees can support local facilities and there may also be scope to provide facilities to support home workers. Hubs include meeting spaces, shared resources such as printers, and even a delivery address.

74. Local facilities that should be accessible in all neighbourhoods:



U.3.iii Local Services

175. There are a number of other services that provide a vital function in supporting community life and reducing the need for travel (U15).

176. Ideally people need to be able to meet most of their day to day needs within a walkable radius of their home.

177. Design codes could support the positive delivery and integration of local services into the urban fabric by:

- ☐ Requiring the provision of local services within new development dependent on scheme size and mix.
- ☐ Providing guidance about the location and design of local services to maximise accessibility to the community and support for existing shops and services.
- ☐ Allowing/encouraging the conversion of existing buildings to local services.

Check List: Use

Local design codes should consider:

U.1 Variety and Activity

- The intensification of existing areas including in which area types it is appropriate and including guidance on how it should be done.
- The provision of a mix of uses in each area type and on how this should be measured.
- The provision and design of active frontages for each area type.

U.2 Housing Mix

- The mix and integration of housing tenures and achieving tenure-blind development.
- The mix of house types and tenures.
- Live-work units, how they are defined and where they can be located.

U.3 Community

- The design and location of urban and suburban schools.
- The design and location of community facilities.
- Accessibility, mix and design of local services.

Homes and Buildings

Introduction

178. Well-designed homes and buildings are functional, accessible, inclusive and sustainable. They provide attractive environments that support the health and wellbeing of their users. They meet a diverse range of needs, are adequate in size, fit for purpose and adaptable. They relate positively to the spaces around them and allow for easy operation and servicing.

179. Design policies can support the development of well-designed homes and buildings by addressing space standards, accessibility, adaptability, lighting, privacy, security and the delineation of public and private spaces.

180. The requirements in this section need to be balanced against other design code considerations and the detail design of inter-related requirements resolved at project level.



H.1 Housing Quality

H.1.i Space Standards

181. Space standards are minimum requirements for internal space within new dwellings and include Gross Internal (floor) Area, and dimensions for key parts of the home including bedrooms, storage and floor to ceiling height. They help to ensure that new homes contribute to the health, family function and wellbeing of residents.

182. Space standards are set at a national level by the Nationally Described Space Standards 2015 and are optional for local planning authorities to adopt, subject to local plan viability testing and approval by the Planning Inspectorate.

183. Design codes can support the delivery of housing quality by including Nationally Described Space Standards. These need to be included in local plans or design codes that are adopted in local plans.

75. Nationally Described Space Standards

Number of bedrooms	Number of bed spaces (persons)	1 Storey dwellings	2 Storey dwellings	3 Storey dwellings	Built-in storage
1b	1p	39(37)*			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	
4b	5p	90	97	103	3.0
	6p	99	106	112	
	7p	108	115	121	
	8p	117	124	130	
5b	6p	103	110	116	3.5
	7p	112	119	125	
	8p	121	128	134	
6b	7p	116	123	129	4.0
	8p	125	132	138	

H.1.ii Accessibility

184. Accessible homes can be easily reached, entered and used by everyone, regardless of age and physical ability. Providing accessible housing is important in ensuring that the needs of older and disabled people are met, as well creating the flexibility for homes to meet the changing needs of individuals and families at different stages of life. Doing so allows people to remain within the community, contributing to their individual wellbeing and the social cohesion of the area.

185. At a national level building regulations set out three categories of accessibility and local planning authorities are expected to set requirements for accessibility that reflect local needs. Design codes can support the delivery of accessible housing by requiring a percentage of development, or development delivered in certain areas, to meet the standards for the higher categories (2 and 3). These need to be included in local plan policy and can be referenced in the code.

H.2 Health and Wellbeing

186. A considerable amount of time is spent daily in the home environment. Internal home quality and its immediate surroundings are key determinants of the health status of the general population and those from vulnerable and protected characteristics groups.

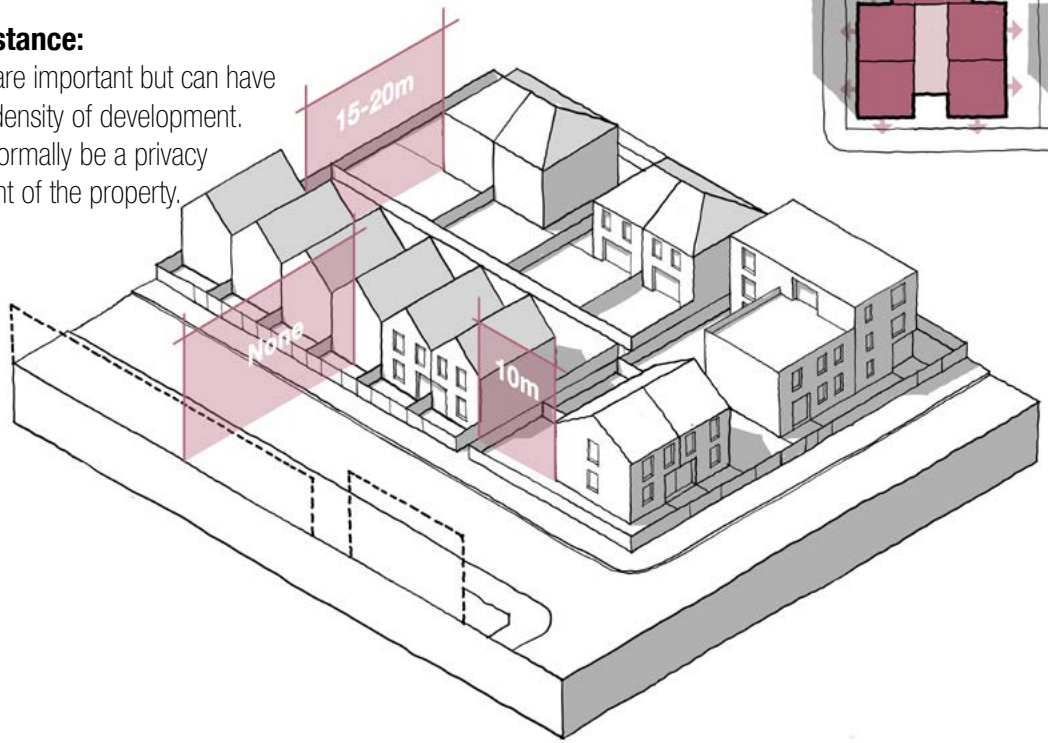
187. The built environment has a significant impact on people's health and wellbeing. This relates across the design code with regard to walkable neighbourhoods, access to greenery and recreation, attractive buildings and public spaces, space standards, and strong communities. There are also specific elements relating to the impact of the design of homes and buildings that affect wellbeing including daylight, aspect and privacy, noise mitigation, security and access to private outdoor space.

H.2.i Lighting Aspect and Privacy

188. Good quality housing creates a pleasant indoor environment with adequate levels of natural lighting, and sunlight, without problems of overheating, good quality ventilation, privacy from overlooking and minimal noise impact. In preparing design codes, consideration needs to be given to:

- ☐ Internal layouts that maximise access to natural daylight.
- ☐ Appropriate levels of glazing to ensure adequate internal lighting without problems of overheating. (see Section R1)
- ☐ Dual aspect apartments particularly on north facing blocks.
- ☐ Application of privacy distances and their effect on layout.
- ☐ Front gardens and privacy strips.

76. Privacy Distance:
Privacy distances are important but can have an impact on the density of development. There would not normally be a privacy distance at the front of the property.

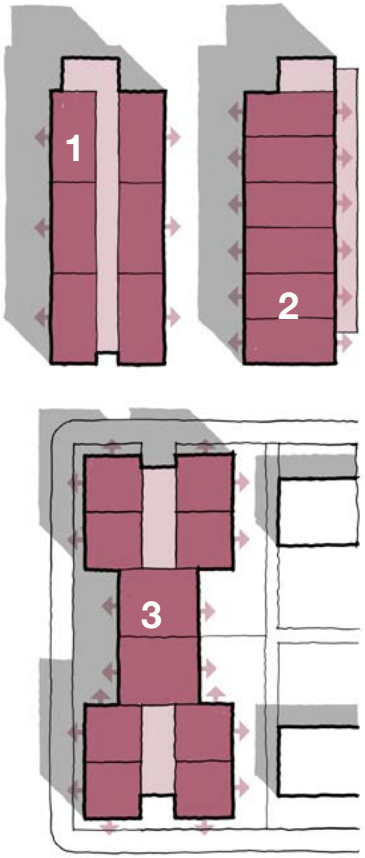


77. Dual Aspect Apartments:

1. Single aspect flats should not face north.

2. Apartments accessed from a balcony have two aspects.

3. Walk-up apartments can also be designed so that every apartment has two aspects



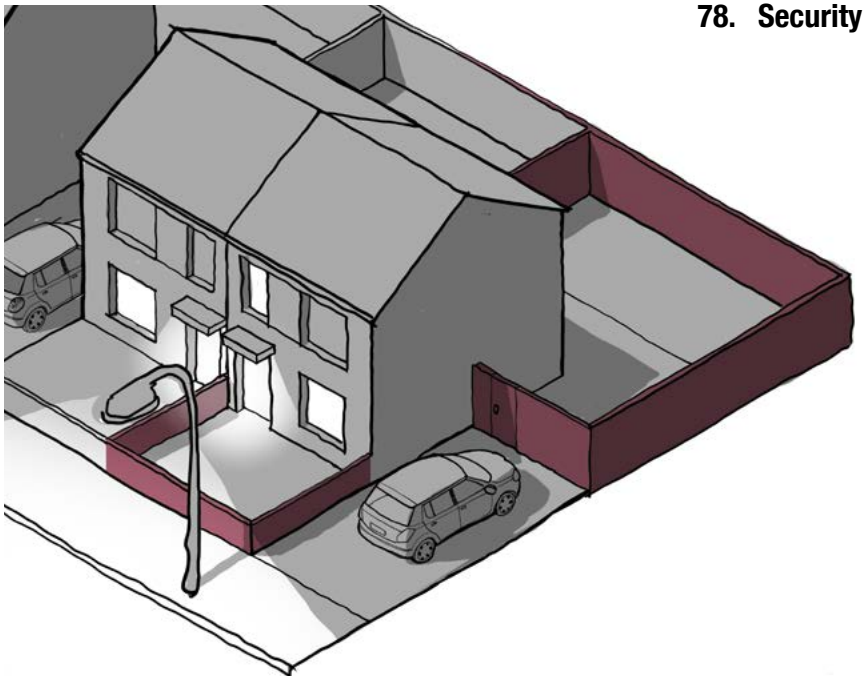
H.2.ii Security

189. People's feeling of security within their home is influenced by the design of the home and the way that it relates to its neighbours. This also relates to gardens and the security of parked cars and bikes.

190. The layout of dwellings should ensure that homes and places are easy to move around and safe and secure as set out in Secured by Design guidance. Layouts need to ensure natural surveillance from buildings to public spaces, encourage community interaction, engagement and participation and environmental control.

191. Housing plots need to include fences to the rear and defensible space/front gardens at the front with a boundary treatment or planting to keep people away from windows. (see Section P.3.i).

192. In suburban area types cars parked on plot will be more secure. Where rear parking courts are necessary, consideration needs to be given to security, through natural surveillance or gating. Bike parking should also be secure and where possible in the curtilage of the dwelling.



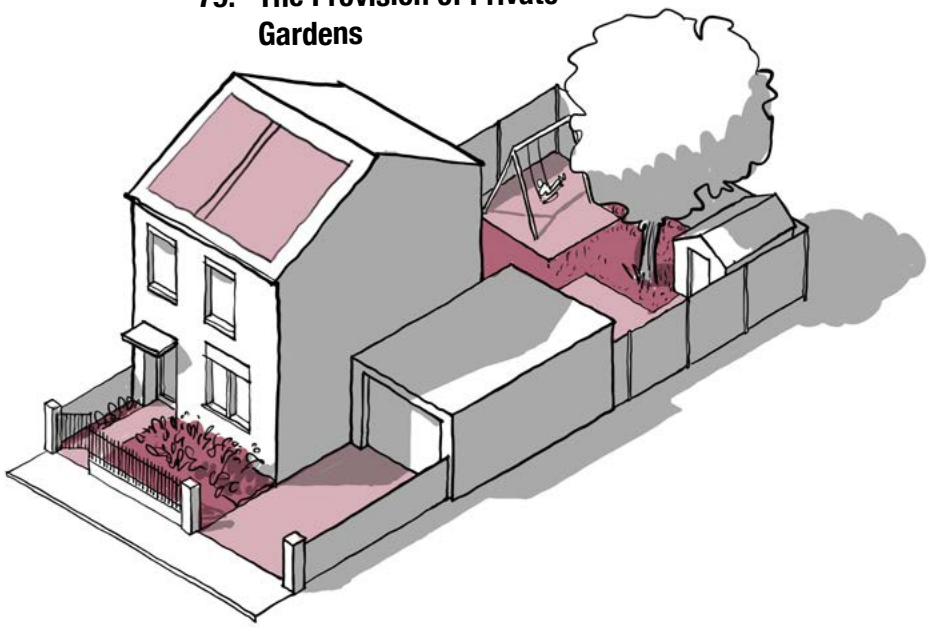
78. Security and the Home

H.2.iii Gardens and Balconies

193. Access to external private space is important for people's wellbeing. Design guides may include minimum standards for the provision of private open space.

194. This may include the size of back gardens related to the size or expected occupancy of the home. It may also include a requirement for a setback of the home from the street (see Section B2:ii) and provide guidance for how this is treated including the boundary treatment, such as a wall, hedge or fence.

195. Guidance may also be provided about the provision and size of balconies on apartments.



79. The Provision of Private Gardens

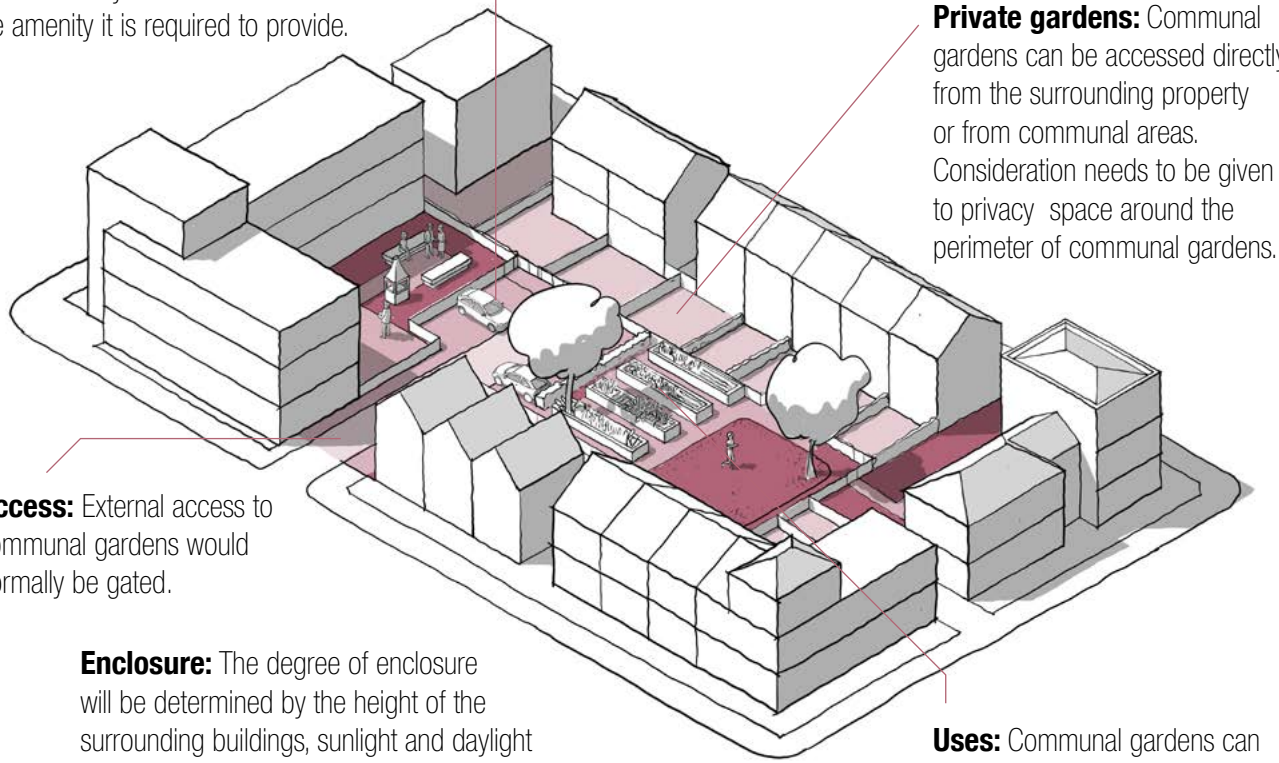
Communal Gardens

196. Communal, semi-private space can be provided for residents within urban blocks which is not accessible to the general public and is generally situated with perimeter blocks accessible either by communal entrances or direct from properties.

80. Principles of Courtyard Design.

Parking: Parking of vehicles and cycles within communal gardens needs to be separate from amenity uses. Communal gardens can be created over basement or semi-basement parking and the design of the garden can incorporate ventilation for the parking.

Scale: The size of the space will be determined by the scale of the block and the amenity it is required to provide.



Private gardens: Communal gardens can be accessed directly from the surrounding property or from communal areas. Consideration needs to be given to privacy space around the perimeter of communal gardens.

Access: External access to communal gardens would normally be gated.

Enclosure: The degree of enclosure will be determined by the height of the surrounding buildings, sunlight and daylight criteria and environmental factors.

Uses: Communal gardens can include a range of communal uses leisure, health and wellbeing activities and social uses and meeting rooms.

Check List:

Local design codes should consider:

H.1 Housing Quality

- Whether the Nationally Described Space Standards are to be applied locally. This is subject to tests on need and viability and should be referenced to the local plan.
- Whether local policy will include a requirement for homes to meet Building Regulations M4(2) accessible and adaptable standard or M4(3) wheelchair user dwelling standard.

H.2 Health and wellbeing

- Measures to promote the health and wellbeing of residents, including:
  - Privacy distances
  - Internal daylight and sunlight
  - Dual aspect homes
- The application of Secured by Design principles to the home and its surroundings.
- The provision of private open space including gardens and balconies.
- The provision and design of communal open spaces.

Resources

Introduction

197. Well-designed places and buildings conserve natural resources including buildings, land, water, energy and materials. Their design responds to the impacts of climate change by being energy efficient and minimising carbon emissions to meet net zero targets by 2050. It identifies measures to achieve: mitigation, primarily by reducing greenhouse gas emissions and minimising embodied energy; and adaptation to anticipated events, such as rising temperatures and the increasing risk of flooding.

198. A compact and walkable neighbourhood with a mix of uses and facilities reduces demand for energy and supports health and wellbeing. It uses land efficiently so helps adaptation by increasing the ability for CO2 absorption, sustaining natural ecosystems, minimising flood risk and the potential impact of flooding, and reducing overheating and air pollution.

199. Forthcoming changes to environmental performance standards set out in the Future Homes Standard will be included in the Building Regulations and applied nationally in order to meet zero- carbon targets. The following elements can be addressed locally, and these can be included in design codes.



R.1 Energy

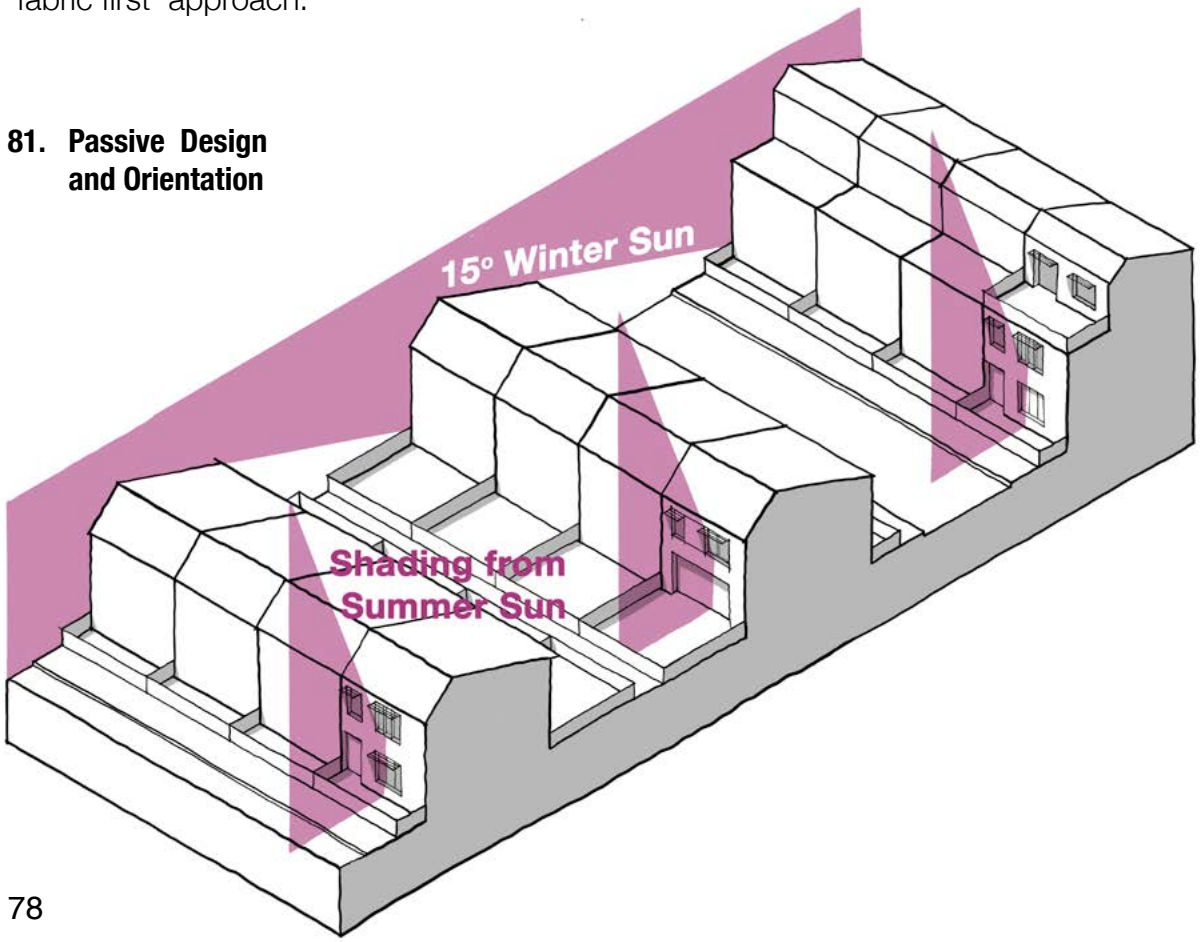
R.1.i Energy Hierarchy

200. The Energy Hierarchy is a classification of energy options, prioritised to assist progress towards a more sustainable energy system. Design codes can include a local energy hierarchy based on energy efficiency standards, renewable energy sources and renewable energy networks, following a 'fabric first' approach.

R.1.ii Energy Efficiency

201. Local authorities can set policies for higher energy efficiency standards for their area or in relation to specific development sites in local plans or design codes that are adopted in local plans. The materials, construction and orientation of buildings dictate their energy efficiency. There are multiple ways of reducing energy waste. In developing policies, consideration should be given to improving energy efficiency, which may address the selection of materials for thermal and solar performance, retrofitting existing buildings, design and orientation construction techniques and assessing whole life costs. These requirements need to be integrated with other design code considerations and the detail design of inter-related requirements resolved at project level.

81. Passive Design and Orientation



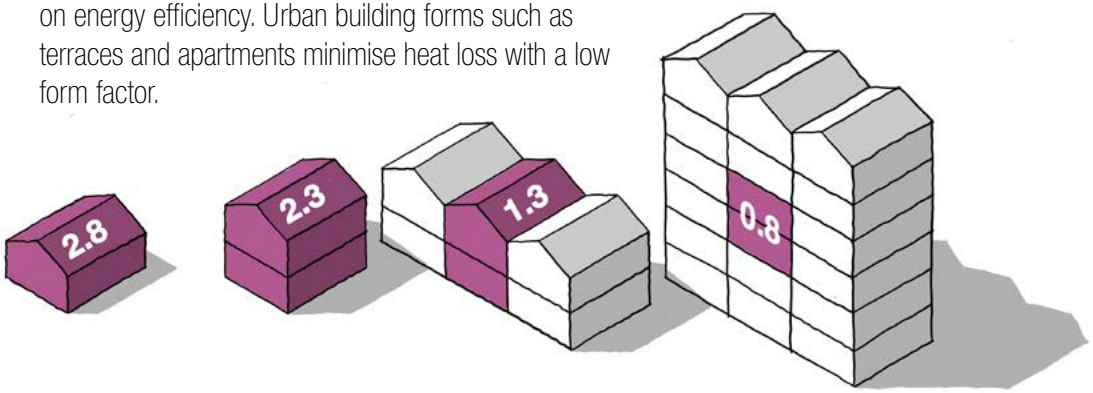
Passive design: The layout and orientation of new buildings contributes to reducing their energy needs by avoiding overshadowing, maximising passive solar gain, internal daylight levels and ventilation.

Solar energy generation: The layout and orientation of roofscapes need to maximise opportunities for solar PV generation with south-facing roof space and the use of reflective surfaces.

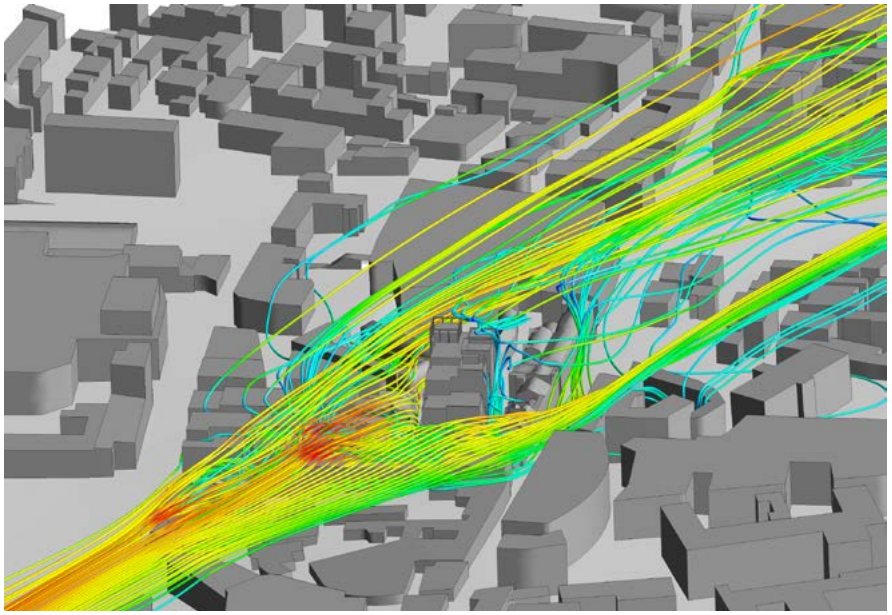
Other technologies: consider adequate space in masterplanning and plots for homes for new and emerging technologies such as ground and air source heat pumps for example.

Orientation: Ensuring good levels of natural lighting to habitable rooms whilst minimising the risk of overheating, provides benefits for both health and energy efficiency. Careful modulation of heights and roofscape can maximise the sunlight to each unit. South facing single aspect homes that lead to overheating and north-facing single aspect flats needs to be avoided.

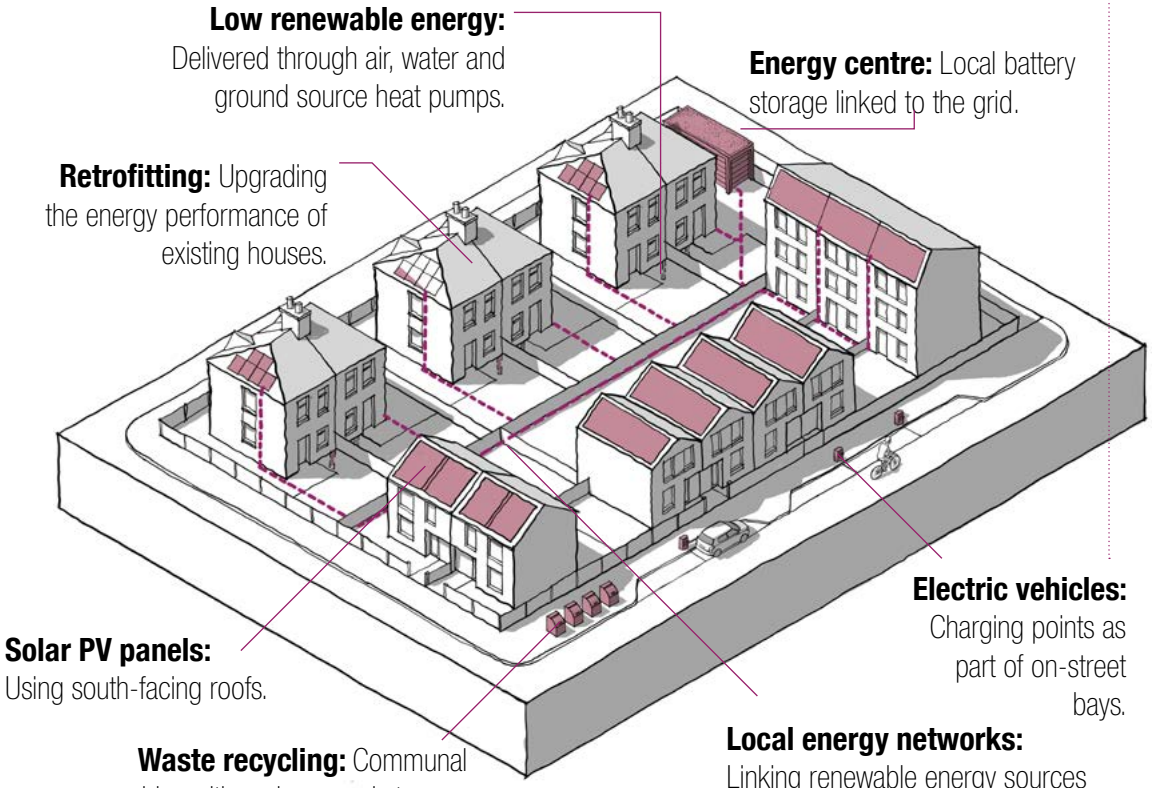
82. Form Factor: Is the proportion of floor area to external wall area and can have a significant impact on energy efficiency. Urban building forms such as terraces and apartments minimise heat loss with a low form factor.



83. Micro-climate: Schemes needs to consider micro-climate, particularly wind impact on exposed sites or where taller buildings are proposed. This affects the usability of the public realm and the energy demands of buildings.



84. Low Carbon Low Energy Networks:





202. The design of windows needs to consider orientation to balance heat loss and beneficial solar gain, daylight and sunlight. Southern-facing glazing can be beneficial in contributing to overall energy demand in winter. It can lead to overheating in summer and excessive heat loss on cold cloudy days in winter. Glazing needs to be sized appropriately for context and passive measures such as external shading devices or provision for future installation of shading devices needs to be considered to reduce reliance on mechanical ventilation.

R.1.iii Neighbourhood Energy Issues

203. Some energy issues are most appropriately dealt with at the level of the neighbourhood rather than at building level. Design codes can address neighbourhood level issues that contribute to meeting energy efficiency targets, support supply and demand at the local level and reduce transmission losses. See Figure 84.

R.2 Sustainable Construction

204. Sustainable construction is the practice of creating buildings using processes that are environmentally responsible and resource efficient. Design codes can include guidance on sustainable construction including embodied energy, approach to construction and use of water.

R.2.i Embodied Energy:

205. Embodied energy is the energy consumed by all the processes associated with the production of a building.

206. Reducing embodied energy can be achieved by remodel and reuse of buildings where possible rather than rebuild, using low energy materials, designing to use materials efficiently, reducing the energy used in construction, the re-use of materials and design for disassembly and adaptability so that the carbon locked in the building can be retained or reused in future. This can be achieved by:

- ☐ Reuse and refurbishment in preference to new construction.
- ☐ Embedding circular economy principles to reduce embodied carbon / energy and reduce waste
- ☐ Energy used in construction.
- ☐ Reuse of materials.
- ☐ Design for disassembly.
- ☐ Foundations that accommodate trees.

R.2.ii Sustainable Construction

207. All demolition and construction processes and materials production and application have environmental impacts. In addition to embodied energy, issues relate to the impacts of extraction, pollution, ozone, water extraction, and waste disposal. Design codes can include standards and guidance that address these issues.

R.2.iii Modern Methods of Construction:

208. ‘Modern methods of construction’ is a term that embraces a range of off-site manufacturing and on-site techniques that provide alternatives to traditional housebuilding. Such techniques can contribute to the efficient use of resources. Design codes could encourage innovative methods of off-site construction and modular production to improve building performance, productivity, waste reduction

and design for the circular economy. Design codes can include guidance that supports modern methods of construction by setting regular plot widths and encouraging the replication and repetition of plan types and layout elements. They can be used to limit requirements that make these methods more difficult to apply, such as excessive variety of form where this does not contradict the rhythm, building form and variety of the local context.

R.2.iv Water Saving

209. The design of buildings and places can contribute to the efficient use of water. Climate change and associated weather events mean that water supply is becoming less predictable and areas of the UK are subject to water stress. Design codes can provide guidance and regulation around water saving which may address rainwater harvesting, dual potable and grey water recycling systems and requirements for "water neutrality" for new development and include reference to Optional Technical Standards for water efficiency standards.

Check List: Resources

Local design codes should consider in the context of relevant local plan policies:

R.1 Energy

- Energy efficiency standards and whether /how they apply to all or part of the area, if exceeding building regulations.
- Neighbourhood energy design including passive design, orientation and form factor.
- Renewable energy strategy.
- Local low energy networks.

R.2 Sustainable Construction

- Embodied Energy targets.
- Whole life carbon targets.
- BREEAM or other best practice targets as appropriate.
- Water saving measures and how they can be achieved.

Lifespan

Introduction

210. Well-designed places sustain their beauty over the long term. They add to the quality of life of their users, and as a result, people are more likely to care for them over their lifespan. They have an emphasis on quality and simplicity.

211. Places designed for long-term stewardship are robust and easy to look after, enable their users to establish a sense of ownership, adapt to changing needs and are well maintained.

212. Design codes can address a number of factors that influence the lifespan of places.



L.1 Stewardship

L.1.i Management Plan

213. Management and maintenance of places incorporate the processes associated with preserving their quality or condition. Good management and maintenance contribute to the resilience and attractiveness of a place and allows communities to have pride in their area.

214. In preparing design codes consideration needs to be given to:

- Management of public spaces, including streets and open spaces that will be adopted by local authorities and highways authorities, and shared spaces where these may be jointly or privately managed.
- Long term management plans for new development which might include individual residents and businesses managing private space, adoption by a public authority, the use of management companies or management by the community.
- Areas for adoption with information on layout, materials, construction details and landscaping.

86. Management Plan:

- Land to be adopted by the highway authority.
- Land to adopted by the council landscape maintenance arm.
- Land managed by a management company.
- Land managed by householders.



L.1.ii Participation in Design

215. A process for community participation in the production of codes is set out in Part 1.3. It is also important that participation is integrated into the process of developing masterplans for individual schemes.

216. Processes of participation, consultation and co-design improve transparency, help to build trust, allow for valuable local knowledge to be gained, increase a sense of ownership over the completed development and help to build community cohesion and stakeholder buy-in.

217. Design codes can support meaningful participation by requiring and providing guidance on participatory processes for new development.

L1.iii Community Management

218. Community management is the management of a common resource by the people who use it through the collective action of volunteers and stakeholders. The community management of neighbourhoods is a valuable way of engendering a sense of ownership and responsibility as well as building social cohesion.

219. In preparing design codes, consideration can be given to how a strategic approach to community management and stakeholder engagement can be facilitated:

- ☐ Informal community management groups
- ☐ Neighbourhood Planning Groups
- ☐ Community management of public spaces
- ☐ Community management of buildings and facilities
- ☐ Community management of local energy networks
- ☐ Community Land Trusts
- ☐ Community housing such as cooperatives and co-housing

Check List: Lifespan

Local design codes should consider including:

L.1 Stewardship

- Stewardship plan and when it will be required.
- Guidance on adoption of public areas.
- Levels of community engagement expected prior to a planning application.
- Guidance on facilitating community management.

Community Engagement



Introduction

220. When preparing design codes, communities need to be involved at each stage of the process. The advice set out below needs to be considered in order to gain measurable community support for design codes. It needs to be proportionate to the scale and location of the development, recognising that some aspects of the development process are complex, some community groups are harder to reach, and that the occupants of new development are hard to identify. The form and approach for community engagement needs to be decided locally and co-designed with community groups. Local planning authorities should refer to planning practice guidance on plan-making, including the Statement of Community Involvement.

221. The community involves all people living and working in and around the area for which the code is being produced together with local interest groups, stakeholders and elected representatives.

222. The consultation process will involve:

- ☐ identification of the areas where the code will apply
- ☐ definition and mapping of area types
- ☐ masterplanning of development areas.
- ☐ content of the design code
- ☐ application of the design code and how it influences individual schemes

223. The process should be transparent and collaborative and precede each stage of the design code production. Engagement activities should be appropriate to the scale of the relevant area, with some elements of engagement taking place across the authority, and some at the settlement and neighbourhood level, to match stakeholder interests. At each stage, it should be easy for participants to engage with the process and see how their inputs have been used to develop the next iteration.



Tools and Techniques

224. The guidance set out in *Planning Practice Guidance, Design: Process and Tools*, provides advice on how methods of engagement should be appropriate for access by all people. There are a range of in-person and digital engagement tools that can be used. Each have advantages and disadvantages for reaching different sections of the community. Using a combination of different techniques should be considered to reach the maximum number and range of people.

225. New digital technologies and applications are being developed and the process for engagement and measuring support will evolve over time. Local planning authorities will need to apply a balance of face to face and digital techniques appropriate to their circumstances and the type and scale of development.

87. Engagement Tools

- **Visual preference surveys:** to understand buildings, places, and streets that local people prefer, dislike or would like to improve.
- **Place assessment tools:** such as tools like Placecheck and Spaceshaper.
- **Structured workshops and charrettes:** hands-on events to explore the challenges and opportunities of a site or area, analyse options or develop design proposals at various stages in the process.
- **Community panels or forums:** to ensure the voice of the community is considered through formal and informal structures.
- **Drop in events and exhibitions:** to provide the opportunity to discuss the proposals with the consultation team and provide feedback in-person or via a questionnaire.
- **Design review panels:** for peer group review at key stages to test the content and application of design codes. These could include community representation and professionals that are knowledgeable about the area for coding.

Digital engagement tools: The use of digital techniques can help to engage with hard to reach groups in the community, such as younger people, and can be used in addition to in person techniques referred to above.

- **Social media platforms, apps, email campaigns and websites:** can be used to promote in person events but could also be used to share information, allow online participation in consultation processes and get feedback.
- **Digital models of design codes and their context, area or sites:** to help to visualise concepts and the wider effects of development. These might include the use of gaming platforms to engage younger audiences in exploring spatial design.
- **Other visualisation techniques for three dimensional models:** to provide the community with a visual appreciation of the proposals.
- **Community level data gathering:** to gauge levels of support for particular ideas along with accessible, transparent representation so the community can see the views of the whole community reflected statistically.

Who is Responsible?

226. This will depend on the scale at which the code is being considered. The engagement process for the design code at the authority level may be set up and managed by the local planning authority, while for specific development sites, the developer may be expected to manage the process.

227. The team responsible for producing a code will need to be an inter-disciplinary team of built environment professionals and may include architects, landscape architects, urban designers and local planning authority officers.

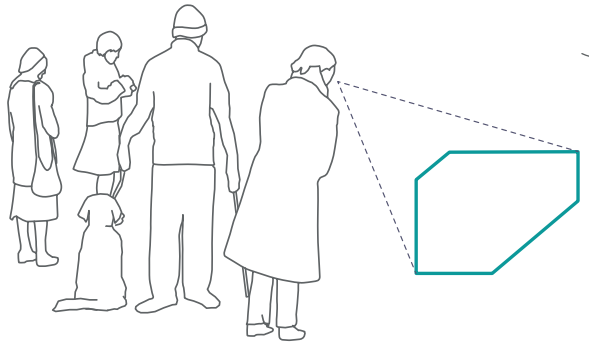
228. Independent facilitators may be appointed to offer design capacity-building to support community engagement and help build a shared understanding through the design process. Specialists in community engagement processes such as community planners could act as an interface with the local planning authority or the developer.

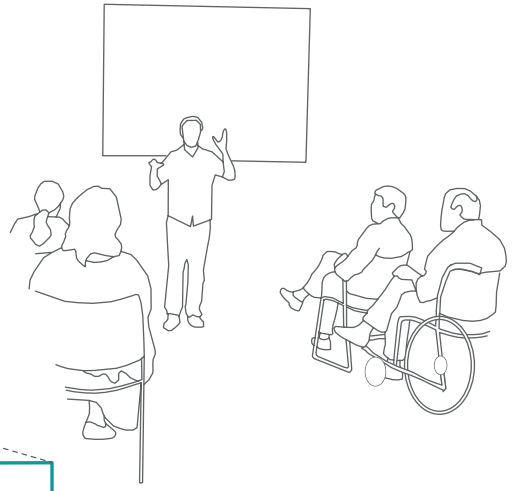
Initial Engagement

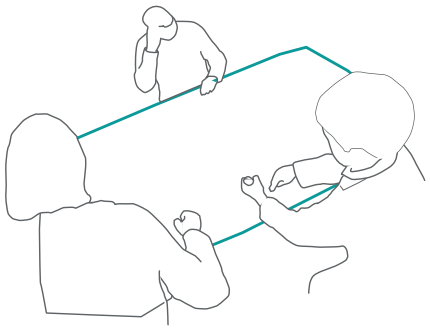
229. Those leading the engagement will need to build the knowledge of the community about the purpose, application and development of design codes. It is important to provide participants with the right tools and information to engage fully. This could involve training at the outset to raise awareness and build skills. There may be a need for a period of networking, research and conversations to build a map of key interests and stakeholders. Initial engagement may include the actions set out in the box opposite.

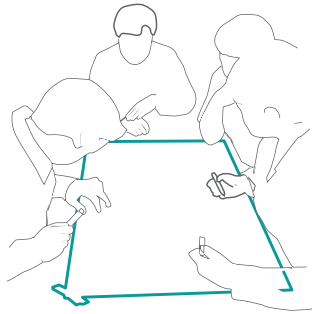
88. Initial Engagement

- Meeting with community representatives, stakeholders, councillors, neighbourhood planning groups, and external consultees to explain the process and the role of a design code.
- Surveying local hopes, preferences and fears as widely as possible
- Set up community panels or forums to represent the views of local communities in the development of the design code.
- Get early buy-in from developers and landowners linked to proposed development sites and to agree roles and responsibilities.
- Publicise the process widely, with an emphasis on groups whose views may have been under-represented in the past.









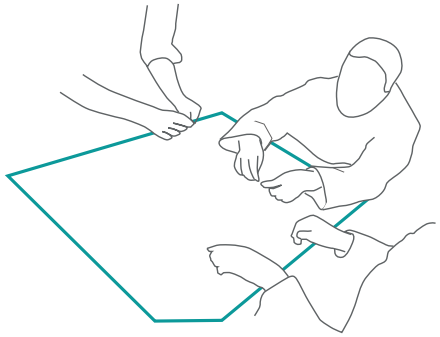
Analysing

Visioning

Community Events and Facilities

230. Engagement may need to take place through a combination of workshops and interactive events as well as drop-ins and exhibitions. Community events need to cover geographical areas that the community can relate to. This could be the wider local planning authority area, although it is likely that separate workshops will be needed for different places. Workshops would be necessary for each stage of the process.

231. Engagement processes can have social benefits that extend beyond the task being undertaken, such as strengthening community cohesion and making connections between people who might not otherwise have met or interacted. Community engagement enablers may work closely with established organisations and groups within the community to organise events.

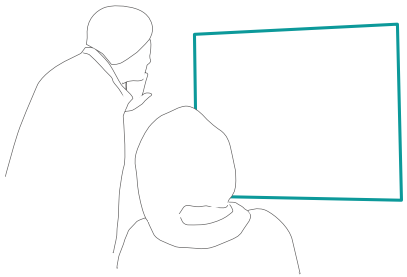


Coding

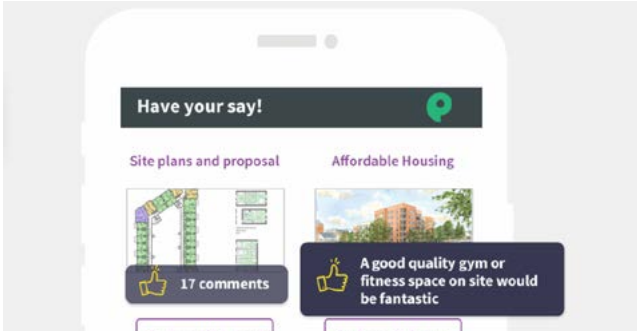
Measuring Community Support

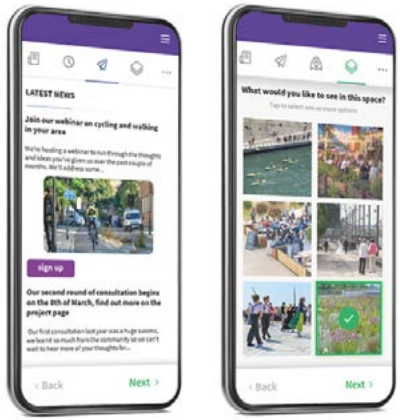
232. Community engagement techniques that involve the maximum number of local people from all sections of the community and demographic profiles will need to be used to develop design codes, in order to structure engagement and demonstrate community support. Processes will need to be used that are appropriate for their context and circumstances, and those leading engagement will need to consider how they can demonstrate measurable community representation and support to ensure codes are based on what is popular locally, on the basis of evidence.

233. Activities that achieve this will need to be determined locally. Established techniques such as Enquiry by Design, BIMBY (Beauty in My Back Yard), Planning for Real and new emerging community engagement techniques, can be employed to deliver provably popular places that have measurable community support. The use of digital technology and social media platforms can support this.









1. Area Type Worksheet

Movement

How would you characterise the street network:

- Fully connected, most streets link at either end to other streets
- Most local streets are cul-de-sacs
- A mix of the two

How much of the area is within a five minute walk of bus stops?

- All
- The majority
- Very little

Nature

How much of the area is within a five minute walk of a local park?

- All
- The majority
- Very little

What proportion of the streets have street trees?

Built Form

What is the average density of housing development?

What is the average plot ratio?

How would you characterise the block structure:

- Regular perimeter blocks
- Informal perimeter blocks
- Row blocks
- Courtyard blocks
- Mews blocks
- Cul-de-sacs
- Mixed

What is the average set-back of buildings from the back of the pavement?

What is the character of the building line:

- Straight/curved/informal
- Variation
- Compliance

What is the predominant building height:

- Eaves height and level of variation
- Maximum height and level of variation
- Are there tall buildings present?

Identity

What is the palette of local materials: walls/roofs/ windows/?

Local building features: window shapes, porches, bays, entrance features, balconies

Is the roof form varied or regular?

Boundary treatment to front gardens: wall/fence/railings/ hedge

How would you describe the predominant architectural style, is this regarded locally as positive or negative?

Public Space

For each of the following streets describe the character and measure the average width, building height, enclosure ratio and active frontage:

- Primary streets
- High streets
- Secondary streets
- Local streets
- Tertiary streets

Use

Are there signs of intensification having taken place?

How would you describe the mix of uses:

- Mostly housing
- Housing with occasional other uses
- Mostly employment
- Mixed

How would you describe the mix of housing?

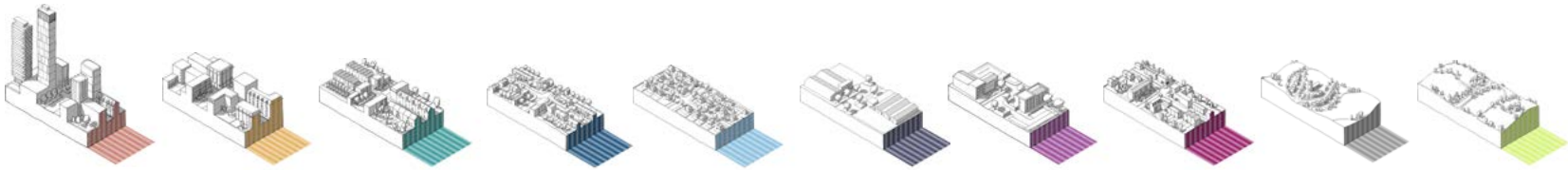
Homes + Buildings

What type of gardens do most houses have and do apartments generally have balconies ?

What is the typical privacy distance?

2. Area Type Matrix

Example of an Area Type Matrix: These are the elements of the Code that may differ by area type.



	Town/City centre	Urban neighbourhood	Suburbs	Outer suburbs	Industrial areas	Business, science or retail parks	Local centres	Villages	Rural settlements
M.1.iii - Street Hierarchy									
M.2.ii - Junctions and Crossings									
M.3.i - Car Parking									
M.3.ii - Cycle Parking									
N.1.ii - Open Space Provision									
N.1.iii - Open Space Design									
B.1.i - Density									
B.1.ii - Whether Buildings Join									
B.1.iii - Types and Forms									
B.2.i - Blocks									
B.2.ii - Building Line									
B.2.iii - Height									
I.1.i - Local Character									
I.2.i - Building Design									
P.1.i - Primary Streets									
P.1.ii - Local and Secondary Streets									
P.1.iii - Tertiary Streets									
P.2.i - Meeting Places									
P.2.ii - Multi-functional Streets									
U.1.i - Efficient Land Use									
U.1.ii - Mix									
U.1.iii - Active Frontage									
U.2.i - Tenure Mix									
U.2.ii - Housing Mix									
U.3.i - Schools									
U.3.iii - Local Services									

Town and Country Planning Act 1990

1990 CHAPTER 8

An Act to consolidate certain enactments relating to town and country planning (excluding special controls in respect of buildings and areas of special architectural or historic interest and in respect of hazardous substances) with amendments to give effect to recommendations of the Law Commission. [24th May 1990]

[X1]Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Annotations:

Editorial Information

X1 [A Table showing the derivation of the provisions of this consolidation Act will be found at the end of the Act. The Table has no official status.]

Modifications etc. (not altering text)

C1 Act excluded by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 50(4)(a)**

C2 Act amended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **ss. 72(2)**, 91(4)

C3 Act modified by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 5, Sch. 3 paras. 13, **14**

C4 Act modified (10.2.1992) by Planning and Compensation Act 1991 (c. 34), s. 27, **Sch. 4 Pt. III paras.40-51**; S.I. 1991/2905, **art.4**
Act: certain functions transferred to the Council of the Isles (Isles of Scilly) (27.7.1992) by S.I. 1992/1620, **art. 2** (with arts. 3, 4(a), Sch. Pt. I)
Act modified (27.7.1992) by S.I. 1992/1620, art.4(a)(b), **Sch.**
Act modified (17.7.1992) by S.I. 1992/1732, **art. 2(1)**
Act restricted (13.2.1992) by Severn Bridges Act 1992 (c. 3), **s. 35**.
Act modified (26.11.1992) by S.I. 1992/2683, reg. 2, **Sch.**
Act applied (with modifications) (13.5.1993) by S.I. 1993/1075, **art. 4**
Act extended (1.11.1993) by 1993 c. 28, **s. 70(14)(a)**; S.I. 1993/2134, **arts. 2**, 5

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Act extended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. I para. 11**
Act extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Act modified (18.10.2000) by S.I. 2000/2615, **art. 5**
Act restricted (19.9.1995) by 1995 c. 25, **ss. 71(7)**, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Act amended (1.4.1996) by S.I. 1996/593, reg. 2, **Sch. 1**
Act applied in part (with modifications) (11.11.1996) by S.I. 1996/2714, art. 48, **Sch. 9 para. 1**
Act amended (18.12.1996) by 1996 c. 61, **s. 8(4)**
Act applied in part (with modifications) (21.5.1997) by S.I. 1997/1266, art. 36, **Sch. 10 para. 1**
Act applied in part (with modifications) (27.8.1998) by S.I. 1998/1936, art. 41, **Sch. 10 para. 1**
Act (except ss. 90(2), 325(9)): certain functions transferred subject to qualifications (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
Act applied (23.6.1999) by S.I. 1999/1736, **art. 11(1)**
Act applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

C5 Act restricted (15.6.2002) by The Landfill (England and Wales) Regulations 2002 (S.I. 2002/1559), **reg. 5**

C6 Act modified (28.9.2004 (E.), 15.10.2005 (W.)) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 38**, 121 (with s. 111); S.I. 2004/2202, **art. 2** (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** (subject to transitional provisions and savings in art. 3)
Act modified (24.8.2005) by The Town and Country Planning (Isles of Scilly) Order 2005 (S.I. 2005/2085), **art. 4(1)**
Act applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5**
Act applied (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 89, 121, **Sch. 4 para. 6(2)** (with s. 111); S.I. 2006/1281, **art. 2**
Act modified (25.4.2006) by The Associated British Ports (Hull) Harbour Revision Order 2006 (S.I. 2006/1135), art. 14, **Sch. 1 para. 2(4)**
Act modified (30.5.2007) byThe National Assembly for Wales Commission (Crown Status) (No. 2) Order 2007 (S.I. 2007/1353, **art. 4**
Act modified (temp.) (30.5.2007) by The St Mary's (Isles of Scilly) Harbour Revision Order 2007 (S.I. 2007/1554), **art. 17**

C7 Act modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 57(4)(b)**
Act construed as one with the amending S.I. regs. 54-67 (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 68**

C8 Act modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(4)**

C9 Act construed as one with S.I. 1994/2716, regs. 54-67 (1.10.2009) by virtue of S.I. 1994/2716, reg. 68(a) (as substituted by The Conservation (Natural Habitats, &c.) (Amendment) (No. 2) Regulations 2009 (S.I. 2009/2438), **reg. 6(2)**)

C10 Act modified (17.3.2010) by The Harwich Parkeston Quay Harbour Revision Order 2010 (S.I. 2010/626), **art. 10** (with art. 20)

PART I

PLANNING AUTHORITIES

Annotations:

Modifications etc. (not altering text)

C11 Pt. I (ss. 1–9) applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), s. 81, **Sch. 4**

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PT. I (ss. 1-9) applied (23.11.1995) by 1961 c. 33, **s. 39(1)** (as amended (23.11.1995) by 1995 c. 25, s. 78, Sch. 10 para. 4 (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2(1)**)

1 Local planning authorities: general.

(1) In a non-metropolitan county—

(a) the council of a county is the county planning authority for the county, and

(b) the council of a district is the district planning authority for the district,

and references in the planning Acts to a local planning authority in relation to a non-metropolitan county shall be construed, subject to any express provision to the contrary, as references to both the county planning authority and the district planning authorities.

[F1(1A) Subsection (1) does not apply in relation to Wales.

(1B) In Wales—

(a) the local planning authority for a county is the county council; and

(b) the local planning authority for a county borough is the county borough council.**]**

(2) The council of a metropolitan district is the local planning authority for the district and the council of a London borough is the local planning authority for the borough. **[**F2 But, in the case of a London borough, see also sections 2A to 2E (Mayor of London).**]**

(3) In England (exclusive of the metropolitan counties, Greater London and the Isles of Scilly) F3. . . all functions conferred on local planning authorities by or under the planning Acts shall be exercisable both by county planning authorities and district planning authorities.

(4) In this Act "mineral planning authority" means—

(a) in respect of a site in a non-metropolitan county, the county planning authority; and

(b) in respect of a site in a metropolitan district or London borough, the local planning authority.

[F4(4A) Subsection (4) does not apply in relation to Wales.

(4B) As to any site in Wales, the local planning authority is also the mineral planning authority.**]**

(5) This section has effect subject to any express provision to the contrary in the planning Acts and, in particular—

(a) **[**F5this section has**]** effect subject to **[**F6sections 4Ato**][**F7 8A**]** of this Act F8. . .; **[**F9and**]**

(b) subsections **[**F10(1) to (2)**]** have effect subject to sections 2 and 9; and

(c) subsection (3) has effect subject to F11. . . Schedule 1 (which contains provisions as to the exercise of certain functions under this Act by particular authorities and liaison between them).

[F12(6) The exercise, in relation to Wales, of functions conferred on local planning authorities is subject to F13. . . Schedule 1A.**]**

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Annotations:

Amendments (Textual)

F1 S. 1(1A)(1B) inserted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, **s. 18(3)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1)-(3), **Sch. 2**

F2 Words in s. 1(2) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(1)**, 59; S.I. 2008/582, **art. 2(a)**

F3 Words in s. 1(3) repealed (3.4.1995) by 1994 c. 19, ss. 18(6), 66(8), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, arts. 4(1), 9(1), Sch. 2, **Sch. 5**

F4 S. 1(4A)(4B) inserted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, **s. 18(4)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1)-(3), **Sch. 2**

F5 Words in s. 1(5)(a) substituted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, **s. 18(6)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1)-(3), **Sch. 2**

F6 Words in s. 1(5)(a) substituted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(1)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F7 Word in s. 1(5)(a) substituted (10.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 28**; S.I. 1993/2762, **art. 3**

F8 Words in s. 1(5)(a) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

F9 Word in s. 1(5)(a) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(1)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F10 Words in s. 1(5)(b) substituted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, **s. 18(6)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1)-(3), **Sch. 2**

F11 Words in s. 1(5)(c) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

F12 S. 1(6) added (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, **s. 18(5)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1)-(3), **Sch. 2**

F13 Words in s. 1(6) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

2 Joint planning boards.

(1) If it appears to the Secretary of State that it is expedient that a joint board should be established as the county planning authority for the areas or parts of the areas of any two or more county councils or as the district planning authority for the areas or parts of the areas of any two or more district councils, he may by order—

(a) constitute those areas or parts as a united district for the purposes of this Act; and

(b) constitute a joint board [F14]. . . as the county planning authority or, as the case may be, the district planning authority for that united district.

[[F15](1A) Subsection (1) does not apply in relation to Wales.

(1B) If it appears to the Secretary of State that it is expedient that a joint board should be established as the local planning authority for two or more areas, each of which is the whole or part of a Welsh county or county borough, he may by order—

(a) constitute those areas or parts as a united district for the purposes of this Act; and

(b) constitute a joint board as the local planning authority for that united district.

(1C) A joint board constituted under subsection (1) or (1B) shall be known as a "joint planning board".**]**

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[F16(1D) The areas that may be constituted as a united district for the purposes of this section shall not include the whole or any part of an area which is comprised in a National Park for which there is a National Park authority.**]**

(2) The Secretary of State shall not make **[**F17an order under subsection (1) or (1B)**]** except after holding a local inquiry unless all the councils concerned have consented to the making of the order.

(3) Where a joint planning board is constituted for a united district, references in the planning Acts to the area of a local planning authority—

(a) in relation to the board, shall be construed as references to that district; and

(b) in relation to any local planning authority being the council of a county **[**F18or county borough**]** or district of which part (but not the whole) is included in the united district, shall be construed as references to so much of the county **[**F18or county borough**]** or district as is not so included.

(4) A joint planning board constituted by an order under subsection (1) **[**F19or (1B)**]** shall consist of such number of members as may be determined by the order, to be appointed by the constituent councils.

(5) A joint planning board so constituted shall be a body corporate, with perpetual succession and a common seal.

(6) An order constituting a joint planning board and any order amending or revoking any order constituting a joint planning board—

(a) may, without prejudice to the provisions of section 241 of the M1Local Government Act 1972 (which authorises the application of the provisions of that Act to joint boards), provide for regulating the appointment, tenure of office and vacation of office of members of the board, for regulating the meetings and proceedings of the board, and for the payment of the expenses of the board by the constituent councils;

(b) may provide for the transfer and compensation of officers, the transfer of property and liabilities, and the adjustment of accounts and apportionment of liabilities;

(c) may contain such other provisions as appear to the Secretary of State to be expedient for enabling the board to exercise their functions; and

(d) may apply to the board, with any necessary modifications and adaptations, any of the provisions of sections 102 and 103 of the Local Government Act 1972.

[F20**[**F21(6A) Section 241 of the Local Government Act 1972 shall be taken to authorise the application to a joint planning board, by such an order as is mentioned in subsection (6) above, of any provisions mentioned in subsection (6B) below (as well as any provisions of the Local Government Act 1972), subject to any necessary modifications.

(6B) The provisions referred to in subsection (6A) above are—

(a) the Audit Commission Act 1998, except sections 11, 12F22. . . and 51;

(b) Part 2 of the Public Audit (Wales) Act 2004, except sections 25, 26, 46 to 49 and 56.**]]**

(7) This section shall have effect subject to sections 5 to 9 of this Act F23. . ..

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Annotations:

Amendments (Textual)

F14 Words in s. 2(1) repealed (3.4.1995) by 1994 c. 19, ss. 19(4)(a), 66(7)(8), Sch. 17 para. 13, **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, arts. 4(1), 9(1), Sch. 2, **Sch. 5**

F15 S. 2(1A)-(1C) inserted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, ss. 19(1), 66(7), **Sch. 17 para. 13** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1), **Sch. 2**

F16 S. 2(1D) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)** (with art. 2(2))

F17 Words in s. 2(2) substituted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, ss. 19(4)(b), 66(7), **Sch. 17 para. 13** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1), **Sch. 2**

F18 Words in s. 2(3) inserted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, ss. 19(4)(c), 66(7), **Sch. 17 para. 13** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1), **Sch. 2**

F19 Words in s. 2(4)(d) inserted (3.4.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, ss. 19(4)(d), 66(7), **Sch. 17 para. 13** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1), **Sch. 2**

F20 S. 2(6A) inserted (28.7.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 42** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 2**

F21 S. 2(6A)(6B) substituted for s. 2(6A) (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 66, 73, **Sch. 2 para. 13**; S.I. 2005/558, **art. 2** (with art. 3)

F22 Words in s. 2(6B)(a) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 241, 245, **Sch. 18 Pt. 11**; S.I. 2008/172, **art. 2(1)(u)(i)** (subject to art. 2(2))

F23 Words in s. 2(7) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

Marginal Citations

M1 1972 c. 70.

[F24 2A The Mayor of London: applications of potential strategic importance

(1) Where an application to which this section applies is made to a local planning authority —

(a) for planning permission (see section 70), or

(b) for planning permission without complying with conditions subject to which a previous planning permission was granted (see section 73),

the Mayor of London may direct that he is to be the local planning authority for the purposes of determining the application.

(2) The circumstances in which, and the conditions subject to which, the Mayor may give a direction under subsection (1) may be prescribed by, or by directions given under, an order under this section.

(3) This section applies to an application if—

(a) the land to which the application relates is in Greater London (but is not in an area of Greater London prescribed by an order under this section), and

(b) the application is an application of potential strategic importance.

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(4) For the purposes of this section "application of potential strategic importance" is to be construed in accordance with an order under this section.

(5) So far as the context requires, in relation to—

(a) the determination of an application by virtue of this section, or

(b) the determination of a connected application by virtue of section 2B,

any reference in an enactment to a local planning authority or a hazardous substances authority includes a reference to the Mayor of London.

This subsection is subject to any provision made by an order under this section by virtue of section 2D(2).

(6) An order under this section—

(a) may make different provision for different cases or different areas, and

(b) may make provision for exceptions or exclusions.

(7) Sections 2B to 2D and 2F contain provisions supplementing this section.

Annotations:

Amendments (Textual)

F24 Ss. 2A-2D inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(2)**, 59; S.I. 2008/582, **art. 2(a)**

Modifications etc. (not altering text)

C12 S. 2A excluded (6.4.2008) by The Town and Country Planning (Mayor of London) Order 2008 (S.I. 2008/580), **art. 3**

2B Section 2A: supplementary provisions

(1) In deciding whether to give a direction under section 2A, the Mayor of London is to have regard to guidance issued by the Secretary of State.

(2) A direction under section 2A must include the Mayor of London's reasons for giving it.

(3) If the Mayor of London gives a direction under section 2A, he must at that time send a copy of the direction to the applicant and to the Secretary of State.

(4) Subsection (5) applies where the Mayor of London—

(a) gives a direction under section 2A in the case of any application, and

(b) considers that an application falling within subsection (6) (the "connected application") is connected with that application.

(5) Where this subsection applies, the Mayor of London is to be—

(a) the local planning authority for the purposes of determining the connected application (in the case of an application falling within subsection (6)(a) or (b)), or

(b) the hazardous substances authority for the purposes of determining the connected application (in the case of an application falling within subsection (6)(c)).

(6) The applications are—

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(a) an application for listed building consent under the Planning (Listed Buildings and Conservation Areas) Act 1990,

(b) an application for conservation area consent under that Act,

(c) an application for hazardous substances consent under the Planning (Hazardous Substances) Act 1990.

(7) In subsection (6)—

(a) the reference to an application for listed building consent includes a reference to an application for the variation or discharge of conditions subject to which listed building consent has been granted, and

(b) the reference to an application for hazardous substances consent includes a reference to an application for hazardous substances consent without a condition subject to which a previous hazardous substances consent was granted.

(8) Section 38(1) of the Greater London Authority Act 1999 (delegation of functions by the Mayor) does not apply to—

(a) the function of giving a direction under section 2A(1),

(b) the function of determining an application by virtue of section 2A or this section.

Annotations:

Amendments (Textual)

F24 Ss. 2A-2D inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(2)**, 59; S.I. 2008/582, **art. 2(a)**

2C Matters reserved for subsequent approval

(1) If the Mayor of London has—

(a) given a direction under section 2A in relation to an application ("the original application"), and

(b) granted outline planning permission,

he may, on an application for subsequent approval of reserved matters, direct that the application is to be decided by the local planning authority to whom the original application was made.

(2) "Outline planning permission" has the meaning given by section 92(1).

(3) If the Mayor of London has—

(a) granted an application for listed building consent which is a connected application for the purposes of section 2B, and

(b) imposed conditions requiring specified details to be approved subsequently,

he may, on an application for subsequent approval, direct that the application is to be decided by the local planning authority to whom the connected application was made.

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Annotations:

Amendments (Textual)

F24 Ss. 2A-2D inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(2)**, 59; S.I. 2008/582, **art. 2(a)**

2D Further provision about orders under section 2A

(1) An order under section 2A may make provision—

(a) in relation to applications to which section 2A applies,

(b) in relation to applications which are connected applications by virtue of section 2B,

(c) in relation to the procedures to be followed for or in connection with applications mentioned in paragraph (a) or (b),

(d) otherwise for the purpose of implementing or supplementing section 2A, 2B or 2C.

(2) The provision which may be made by virtue of subsection (1) includes the application of any enactment (with or without modification) in relation to cases where, by virtue of section 2A or 2B or an order under section 2A, the Mayor of London exercises a function that would otherwise have been exercisable by another body or person.

(3) Such provision may include, in particular, provision for the Mayor of London to exercise functions in relation to enforcement (instead of, or as well as, a local planning authority).**]**

Annotations:

Amendments (Textual)

F24 Ss. 2A-2D inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(2)**, 59; S.I. 2008/582, **art. 2(a)**

[F25 2E Section 2A and planning obligations under section 106

(1) This section applies where the Mayor of London has given a direction under section 2A in relation to a planning application.

(2) Where this section applies, the function of agreeing a planning obligation related to the application is a function of the Mayor of London instead of a function of the local planning authority.

(3) In this section "planning obligation" means a planning obligation under section 106.

(4) The Mayor of London must consult the local planning authority before agreeing any planning obligation by virtue of this section.

(5) Any planning obligation entered into in relation to the application—

(a) is enforceable by the Mayor of London, and

(b) is also enforceable by the local planning authority.**]**

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Annotations:

Amendments (Textual)

F25 S. 2E inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 32**, 59; S.I. 2008/582, **art. 2(a)**

[F26 2F Representation hearings

(1) This section applies to—

(a) an application in relation to which a direction has been given under section 2A, and

(b) an application which is a connected application for the purposes of section 2B.

(2) Before determining an application to which this section applies, the Mayor of London must give—

(a) the applicant, and

(b) the local planning authority to whom the application was made,

an opportunity to make oral representations at a hearing ("a representation hearing").

(3) The Mayor of London must prepare and publish a document setting out—

(a) the persons, in addition to the applicant and the local planning authority, who may make oral representations at a representation hearing,

(b) the procedures to be followed at a representation hearing,

(c) arrangements for identifying information which must be agreed by persons making oral representations at a representation hearing.

(4) Each person who may make oral representations at a representation hearing must be given at least 14 days' notice of the hearing.

(5) The Secretary of State must by order make provision for Part 5A of the Local Government Act 1972 (public admission to meetings of principal councils, public access to documents, etc) to apply to—

(a) a representation hearing as it applies to a meeting of a principal council, and

(b) the Mayor of London in the conduct of a representation hearing as it applies to a principal council in the conduct of a meeting of that council.

(6) The application of Part 5A may be with such modifications as the Secretary of State considers necessary or expedient.]

Annotations:

Amendments (Textual)

F26 S. 2F inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 35**, 59; S.I. 2008/582, **art. 2(a)**

3 Joint planning committee for Greater London.

(1) The joint planning committee for Greater London established under section 5 of the [M2]Local Government Act 1985 shall continue to discharge the functions mentioned in subsection (2).

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(2) The joint planning committee shall—

(a) consider and advise the local planning authorities in Greater London on matters of common interest relating to the planning and development of Greater London;

(b) inform the Secretary of State of the views of those authorities concerning such matters including any such matters as to which he has requested their advice;

(c) inform the local planning authorities for areas in the vicinity of Greater London, or any body on which those authorities and the local planning authorities in Greater London are represented, of the views of the local planning authorities in Greater London concerning any matters of common interest relating to the planning and development of Greater London and those areas;

and the committee may, if it thinks fit, contribute towards the expenses of any such body as is mentioned in paragraph (c).

(3) The expenses of the joint planning committee which have been incurred with the approval of at least two-thirds of the local planning authorities in Greater London shall be defrayed by those authorities in such proportions as they may decide or, in default of a decision by them, as the Secretary of State may determine.

(4) References in this section to the local planning authorities in Greater London are to the authorities which are local planning authorities for the purposes of Part II.

Annotations:

Marginal Citations

M2 1985 c. 51.

F27 4 . . . . . .

Annotations:

Amendments (Textual)

F27 S. 4 repealed (1.4.1997) by 1995 c. 21, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

[F28 4A National Parks with National Park authorities.

(1) Where a National Park authority has been established for any area, this section, F29. . ., shall apply, as from such time as may be specified for the purposes of this section in the order establishing that authority, in relation to the Park for which it is the authority.

(2) Subject to subsections (4) and (5) below, the National Park authority for the Park shall be the sole local planning authority for the area of the Park and, accordingly—

(a) functions conferred by or under the planning Acts on a planning authority of any description (including the functions of a mineral planning authority under those Acts and under the M3Planning and Compensation Act 1991) shall, in relation to the Park, be functions of the National Park authority, and not of any other authority; and

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(b) so much of the area of any other authority as is included in the Park shall be treated as excluded from any area for which that other authority is a planning authority of any description.

(3) For the purposes of subsection (2) above functions under the planning Acts which (apart from this section) are conferred—

(a) in relation to some areas on the county or district planning authorities for those areas, and

(b) in relation to other areas on the councils for those areas,

shall be treated, in relation to those other areas, as conferred on each of those councils as the local planning authority for their area.

(4) The functions of a local planning authority by virtue of sections 198 to 201, 206 to 209 and 211 to 215, so far as they are functions of a National Park authority by virtue of this section, shall be exercisable as respects any area which is or is included in an area for which there is a district council, concurrently with the National Park authority, by that council.

(5) For the purposes of any enactment relating to the functions of a district planning authority, the functions of a district council by virtue of subsection (4) above shall be deemed to be conferred on them as a district planning authority and as if the district were the area for which they are such an authority.**]**

Annotations:

Amendments (Textual)

F28 S. 4A inserted (19.9.1995) by 1995 c. 25, **ss. 67(1)**, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

F29 Words in s. 4A repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

Marginal Citations

M3 1991 c. 34.

5 The Broads.

(1) For the purposes of Chapter I of Part VIII and sections 249, 250, **[**F30and 300**]** and any other provision of this Act so far as it has effect for the purposes of those provisions, "local planning authority", in relation to land in the Broads, includes the Broads Authority.

(2) For the purposes of the provisions mentioned in subsection (3) the Broads Authority shall be the sole district planning authority for the Broads.

(3) The provisions referred to in subsection (2) are **[**F31Part II, sections**]** 62, **[**F3265, 69 to 72**]**, 76 to **[**F3379**]**, 91 to 95, **[**F3496A**]** to 99, 102, 103, 106 **[**F35to 106B, 171C**]**, 172, 173, **[**F36173A**]** 178, 183, 184, **[**F37187A, 187B**]** 188, 191 to 197, 211 to **[**F38214, 215**]**, 219 to 221, 224, 294, 295, 297, 299, **[**F39299A**]** 301, **[**F40316 and 324(1) and (7)**]**.

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Annotations:

Amendments (Textual)

F30 Word in s. 5(1) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(1)**; S.I. 1991/2905, art. 3, **Sch. 1** (subject to savings in art. 5)

F31 Words in s. 5(3) substituted (10.2.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(a)**; S.I. 1991/2905, **art. 4**

F32 Words in s. 5(3) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(b)**; S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F33 Word in s. 5(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(c)**; S.I. 1991/2067, **art. 3** (subject to savings in art. 4)

F34 Words in s. 5(3) substituted (1.10.2009) by Planning Act 2008 (c. 29), **ss. 190(3)**, 241 (with s. 226); S.I. 2009/2260, **art. 3**

F35 Words in s. 5(3) inserted (2.1.1992 so far as relating to the reference to s. 171C otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(d)**; S.I. 1991/2905, art. 3, **Sch. 1** (with savings in art. 5); S.I. 1992/2831, **art. 2**

F36 Word in s. 5(3) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(e)**; S.I. 1992/2905, **art. 4** (with saving in art. 5)

F37 Words in s. 5(3) inserted (2.1.1992 so far as relating to the reference to s. 187B otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(f)**; S.I. 1991/2905, art. 3, **Sch. 1** (with savings in art. 5) S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F38 Words in s. 5(3) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(g)**; S.I. 1991/2905, art. 3, **Sch. 1** (with savings in art. 5)

F39 Word in s. 5(3) inserted (25.10.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(h)**; S.I. 1991/2272, **art. 3(1)(c)**

F40 Words in 5(3) substituted (2.1.1992 for certain purposes otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 9(2)(i)**; S.I. 1991/2905, art. 3, **Sch. 1** (with savings in art. 5); S.I. 1992/1491, **art. 2**

6 Enterprise zones.

(1) An order under paragraph 5 of Schedule 32 to the [M4]Local Government, Planning and Land Act 1980 (designation of enterprise zone) may provide that the enterprise zone authority shall be the local planning authority for the zone for such purposes of the planning Acts and in relation to such kinds of development as may be specified in the order.

(2) Without prejudice to the generality of paragraph 15(1) of that Schedule (modification of orders by the Secretary of State), an order under that paragraph may provide that the enterprise zone authority shall be the local planning authority for the zone for different purposes of the planning Acts or in relation to different kinds of development.

(3) Where such provision as is mentioned in subsection (1) or (2) is made by an order designating an enterprise zone or, as the case may be, an order modifying such an order, while the zone subsists the enterprise zone authority shall be, to the extent mentioned in the order (as it has effect subject to any such modifications) and to the extent that it is not already, the local planning authority for the zone in place of any authority who would otherwise be the local planning authority for the zone.

(4) The Secretary of State may by regulations make transitional and supplementary provision in relation to a provision of an order under paragraph 5 of that Schedule made by virtue of subsection (1).

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(5) Such regulations may modify any provision of the planning Acts or any instrument made under any of them or may apply any such enactment or instrument (with or without modification) in making such transitional or supplementary provision.

Annotations:

Marginal Citations

M4 1980 c. 65.

7 Urban development areas.

(1) Where an order is made under subsection (1) of section 149 of the [M5]Local Government, Planning and Land Act 1980 (urban development corporation as planning authority), the urban development corporation specified in the order shall be the local planning authority for such area as may be so specified in place of any authority who would otherwise be the local planning authority for that area for such purposes and in relation to such kinds of development as may be so specified.

(2) Where an order under subsection (3)(a) of that section confers any functions on an urban development corporation in relation to any area the corporation shall have those functions in place of any authority (except the Secretary of State) who would otherwise have them in that area.

Annotations:

Modifications etc. (not altering text)

C13 S. 7 modified (30.3.2006) by London Olympic Games and Paralympic Games Act 2006 (c. 12), **ss. 5(3)(b)**, 40

Marginal Citations

M5 1980 c. 65.

8 Housing action areas.

(1) Where an order is made under subsection (1) of section 67 of the [M6]Housing Act 1988 (housing action trust as planning authority), the housing action trust specified in the order shall be the local planning authority for such area as may be so specified in place of any authority who would otherwise be the local planning authority for that area for such purposes and in relation to such kinds of development as may be so specified.

(2) Where an order under subsection (3)(a) of that section confers any functions on a housing action trust in relation to any area the trust shall have those functions in place of any authority (except the Secretary of State) who would otherwise have them in that area.

Annotations:

Marginal Citations

M6 1988 c. 50.

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[F41 8A The [F42 Homes and Communities] Agency.

(1) Where a designation order under [F43 section 13 of the Housing and Regeneration Act 2008] power to make designation orders) makes such provision as is mentioned in [F44 section 14(2)] of that Act (Agency as local planning authority), the [F45 Homes and Communities] Agency shall be the local planning authority for such area as may be specified in the order in place of any authority who would otherwise be the local planning authority for that area for such purposes and in relation to such kinds of development as may be so specified.

(2) F46 . . . . . .]

Annotations:

Amendments (Textual)

F41 S. 8A inserted (10.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 29**; S.I. 1993/2762, **art. 3**

F42 Words in s. 8A heading substituted (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 56, 324, **Sch. 8 para. 52(2)**; S.I. 2008/3068, **art. 2(1)(w)** (with arts. 6-13)

F43 Words in s. 8A(1) substituted (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 56, 324, **Sch. 8 para. 52(3)(a)**; S.I. 2008/3068, **art. 2(1)(w)** (with arts. 6-13)

F44 Words in s. 8A substituted (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 56, 324, **Sch. 8 para. 52(3)(b)**; S.I. 2008/3068, **art. 2(1)(w)** (with arts. 6-13)

F45 Words in s. 8A substituted (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 56, 324, **Sch. 8 para. 52(3)(c)**; S.I. 2008/3068, **art. 2(1)(w)** (with arts. 6-13)

F46 S. 8A(2) repealed (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 56, 321(1), 324, Sch. 8 para. 52(4), **Sch. 16**; S.I. 2008/3068, **art. 2**, 5, Sch. (with arts. 6-13)

9 Power to make consequential and supplementary provision about authorities.

Regulations under this Act may make such provision consequential upon or supplementary to the provisions of sections 1 and 2 as appears to the Secretary of State to be necessary or expedient.

F47 PART II

. . . . . .

Annotations:

Amendments (Textual)

F47 Pt. 2 (ss. 10-54A) repealed (6.8.2004 for certain purposes, 28.9.2004 for. E and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 120, 121, **Sch. 9** (with s. 111); S.I. 2004/2097, **art. 2**, S.I. 2004/2202, {art. 2(k)}, Sch. 1 Pt. 1 (subject to transitional provisions and savings in art. 4, Sch. 2); S.I. 2005/2847, **art. 2(g)**, Sch. 1 (subject to transitional provisions and savings in art. 3, Sch. 2); and ss. 12(3A), 31(3), 36(3) modified (1.4.2010) by S.I. 2010/490, **reg. 39(2)**

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PART III

CONTROL OVER DEVELOPMENT

Annotations:

Modifications etc. (not altering text)

C32 Pt. III (ss. 55-106) except ss. 76, 90(2)(5) applied (with modifications) (17.7.1992) by S.I. 1992/1492, **regs. 2(1)(b)**, 3-11
Pt. III (ss. 55-106): power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(1)(a)**; S.I. 1993/2762, **art. 3**
Pt. III (ss. 55-106) applied (5.11.1993) by 1993 c. 42, **s. 24(1)** (with ss. 2, 30(1), Sch. 2 para.9)
Pt. III (ss. 55-106) extended (1.11.1995) by 1995 c. 25, **s. 96(2)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Pt. III (ss. 55-106) modified (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**
Pt. III (ss. 55-106) modified (18.12.1996) by 1996 c. 61, **s. 9(1)(2)**
Pt. III (ss. 55-106) modified (18.12.1996) by 1996 c. 61, **s. 51**
Pt. III (ss. 55-106) modified (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), **art. 20(1)**
Pt. III (ss. 55-106) modified (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 4**
Pt. III (ss. 55-106) modified (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), **art. 21(1)** (with arts. 3(5), 15(3))
Pt. III (ss. 55-106) applied (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 89, 121, **Sch. 4 para. 3(2)** (with s. 111); S.I. 2006/1281, **art. 2**
Pt. III (ss. 55-106) modified (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), **art. 17(1)** (with art. 43)
Pt. III (ss. 55-106) modified (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), **art. 18(1)**

C33 Pt. III (ss. 55-106) modified (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), **art. 25(2)** (with art. 30)
Pt. III modified (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), **art. 17(1)** (with arts. 3(6), 12(3))

C34 Pt. III modified (28.9.2007) by The London Gateway Logistics and Commercial Centre Order 2007 (S.I. 2007/2657), **art. 27(1)** (with art. 19, Sch. 3 para. 13(2))

C35 Pt. III modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 10(1)**

C36 Pt. III modified (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), **art. 34(1)** (with art. 36(3))

C37 Pt. 3 modified (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), **art. 28(1)**

C38 Pt. 3 modified (27.8.2010) by The Llangollen and Corwen Railway Order 2010 (S.I. 2010/2136), **art. 11(1)**

Meaning of development

55 Meaning of "development" and "new development".

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering,

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mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

[F157(1A) For the purposes of this Act "building operations" includes—

(a) demolition of buildings;

(b) rebuilding;

(c) structural alterations of or additions to buildings; and

(d) other operations normally undertaken by a person carrying on business as a builder.**]**

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building,

and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

(b) the carrying out on land within the boundaries of a road by a F158. . . highway authority of any works required for the maintenance or improvement of the road **[**F159but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment**]**;

(c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;

(e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

[F160(g) the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority.**]**

[F161(2A) The Secretary of State may in a development order specify any circumstances or description of circumstances in which subsection (2) does not apply to operations mentioned in paragraph (a) of that subsection which have the effect of increasing the gross floor space of the building by such amount or percentage amount as is so specified.

(2B) The development order may make different provision for different purposes.**]**

(3) For the avoidance of doubt it is hereby declared that for the purposes of this section—

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(a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used;

(b) the deposit of refuse or waste materials on land involves a material change in its use, notwithstanding that the land is comprised in a site already used for that purpose, if—

(i) the superficial area of the deposit is extended, or

(ii) the height of the deposit is extended and exceeds the level of the land adjoining the site.

(4) For the purposes of this Act mining operations include—

(a) the removal of material of any description—

(i) from a mineral-working deposit;

(ii) from a deposit of pulverised fuel ash or other furnace ash or clinker; or

(iii) from a deposit of iron, steel or other metallic slags; and

(b) the extraction of minerals from a disused railway embankment.

[F162(4A) Where the placing or assembly of any tank in any part of any inland waters for the purpose of fish farming there would not, apart from this subsection, involve development of the land below, this Act shall have effect as if the tank resulted from carrying out engineering operations over that land; and in this subsection—

"fish farming" means the breeding, rearing or keeping of fish or shellfish (which includes any kind of crustacean and mollusc);

"inland waters" means waters which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows; and

"tank" includes any cage and any other structure for use in fish farming.**]**

(5) Without prejudice to any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

F163(6) . . . . . .

Annotations:

Subordinate Legislation Made

P1 S. 55(2)(f); s. 55(2)(f) (with s. 333(7)) power exercised (5.7.1991) by S.I. 1991/1567

Amendments (Textual)

F157 S. 55(1A) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 13(1)** (with s. 84(5)); S.I. 1992/1279, **art. 2** (with art. 3)

F158 Word in s. 55(2)(b) repealed (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 1, **Sch. 9**{with s. 111}; S.I. 2006/1281, **art. 2**

F159 Words in s. 55(2)(b) inserted (14.3.1999) by S.I. 1999/293, **reg. 35(1)**7

F160 S. 55(2)(g) inserted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 13(2)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/1279, **art. 2** (with art. 3)

F161 S. 55(2A)(2B) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 49(1)**, 121 (with ss. 49(4), 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

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F162 S. 55(4A) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 14(1)(2)** (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 4)

F163 S. 55(6) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 9, **Sch. 19**, Pts. I, II (with s. 84(5)); S.I. 1991/2067, art. 3, **Sch. 1**

56 Time when development begun.

(1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—

(a) if the development consists of the carrying out of operations, at the time when those operations are begun;

(b) if the development consists of a change in use, at the time when the new use is instituted;

(c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).

(2) For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.

(3) The provisions referred to in subsection (2) are sections 85(2), 86(6), 87(4), **[**F164**]**89**]** 91, 92 and 94.

(4) In subsection (2) "material operation" means—

(a) any work of construction in the course of the erection of a building;

[F165(aa) any work of demolition of a building;**]**

(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

(c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);

(d) any operation in the course of laying out or constructing a road or part of a road;

(e) any change in the use of any land which constitutes material development.

(5) In subsection (4)(e) "material development" means any development other than—

(a) development for which planning permission is granted by a general development order **[**F166or a local development order**]** for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;

[F167(b) development of a class specified in paragraph 1 or 2 of Schedule 3; **]** and

(c) development of any class prescribed for the purposes of this subsection.

(6) In subsection (5) "general development order" means a development order (within the meaning of section 59) made as a general order applicable (subject to such exceptions as may be specified in it) to all land in England and Wales.

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Annotations:

Amendments (Textual)

F164 Word in s. 56(3) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(2)-(4), **Sch. 7 para. 10(1)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F165 S. 56(4)(aa) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 10(2)** (with s. 84(5)); S.I. 1992/1279, **art. 2** (with art. 3)

F166 Words in s. 56(5)(a) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(a)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

F167 S. 56(5)(b) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(2)-(4), **Sch. 6 para. 10**; S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C39 S. 56 applied (with modifications) (3.11.1995) by S.I. 1995/2863, reg. 3, **Sch.**

Requirement for planning permission

57 Planning permission required for development.

(1) Subject to the following provisions of this section, planning permission is required for the carrying out of any development of land.

[F168(1A) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for planning permission etc. for development for which development consent required).**]**

(2) Where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of its use for the purpose for which it was normally used before the permission was granted.

(3) Where by a development order **[**F169or a local development order**]** planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is its normal use.

(4) Where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out.

(5) In determining for the purposes of subsections (2) and (3) what is or was the normal use of land, no account shall be taken of any use begun in contravention of this Part or of previous planning control.

(6) For the purposes of this section a use of land shall be taken to have been begun in contravention of previous planning control if it was begun in contravention of Part III of the 1947 Act, Part III of the 1962 Act or Part III of the 1971 Act.

(7) Subsection (1) has effect subject to Schedule 4 (which makes special provision about use of land on 1st July 1948).

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Annotations:

Amendments (Textual)

F168 S. 57(1A) inserted (1.3.2010) by Planning Act 2008 (c. 29), ss. 36, 241, **Sch. 2 para. 35** (with s. 226); S.I. 2010/101, **art. 2** (with art. 6)

F169 Words in s. 57(3) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(b)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

58 Granting of planning permission: general.

(1) Planning permission may be granted—

(a) by a development order **[**F170or a local development order**]** ;

(b) by the local planning authority (or, in the cases provided in this Part, by the Secretary of State) on application to the authority in accordance with a development order;

(c) on the adoption or approval of a simplified planning zone scheme or alterations to such a scheme in accordance with section 82 or, as the case may be, section 86; or

(d) on the designation of an enterprise zone or the approval of a modified scheme under Schedule 32 to the M33Local Government, Planning and Land Act 1980 in accordance with section 88 of this Act.

(2) Planning permission may also be deemed to be granted under section 90 (development with government authorisation).

(3) This section is without prejudice to any other provisions of this Act providing for the granting of permission.

Annotations:

Amendments (Textual)

F170 Words in s. 58(1)(a) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(c)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

Modifications etc. (not altering text)

C40 S. 58(1)(b) excluded (17.12.1996) by 1996 c. ix, **s. 10(d)**

Marginal Citations

M33 1980 c. 65.

Development orders

59 Development orders: general.

(1) The Secretary of State shall by order (in this Act referred to as a "development order") provide for the granting of planning permission.

(2) A development order may either—

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(a) itself grant planning permission for development specified in the order or for development of any class specified; or

(b) in respect of development for which planning permission is not granted by the order itself, provide for the granting of planning permission by the local planning authority (or, in the cases provided in the following provisions, by the Secretary of State) on application to the authority in accordance with the provisions of the order.

(3) A development order may be made either—

(a) as a general order applicable, except so far as the order otherwise provides, to all land, or

(b) as a special order applicable only to such land or descriptions of land as may be specified in the order.

Annotations:

Subordinate Legislation Made

P2 S. 59: power previously exercised by S.I. 1990/2032

P3 S. 59: s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by S.I. 1991/1536

60 Permission granted by development order.

(1) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.

(2) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for the erection, extension or alteration of any buildings, the order may require the approval of the local planning authority to be obtained with respect to the design or external appearance of the buildings.

(3) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for development of a specified class, the order may enable the Secretary of State or the local planning authority to direct that the permission shall not apply either—

(a) in relation to development in a particular area, or

(b) in relation to any particular development.

(4) Any provision of a development order by which permission is granted for the use of land for any purpose on a limited number of days in a period specified in that provision shall (without prejudice to the generality of references in this Act to limitations) be taken to be a provision granting permission for the use of land for any purpose subject to the limitation that the land shall not be used for any one purpose in pursuance of that provision on more than that number of days in that period.

Annotations:

Subordinate Legislation Made

P4 S. 60 power previously exercised by S.I. 1990/2032

P5 S. 60(1): s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by S.I. 1991/1536

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61 Development orders: supplementary provisions.

(1) A general development order may make different provision with respect to different descriptions of land.

(2) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any pre 1947 Act enactment, or any regulations, orders or byelaws made at any time under any such enactment—

(a) shall not apply to any development specified in the order, or

(b) shall apply to it subject to such modifications as may be so specified.

(3) In subsection (2) "pre 1947 Act enactment" means—

(a) any enactment passed before 6th August 1947 (the date of the passing of the 1947 Act), and

(b) any enactment contained in the [M34]Highways Act 1980 which—

(i) is an enactment derived from the [M35]Highways Act 1959, and

(ii) re-enacts (with or without modifications) any such enactment as is mentioned in paragraph (a).

Annotations:

Subordinate Legislation Made

P6 S. 61(1): s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by S.I. 1991/1536

Marginal Citations

M34 1980 c. 66.

M35 1959 c. 25.

[F171 Local development orders

Annotations:

Amendments (Textual)

F171 Ss. 61A-61C and preceding cross-heading inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(1)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/ 1061, {art. 2}

61A Local development orders

(1) **[**[F172]A local planning authority may by order (a local development order) make provision to implement policies—

(a) in one or more development plan documents (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004);

(b) in a local development plan (within the meaning of Part 6 of that Act).**]**

(2) **[**[F173]A local planning authority may by order (a local development order)**]** grant planning permission—

(a) for development specified in the order;

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(b) for development of any class so specified.

(3) A local development order may relate to—

(a) all land in the area of the relevant authority;

(b) any part of that land;

(c) a site specified in the order.

(4) A local development order may make different provision for different descriptions of land.

(5) But a development order may specify any area or class of development in respect of which a local development order must not be made.

(6) A local planning authority may revoke a local development order at any time.

(7) Schedule 4A makes provision in connection with local development orders.

Annotations:

Amendments (Textual)

F172 S. 61A(1) repealed (23.6.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 188(2), 238, 241, **Sch. 13** (with s. 226); S.I. 2009/1303, **art. 2**, Sch.

F173 Words in s. 61A(2) substituted (23.6.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), **ss. 188(3)**, 241 (with s. 226); S.I. 2009/1303, **art. 2**

61B Intervention by Secretary of State or National Assembly

(1) At any time before a local development order is adopted by a local planning authority the appropriate authority may direct that the order (or any part of it) is submitted to it for its approval.

(2) If the appropriate authority gives a direction under subsection (1)—

(a) the authority must not take any step in connection with the adoption of the order until the appropriate authority gives its decision;

(b) the order has no effect unless it (or, if the direction relates to only part of an order, the part) has been approved by the appropriate authority.

(3) In considering an order or part of an order submitted under subsection (1) the appropriate authority may take account of any matter which it thinks is relevant.

(4) It is immaterial whether any such matter was taken account of by the local planning authority.

(5) The appropriate authority—

(a) may approve or reject an order or part of an order submitted to it under subsection (1);

(b) must give reasons for its decision under paragraph (a).

(6) If the appropriate authority thinks that a local development order is unsatisfactory—

(a) it may at any time before the order is adopted by the local planning authority direct them to modify it in accordance with the direction;

(b) if it gives such a direction it must state its reasons for doing so.

(7) The local planning authority—

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(a) must comply with the direction;

(b) must not adopt the order unless the appropriate authority gives notice that it is satisfied that they have complied with the direction.

(8) The appropriate authority—

(a) may at any time by order revoke a local development order if it thinks it is expedient to do so;

(b) must, if it revokes a local development order, state its reasons for doing so.

(9) Subsections (3) to (6) of section 100 apply to an order under subsection (8) above as they apply to an order under subsection (1) of that section and for that purpose references to the Secretary of State must be construed as references to the appropriate authority.

(10) The appropriate authority is—

(a) the Secretary of State in relation to England;

(b) the National Assembly for Wales in relation to Wales.

61C Permission granted by local development order

(1) Planning permission granted by a local development order may be granted—

(a) unconditionally, or

(b) subject to such conditions or limitations as are specified in the order.

(2) If the permission is granted for development of a specified description the order may enable the local planning authority to direct that the permission does not apply in relation to—

(a) development in a particular area, or

(b) any particular development.

61D Effect of revision or revocation of development order on incomplete development

(1) A development order or local development order may include provision permitting the completion of development if —

(a) planning permission is granted by the order in respect of the development, and

(b) the planning permission is withdrawn at a time after the development is started but before it is completed.

(2) Planning permission granted by a development order is withdrawn—

(a) if the order is revoked;

(b) if the order is amended so that it ceases to grant planning permission in respect of the development or materially changes any condition or limitation to which the grant of permission is subject;

(c) by the issue of a direction under powers conferred by the order.

(3) Planning permission granted by a local development order is withdrawn—

(a) if the order is revoked under section 61A(6) or 61B(8);

(b) if the order is revised in pursuance of paragraph 2 of Schedule 4A so that it ceases to grant planning permission in respect of the development or materially changes any condition or limitation to which the grant of permission is subject;

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(c) by the issue of a direction under powers conferred by the order.

(4) The power under this section to include provision in a development order or a local development order may be exercised differently for different purposes.**]]**

Annotations:

Amendments (Textual)

F174 S. 61D inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 41**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

Applications for planning permission

[F175 62 Applications for planning permission.

(1) A development order may make provision as to applications for planning permission made to a local planning authority.

(2) Provision referred to in subsection (1) includes provision as to—

(a) the form and manner in which the application must be made;

(b) particulars of such matters as are to be included in the application;

(c) documents or other materials as are to accompany the application.

(3) The local planning authority may require that an application for planning permission must include—

(a) such particulars as they think necessary;

(b) such evidence in support of anything in or relating to the application as they think necessary.

(4) But a requirement under subsection (3) must not be inconsistent with provision made under subsection (1).

(5) A development order must require that an application for planning permission of such description as is specified in the order must be accompanied by such of the following as is so specified—

(a) a statement about the design principles and concepts that have been applied to the development;

(b) a statement about how issues relating to access to the development have been dealt with.

(6) The form and content of a statement mentioned in subsection (5) is such as is required by the development order.**]**

Annotations:

Amendments (Textual)

F175 S. 62 substituted (6.8.2004 for certain purposes, 10.8.2006 for E. and 30.6.2007 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 42(1)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 3** (with art. 4) (as amended by S.I. 2010/321, **art. 3**); S.I. 2007/1369, **art. 2** (with art. 3) (as amended by S.I. 2010/321, **art. 4**)

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[F176 63 . . . . . .

Annotations:

Amendments (Textual)

F176 S. 63 repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 11, **Sch. 19**, Pt.I (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 1** (subject to art. 5)

[F177 64 . . . . . .

Annotations:

Amendments (Textual)

F177 S. 64 repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 12, **Sch. 19**, Pt.I (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

Publicity for applications

[F178 65 Notice etc. of applications for planning permission.

(1) A development order may make provision requiring—

(a) notice to be given of any application for planning permission, and

(b) any applicant for such permission to issue a certificate as to the interests in the land to which the application relates or the purpose for which it is used,

and provide for publicising such applications and for the form, content and service of such notices and certificates.

(2) Provision shall be made by a development order for the purpose of securing that, in the case of any application for planning permission, any person (other than the applicant) who on such date as may be prescribed by the order is an owner of the land to which the application relates, or **[**F179an agricultural tenant of that land**]]**, is given notice of the application in such manner as may be required by the order.

(3) A development order may require an applicant for planning permission to certify, in such form as may be prescribed by the order, or to provide evidence, that any requirements of the order have been satisfied.

(4) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.

(5) A local planning authority shall not entertain an application for planning permission unless any requirements imposed by virtue of this section have been satisfied.

(6) If any person—

(a) issues a certificate which purports to comply with any requirement imposed by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or

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(b) recklessly issues a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particular,

he shall be guilty of an offence.

(7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) In this section—

[[F180]"agricultural tenant", in relation to any land, means any person who—

(a) is the tenant, under a tenancy in relation to which the Agricultural Holdings Act 1986 applies, of an agricultural holding within the meaning of that Act any part of which is comprised in that land; or

(b) is the tenant, under a farm business tenancy (within the meaning of the Agricultural Tenancies Act 1995), of land any part of which is comprised in that land;**]**

"owner" in relation to any land means any person who—

(a) is the estate owner in respect of the fee simple;

(b) is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired; or

(c) in the case of such applications as may be prescribed by a development order, is entitled to an interest in any mineral so prescribed,

and the reference to the interests in the land to which an application for planning permission relates includes any interest in any mineral in, on or under the land.

(9) Notwithstanding section 127 of the [M36]Magistrates' Courts Act 1980, a magistrates' court may try an information in respect of an offence under this section whenever laid.

Annotations:

Amendments (Textual)

F178 S. 65 substituted for ss. 65-68 (25.11.1991 for certain purposes and otherwise 17.7.1992) by Planning and Compensation Act 1991 c. 34, **s. 16(1)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/1491, **art. 2**

F179 Words in s. 65(2) substituted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 35(2)** (with s. 37)

F180 Definition of "agricultural tenant" substituted (1.9.1995) for definition of "agricultural holding" in s. 65(8) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 35(3)** (with s. 37)

Modifications etc. (not altering text)

C41 S. 65 applied (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 13 para. 7(5)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 65 applied (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(3)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 65 extended (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(5)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 65 applied (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 14 para. 6(3)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

C42 S. 65(6) extended (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 13 para. 7(5)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 65(6) extended (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(3)** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/2765, **art. 2**

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S. 65(6) extended (1.11.1995) by 1995 c. 25, s. 96(1), **Sch. 14 para. 6(3)** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/2765, **art. 2**

Marginal Citations

M36 1980 c. 43.

[F184 69 Register of applications etc

(1) The local planning authority must keep a register containing such information as is prescribed as to—

(a) applications for planning permission;

[F185 (aa) applications for non-material changes to planning permission under section 96A;]

(b) requests for statements of development principles (within the meaning of section 61E);

(c) local development orders;

(d) simplified planning zone schemes.

(2) The register must contain—

(a) information as to the manner in which applications mentioned in subsection (1)(a) [F186 and (aa)] and requests mentioned in subsection (1)(b) have been dealt with;

(b) such information as is prescribed with respect to any local development order or simplified planning zone scheme in relation to the authority's area.

(3) A development order may require the register to be kept in two or more parts.

(4) Each part must contain such information as is prescribed relating to the matters mentioned in subsection (1)(a) [F187, (aa)] and (b).

(5) A development order may also make provision—

(a) for a specified part of the register to contain copies of applications or requests and of any other documents or material submitted with them;

(b) for the entry relating to an application or request (and everything relating to it) to be removed from that part of the register when the application (including any appeal arising out of it) or the request (as the case may be) has been finally disposed of.

(6) Provision made under subsection (5)(b) does not prevent the inclusion of a different entry relating to the application or request in another part of the register.

(7) The register must be kept in such manner as is prescribed.

(8) The register must be kept available for inspection by the public at all reasonable hours.

(9) Anything prescribed under this section must be prescribed by development order.]

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Annotations:

Amendments (Textual)

F184 S. 69 substituted (6.8.2004 for certain purposes and otherwise 22.2.2010) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 3** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2010/321, **art. 2**

F185 S. 69(1)(aa) inserted (6.4.2010) by Planning Act 2008 (c. 29), **ss. 190(4)(a)**, 241 (with s. 226); S.I. 2010/566, **art. 3(b)**

F186 Words in s. 69(2)(a) inserted (6.4.2010) by Planning Act 2008 (c. 29), **ss. 190(4)(b)**, 241 (with s. 226); S.I. 2010/566, **art. 3(b)**

F187 Words in s. 69(4) inserted (6.4.2010) by Planning Act 2008 (c. 29), **ss. 190(4)(c)**, 241 (with s. 226); S.I. 2010/566, **art. 3(b)**

Modifications etc. (not altering text)

C43 S. 69 extended (with modifications) (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 22, **Sch. 2 para. 9(1)(2)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
S. 69 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 69 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

C44 S. 69: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

C45 S. 69 applied (with modifications) (W.) (8.1.2010) by The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009 (S.I. 2009/3342), **reg. 47(1)**

Determination of applications

70 Determination of applications: general considerations.

(1) Where an application is made to a local planning authority for planning permission—

F188(a) subject to sections 91 and 92, they may grant planning permission, either unconditionally or subject to such conditions as they think fit; or

(b) they may refuse planning permission.

(2) In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.

(3) Subsection (1) has effect subject to **[**F189section 65**]** and to the following provisions of this Act, to sections 66, 67, 72 and 73 of the M38Planning (Listed Buildings and Conservation Areas) Act 1990 and to section 15 of the M39Health Services Act 1976.

Annotations:

Amendments (Textual)

F188 S. 70(1)(a)(b): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

F189 Words in s. 70(3) substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.14** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

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Modifications etc. (not altering text)

C46 S. 70 modified (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. III para. 19** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, **art. 4**,, Sch. 2
S. 70 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 70 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

Marginal Citations

M38 1990 c. 9.
M39 1976 c. 83.

[F190 70A Power to decline to determine subsequent application.

(1) A local planning authority may decline to determine a relevant application if—

(a) any of the conditions in subsections (2) to (4) is satisfied, and

(b) the authority think there has been no significant change in the relevant considerations since the relevant event.

(2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application referred to him under section 76A or 77.

(3) The condition is that in that period the Secretary of State has dismissed an appeal—

(a) against the refusal of a similar application, or

(b) under section 78(2) in respect of a similar application.

(4) The condition is that—

(a) in that period the local planning authority have refused more than one similar application, and

(b) there has been no appeal to the Secretary of State against any such refusal[F191 or, if there has been such an appeal, it has been withdrawn].

[F192(4A) A local planning authority in England may also decline to determine a relevant application if—

(a) the condition in subsection (4B) is satisfied, and

(b) the authority think there has been no significant change in the relevant considerations since the relevant event.

(4B) The condition is that—

(a) in the period of two years ending with the date on which the application mentioned in subsection (4A) is received the Secretary of State has refused a similar application,

(b) the similar application was an application deemed to have been made by section 177(5), and

(c) the land to which the application mentioned in subsection (4A) and the similar application relate is in England.]

(5) A relevant application is—

(a) an application for planning permission for the development of any land;

(b) an application for approval in pursuance of section 60(2).

(6) The relevant considerations are—

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(a) the development plan so far as material to the application;
(b) any other material considerations.

(7) The relevant event is—
(a) for the purposes of subsections (2) **[**F193, (4) and (4B)**]** the refusal of the similar application;
(b) for the purposes of subsection (3) the dismissal of the appeal.

(8) An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.**]**

Annotations:

Amendments (Textual)

F190 Ss. 70A, 70B substituted (24.8.2005 (E.) in so far as relates to s. 70A and 6.4.2009 (E.) in so far as relates to s. 70B) for s. 70A by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 43(1)**, 121 (with s. 111); S.I. 2005/2081, **art. 2** (subject to savings in art. 4); S.I. 2009/384, **art. 2(a)**

F191 Words in s. 70A(4)(b) inserted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 187, 241, **Sch. 7 para. 2(2)** (with s. 226); S.I. 2009/400, **art. 5**

F192 S. 70A(4A)(4B) inserted (6.4.2009) by Planning Act 2008 (c. 29), ss. 187, 241, **Sch. 7 para. 2(3)** (with s. 226); S.I. 2009/400, **art. 3**

F193 Words in s. 70A(7)(a) substituted (6.4.2009) by Planning Act 2008 (c. 29), ss. 187, 241, **Sch. 7 para. 2(4)** (with s. 226); S.I. 2009/400, **art. 3**

Modifications etc. (not altering text)

C47 S. 70A applied (with modifications) (6.4.1992) by S.I. 1992/666, art. 13(1)(c), Sch. 4 Pts. I, **II**
S. 70A applied (with modifications) (6.4.2007) by The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2004/783), **reg. 14(3)**, Sch. 4 (as amended by S.I. 2007/1739, reg. 2(b))

C48 S. 70A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

[F194**70B Power to decline to determine overlapping application**

(1) A local planning authority may decline to determine an application for planning permission for the development of any land which is
[F195(a) made on the same day as a similar application, or
(b)**]** made at a time when any of the conditions in subsections (2) to (4) applies in relation to a similar application.

(2) The condition is that a similar application is under consideration by the local planning authority and the determination period for that application has not expired.

(3) The condition is that a similar application is under consideration by the Secretary of State in pursuance of section 76A or 77 or on an appeal under section 78 and the Secretary of State has not issued his decision.

(4) The condition is that a similar application—
(a) has been granted by the local planning authority,
(b) has been refused by them, or
(c) has not been determined by them within the determination period,

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and the time within which an appeal could be made to the Secretary of State under section 78 has not expired.

[F196(4A) A local planning authority in England may also decline to determine an application for planning permission for the development of any land in England which is made at a time when the condition in subsection (4B) applies in relation to a similar application.

(4B) The condition is that—

(a) a similar application is under consideration by the Secretary of State,

(b) the similar application is an application deemed to have been made by section 177(5), and

(c) the Secretary of State has not issued his decision.**]**

(5) An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.

(6) The determination period is—

(a) the period prescribed by the development order for the determination of the application, or

(b) such longer period as the applicant and the authority have agreed for the determination of the application.

[F197(7) If a local planning authority exercise their power under subsection (1)(a) to decline to determine an application made on the same day as a similar application, they may not also exercise that power to decline to determine the similar application.**]]**

Annotations:

Amendments (Textual)

F194 Ss. 70A, 70B substituted (24.8.2005 (E.) in so far as relates to s. 70A and 6.4.2009 (E.) in so far as relates to s. 70B) for s. 70A by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 43(1)**, 121 (with s. 111); S.I. 2005/2081, **art. 2** (subject to savings in art. 4); S.I. 2009/384, **art. 2(a)**

F195 Words in s. 70B(1) inserted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 187, 241, **Sch. 7 para. 3(2)** (with s. 226); S.I. 2009/400, **art. 5**

F196 S. 70B(4A)(4B) inserted (6.4.2009) by Planning Act 2008 (c. 29), ss. 187, 241, **Sch. 7 para. 3(3)** (with s. 226); S.I. 2009/400, **art. 3**

F197 S. 70B(7) inserted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 187, 241, **Sch. 7 para. 3(4)** (with s. 226); S.I. 2009/400, **art. 5**

71 Consultations in connection with determinations under s. 70.

[F198(1) A development order may provide that a local planning authority shall not determine an application for planning permission before the end of such period as may be prescribed.

(2) A development order may require a local planning authority—

(a) to take into account in determining such an application such representations, made within such period, as may be prescribed; and

(b) to give to any person whose representations have been taken into account such notice as may be prescribed of their decision.

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(2A) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.**]**

(3) Before a local planning authority grant planning permission for the use of land as a caravan site, they shall, unless they are also the authority with power to issue a site licence for that land, consult the local authority with that power.

(4) In this section—

[F199"prescribed" means prescribed by a development order**]**

"site licence" means a licence under Part 1 of the M40Caravan Sites and Control of Development Act 1960 authorising the use of land as a caravan site.

Annotations:

Amendments (Textual)

F198 S. 71(1)(2)(2A) substituted for s. 71(1)(2) (25.11.1991 for certain purposes and otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 16(2)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/1491, **art. 2**

F199 S. 71(4) definition of "prescribed" substituted (17.7.1992) for definitions of "agricultural holding" and "owner" by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.15** (with s. 84(5)); S.I. 1992/1491, **art. 2**

Marginal Citations

M40 1960 c. 62.

[F200**71A Assessment of environmental effects.**

(1) The Secretary of State may by regulations make provision about the consideration to be given, before planning permission for development of any class specified in the regulations is granted, to the likely environmental effects of the proposed development.

(2) The regulations—

(a) may make the same provision as, or provision similar or corresponding to, any provision made, for the purposes of any Community obligation of the United Kingdom about the assessment of the likely effects of development on the environment, under section 2(2) of the M41European Communities Act 1972; and

(b) may make different provision for different classes of development.

(3) Where a draft of regulations made in exercise both of the power conferred by this section and the power conferred by section 2(2) of the European Communities Act 1972 is approved by resolution of each House of Parliament, section 333(3) shall not apply.**]**

Annotations:

Amendments (Textual)

F200 S. 71A inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.15** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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Marginal Citations

M41 1972 c. 68.

72 Conditional grant of planning permission.

(1) Without prejudice to the generality of section 70(1), conditions may be imposed on the grant of planning permission under that section—

(a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission;

(b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.

(2) A planning permission granted subject to such a condition as is mentioned in subsection (1)(b) is in this Act referred to as "planning permission granted for a limited period".

(3) Where—

(a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition; and

(b) any building or other operations are commenced after the time so specified,

the commencement and carrying out of those operations do not constitute development for which that permission was granted.

(4) Subsection (3)(a) does not apply to a condition attached to the planning permission by or under section 91 or 92.

(5) Part I of Schedule 5 shall have effect for the purpose of making special provision with respect to the conditions which may be imposed on the grant of planning permission for development consisting of the winning and working of minerals **[**F201or involving the depositing of refuse or waste materials**]**, and subsection (2) has effect subject to paragraph 1(6)(a) of that Schedule.

Annotations:

Amendments (Textual)

F201 Words in s. 72(5) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para.2** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C49 S. 72: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

C50 S. 72(1)(a) modified (26.11.1992) by S.I. 1992/2683, reg. 2, **Sch. para. 2**
S. 72(1)(a) modified (3.6.1995) by S.I. 1995/1139, reg. 2, **Sch. para. 1**

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73 Determination of applications to develop land without compliance with conditions previously attached.

(1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

(3) **[**[F202]Special provision may be made with respect to such applications—

(a) by regulations under section 62 as regards the form and content of the application, and

(b) by a development order as regards the procedure to be followed in connection with the application.**]**

(4) This section does not apply if the previous planning permission was granted subject to a condition as to the time within which the development to which it related was to be begun and that time has expired without the development having been begun.

[[F203](5) Planning permission must not be granted under this section to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which—

(a) a development must be started;

(b) an application for approval of reserved matters (within the meaning of section 92) must be made.**]**

Annotations:

Amendments (Textual)

F202 S. 73(3) repealed (6.8.2004 for certain purposes and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 42(2), 120, 121, **Sch. 9** (with s. 111); S.I. 2004/2097, **art. 2**

F203 S. 73(5) inserted (24.8.2005 for E and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 51(3)**, 121 (with s. 111); S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

Modifications etc. (not altering text)

C51 S. 73: functions of local authority not to be responsibility, of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1** para. A. 2

C52 S. 73: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

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[F204 73A Planning permission for development already carried out.

(1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.

(2) Subsection (1) applies to development carried out—

(a) without planning permission;

(b) in accordance with planning permission granted for a limited period; or

(c) without complying with some condition subject to which planning permission was granted.

(3) Planning permission for such development may be granted so as to have effect from—

(a) the date on which the development was carried out; or

(b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.]

Annotations:

Amendments (Textual)

F204 S. 73A inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 16(1)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

Modifications etc. (not altering text)

C53 S. 73A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

74 Directions etc. as to method of dealing with applications.

(1) Provision may be made by a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by local planning authorities, and in particular—

(a) for enabling the Secretary of State to give directions restricting the grant of planning permission by the local planning authority, either indefinitely or during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;

(b) for authorising the local planning authority, in such cases and subject to such conditions as may be prescribed by the order or by directions given by the Secretary of State under it, to grant planning permission for development which does not accord with the provisions of the development plan;

(c) for requiring that, before planning permission for any development is granted or refused, local planning authorities prescribed by the order or by directions given by the Secretary of State under it shall consult with such authorities or persons as may be so prescribed;

(d) for requiring the local planning authority to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;

(e) for requiring the local planning authority to give any applicant for any consent, agreement or approval required by a condition imposed on a grant of planning

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permission notice of their decision on his application, within such time as may be so prescribed;

(f) for requiring the local planning authority to give to the Secretary of State, and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to the authority, including information as to the manner in which any such application has been dealt with.

[[F205](1A) Provision may be made by a development order—

(a) for determining the persons to whom applications under this Act are to be sent; and

(b) for requiring persons to whom such applications are sent to send copies to other interested persons.**]**

[[F206](1B) Provision may be made by a development order—

(a) for enabling the Mayor of London in prescribed circumstances, and subject to such conditions as may be prescribed, to direct the local planning authority for a London borough to refuse an application for planning permission of a prescribed description in any particular case;

(b) for prohibiting a local planning authority to which any such direction is given from implementing the direction in prescribed circumstances or during prescribed periods; and

(c) for modifying any provision of this Act relating to an appeal against a refusal of planning permission (and, in particular, any such provision concerning parties or costs) in its application in relation to a refusal in compliance with such a direction;

and in the preceding provisions of this subsection "prescribed" means prescribed by, or by directions made under, a development order.

(1C) In determining whether to exercise any power under subsection (1B) to direct a local planning authority to refuse an application, the Mayor of London shall have regard to—

(a) the development plan, and

(b) the spatial development strategy prepared and published under Part VIII of the Greater London Authority Act 1999,

so far as material to the application.**]**

(2) Subsection (1) is subject to the provisions of [F207]. . . sections 67(7) and 73(1) of the [M42]Planning (Listed Buildings and Conservation Areas) Act 1990.

Annotations:

Amendments (Textual)

F205 S. 74(1A) inserted (25.11.1991 for certain purposes and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 19(1)**, (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 3** (subject to art. 5)

F206 S. 74(1B)(1C) inserted (12.1.2000) by 1999 c. 29, **s. 244(9)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 2**

F207 Words in s. 74(2) repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 17, **Sch. 19**, Pt. I (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

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Modifications etc. (not altering text)
C54 S. 74(1B)(a) excluded (30.3.2006) by London Olympic Games and Paralympic Games Act 2006 (c. 12), **ss. 5(4)(a)**, 40

Marginal Citations
M42 1990 c. 9.

75 Effect of planning permission.

(1) Without prejudice to the provisions of this Part as to the duration, revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested in it.

(2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used.

(3) If no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.

Annotations:

Modifications etc. (not altering text)
C55 S. 75 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 75 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

76 Duty to draw attention to certain provisions for benefit of disabled.

F208 . . . . . .

Annotations:

Amendments (Textual)
F208 S. 76 omitted (6.8.2004) by virtue of Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 4** (with s. 111); S.I. 2004/2097, **art. 2** and said section repealed (10.8.2006 for E. and 30.6.2007 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 120, 121, **Sch. 9** (with s. 111); S.I. 2006/1061, **art. 3**; S.I. 2007/1369, **art. 2**

Secretary of State's powers as respects planning applications and decisions

[F209 76A Major infrastructure projects

(1) This section applies to—

(a) an application for planning permission;

(b) an application for the approval of a local planning authority required under a development order,

if the Secretary of State thinks that the development to which the application relates is of national or regional importance.

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(2) The Secretary of State may direct that the application must be referred to him instead of being dealt with by the local planning authority.

(3) If the Secretary of State gives a direction under subsection (2) he may also direct that any application—

(a) under or for the purposes of the planning Acts, and

(b) which he thinks is connected with the application mentioned in subsection (1),

must also be referred to him instead of being dealt with by the local planning authority.

(4) If the Secretary of State gives a direction under this section—

(a) the application must be referred to him;

(b) he must appoint an inspector to consider the application.

(5) If the Secretary of State gives a direction under subsection (2) the applicant must prepare an economic impact report which must—

(a) be in such form and contain such matter as is prescribed by development order;

(b) be submitted to the Secretary of State in accordance with such provision as is so prescribed.

(6) For the purposes of subsection (5) the Secretary of State may, by development order, prescribe such requirements as to publicity and notice as he thinks appropriate.

(7) A direction under this section or section 76B may be varied or revoked by a subsequent direction.

(8) The decision of the Secretary of State on any application referred to him under this section is final.

(9) Regional relates to a region listed in Schedule 1 to the Regional Development Agencies Act 1998 (c. 45).

(10) The following provisions of this Act apply (with any necessary modifications) to an application referred to the Secretary of State under this section as they apply to an application which falls to be determined by a local planning authority—

(a) section 70;

(b) section 72(1) and (5);

(c) section 73;

(d) section 73A.

(11) A development order may apply (with or without modifications) any requirements imposed by the order by virtue of section 65 or 71 to an application referred to the Secretary of State under this section.

(12) This section does not apply to an application which relates to the development of land in Wales.

Annotations:

Amendments (Textual)

F209 Ss. 76A, 76B inserted (6.8.2004 for certain purposes, 24.8.2005 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 44**, 121; S.I. 2004/2097, **art. 2**; S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

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76B Major infrastructure projects: inspectors

(1) This section applies if the Secretary of State appoints an inspector under section 76A(4)(b) (the lead inspector).

(2) The Secretary of State may direct the lead inspector—

(a) to consider such matters relating to the application as are prescribed;

(b) to make recommendations to the Secretary of State on those matters.

(3) After considering any recommendations of the lead inspector the Secretary of State may—

(a) appoint such number of additional inspectors as he thinks appropriate;

(b) direct that each of the additional inspectors must consider such matters relating to the application as the lead inspector decides.

(4) An additional inspector must—

(a) comply with such directions as to procedural matters as the lead inspector gives;

(b) report to the lead inspector on the matters he is appointed to consider.

(5) A copy of directions given as mentioned in subsection (4)(a) must be given to—

(a) the person who made the application;

(b) the local planning authority;

(c) any other person who requests it.

(6) If the Secretary of State does not act under subsection (3) he must direct the lead inspector to consider the application on his own.

(7) In every case the lead inspector must report to the Secretary of State on—

(a) his consideration of the application;

(b) the consideration of the additional inspectors (if any) of the matters mentioned in subsection (3)(b).

(8) The function of the lead inspector in pursuance of subsection (2)—

(a) may be exercised from time to time;

(b) includes making recommendations as to the number of additional inspectors required from time to time.

(9) The power of the Secretary of State under subsection (3) to appoint an additional inspector includes power to revoke such an appointment.**]**

Annotations:

Amendments (Textual)

F209 Ss. 76A, 76B inserted (6.8.2004 for certain purposes, 24.8.2005 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 44**, 121; S.I. 2004/2097, **art. 2**; S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

77 Reference of applications to Secretary of State.

(1) The Secretary of State may give directions requiring applications for planning permission, or for the approval of any local planning authority required under a

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development order **[**F210or a local development order**]** , to be referred to him instead of being dealt with by local planning authorities.

(2) A direction under this section—

(a) may be given either to a particular local planning authority or to local planning authorities generally; and

(b) may relate either to a particular application or to applications of a class specified in the direction.

(3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

(4) Subject to subsection (5), where an application for planning permission is referred to the Secretary of State under this section, sections **[**F21170, 72(1) and (5), 73 and 73A**]** shall apply, with any necessary modifications, as they apply to such an application which falls to be determined by the local planning authority **[**F212and a development order may apply, with or without modifications, to an application so referred any requirements imposed by such an order by virtue of section 65 or 71**]**.

(5) Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant or the local planning authority wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) Subsection (5) does not apply to an application for planning permission referred to a Planning Inquiry Commission under section 101.

(7) The decision of the Secretary of State on any application referred to him under this section shall be final.

Annotations:

Amendments (Textual)

F210 Words in s. 77(1) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(d)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

F211 Words in s. 77(4) substituted (2.1.1992 so far as relating to the inclusion of a reference to s. 73A otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.18** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5) and S.I. 1992/1491, art.2, **Sch.1**

F212 Words in s. 77(4) inserted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 18** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch.1**

Modifications etc. (not altering text)

C56 S. 77 extended (3.11.1994) by 1994 c. 33, **ss. 80(3)**, 172(4)

C57 S. 77 applied (with modifications) (6.4.2007) by The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2004/783), **reg. 10**

C58 S. 77(5) excluded (27.5.1997) by 1997 c. 8, ss. 70(4), 278(2), **Sch. 7 para. 7** (with ss. 20, 64, 219)

78 Right to appeal against planning decisions and failure to take such decisions.

(1) Where a local planning authority—

(a) refuse an application for planning permission or grant it subject to conditions;

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(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of planning permission or grant it subject to conditions; or

(c) refuse an application for any approval of that authority required under a development order **[**F213or a local development order**]** or grant it subject to conditions,

the applicant may by notice appeal to the Secretary of State.

(2) A person who has made such an application may also appeal to the Secretary of State if the local planning authority have **[**F214done none of the following**]**—

(a) given notice to the applicant of their decision on the application;

[F215(aa) given notice to the applicant that they have exercised their power under section 70A **[**F216or 70B**]** to decline to determine the application;**]**

(b) given notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 77,

within such period as may be prescribed by the development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.

(3) Any appeal under this section shall be made by notice served within such time and in such manner as may be prescribed by a development order.

(4) The time prescribed for the service of such a notice must not be less than—

(a) 28 days from the date of notification of the decision; or

(b) in the case of an appeal under subsection (2), 28 days from the end of the period prescribed as mentioned in subsection (2) or, as the case may be, the extended period mentioned in that subsection.

[F217(4A) A notice of appeal under this section must be accompanied by such information as may be prescribed by a development order.

(4B) The power to make a development order under subsection (4A) is exercisable by—

(a) the Secretary of State, in relation to England;

(b) the Welsh Ministers, in relation to Wales.

(4C) Section 333(5) does not apply in relation to a development order under subsection (4A) made by the Welsh Ministers.

(4D) A development order under subsection (4A) made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.**]**

(5) For the purposes of the application of sections **[**F21879(1) and (3)**]** , 253(2)(c), 266(1)(b) **[**F219, 288(10)(b) and 319A(7)(b)**]** in relation to an appeal under subsection (2), it shall be assumed that the authority decided to refuse the application in question.

Annotations:

Subordinate Legislation Made

P7 S. 78 restricted (18.12.1996) by 1996 c. 61, s. 9(5), **Sch. 6 Pt. IV para. 33**

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Amendments (Textual)

F213 Words in s. 78(1)(c) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(e)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

F214 Words in s. 78(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 17(2)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F215 S. 78(2)(aa) substituted (25.9.1991) for 'nor' by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 17(2)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F216 Words in s. 78(2)(aa) inserted (6.4.2009 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 43(2)**, 121 (with s. 111); S.I. 2009/384, **art. 2**

F217 S. 78(4A)-(4D) inserted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 197, 241, **Sch. 11 para. 2** (with s. 226); S.I. 2009/400, **art. 5**

F218 Words in s. 78(5) substituted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 3(a)** (with s. 226); S.I. 2009/400, **art. 3**

F219 Words in s. 78(5) substituted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 3(b)** (with s. 226); S.I. 2009/400, **art. 3**

Modifications etc. (not altering text)

C59 S. 78 modified by S.I. 1989/670, **reg. 15** as amended by S.I. 1990/1562, **regs. 2**, 3, 6
S. 78 applied (with modifications) (6.4.1992) by S.I. 1992/666, reg. 15(1)(3), Sch. 4 Pts. I, IV, **V**
S. 78 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 78 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

C60 S. 78 applied (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 89, 121, **Sch. 4 para. 5(3)** (with s. 111); S.I. 2006/1281, **art. 2**

C61 Ss. 78, 79 applied (with modifications) (6.4.2007) by The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2004/783), **reg. 17**, Sch. 4

C62 S. 78 restricted (22.7.2008) by Crossrail Act 2008 (c. 18), ss. 10, **Sch. 7 para. 31**

C63 S. 78 applied (22.7.2008) by Crossrail Act 2008 (c. 18), ss. 49, **Sch. 16 para. 2(7)**

[F220 78A Appeal made: functions of local planning authorities

(1) This section applies if a person who has made an application mentioned in section 78(1)(a) appeals to the Secretary of State under section 78(2).

(2) At any time before the end of the additional period the local planning authority may give the notice referred to in section 78(2).

(3) If the local planning authority give notice as mentioned in subsection (2) that their decision is to refuse the application—

(a) the appeal must be treated as an appeal under section 78(1) against the refusal;

(b) the Secretary of State must give the person making the appeal an opportunity to revise the grounds of the appeal;

(c) the Secretary of State must give such a person an opportunity to change any option the person has chosen relating to the procedure for the appeal.

(4) If the local planning authority give notice as mentioned in subsection (2) that their decision is to grant the application subject to conditions the Secretary of State must give the person making the appeal the opportunity—

(a) to proceed with the appeal as an appeal under section 78(1) against the grant of the application subject to conditions;

(b) to revise the grounds of the appeal;

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(c) to change any option the person has chosen relating to the procedure for the appeal.

(5) The Secretary of State must not issue his decision on the appeal before the end of the additional period.

(6) The additional period is the period prescribed by development order for the purposes of this section and which starts on the day on which the person appeals under section 78(2).**]**

Annotations:

Amendments (Textual)

F220 S. 78A inserted (6.8.2004 for certain purposes and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 50(1)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**

79 Determination of appeals.

(1) On an appeal under section 78 the Secretary of State may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the local planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

[F221(3) Subsection (2) does not apply to—

(a) an appeal referred to a Planning Inquiry Commission under section 101; or

(b) an appeal against a decision of a local planning authority in England.**]**

(4) Subject to subsection (2), the provisions of sections **[**F222**]**70, 72(1) and (5), 73 and 73A and Part I of Schedule 5 shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for planning permission which falls to be determined by the local planning authority **[**F223**]**and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71**]**.

(5) The decision of the Secretary of State on such an appeal shall be final.

(6) If, before or during the determination of such an appeal in respect of an application for planning permission to develop land, the Secretary of State forms the opinion that, having regard to the provisions of sections 70 and 72(1), the development order and any directions given under that order, planning permission for that development—

(a) could not have been granted by the local planning authority; or

(b) could not have been granted otherwise than subject to the conditions imposed,

he may decline to determine the appeal or to proceed with the determination.

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[F224(6A) If at any time before or during the determination of such an appeal it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, he may—

(a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal; and

(b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.]

(7) Schedule 6 applies to appeals under section 78, including appeals under that section as applied by or under any other provision of this Act.

Annotations:

Amendments (Textual)

F221 S. 79(3) substituted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 4** (with s. 226); S.I. 2009/400, **art. 3**

F222 Words in s. 79(4) substituted (2.1.1992 so far as relating to the inclusion of a reference to s. 73A and otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 19** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art .5); S.I. 1992/1491, art. 2, **Sch. 1**

F223 Words at end of s. 79(4) inserted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 19** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

F224 S. 79(6A) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 18** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C64 Ss. 78, 79 modified by S.I. 1989/670, **reg. 15** as amended by S.I. 1990/1562, **regs. 2**, 3, 6
Ss. 78, 79 applied (with modifications) (6.4.1992) by S.I. 1992/666, reg. 15(1)(3), Sch. 4 Pts. I, IV, **V**
S. 79 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 79 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

C65 Ss. 78, 79 applied (with modifications) (6.4.2007) by The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2004/783), **reg. 17**, Sch. 4

C66 S. 79(2) excluded (27.5.1997) by 1997 c. 8, ss. 70(4), 278(2), **Sch. 7 para. 7** (with ss. 20, 64, 219)

F225 80 . . . . . .

Annotations:

Amendments (Textual)

F225 S. 80 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 11, **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F226 81 . . . . . .

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Annotations:

Amendments (Textual)

F226 S. 81 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 11, **Sch. 19**, Pt.II; S.I. 1991/2067, **art.3** (subject to art. 4)

Simplified planning zones

82 Simplified planning zones.

(1) A simplified planning zone is an area in respect of which a simplified planning zone scheme is in force.

(2) The adoption or approval of a simplified planning zone scheme has effect to grant in relation to the zone, or any part of it specified in the scheme, planning permission—

(a) for development specified in the scheme, or

(b) for development of any class so specified.

(3) Planning permission under a simplified planning zone scheme may be unconditional or subject to such conditions, limitations or exceptions as may be specified in the scheme.

83 Making of simplified planning zone schemes.

(1) Every local planning authority shall consider, as soon as practicable after 2nd November 1987, the question for which part or parts of their area a simplified planning zone scheme is desirable, and then shall keep that question under review.

(2) If as a result of their original consideration or of any such review a local planning authority decide that it is desirable to prepare a scheme for any part of their area they shall do so; and a local planning authority may at any time decide—

(a) to make a simplified planning zone scheme, or

(b) to alter a scheme adopted by them, or

(c) with the consent of the Secretary of State, to alter a scheme approved by him.

(3) Schedule 7 has effect with respect to the making and alteration of simplified planning zone schemes and other related matters.

[[F227](5) In this section and in Schedule 7 references to a regional strategy are to a regional strategy under Part 5 of the Local Democracy, Economic Development and Construction Act 2009**]**

Annotations:

Amendments (Textual)

F227 S. 83(5) inserted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 85, 148, 149, **Sch. 5 para. 2(3)**; S.I. 2009/3318, **art. 4**

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84 Simplified planning zone schemes: conditions and limitations on planning permission.

(1) The conditions and limitations on planning permission which may be specified in a simplified planning zone scheme may include—

(a) conditions or limitations in respect of all development permitted by the scheme or in respect of particular descriptions of development so permitted, and

(b) conditions or limitations requiring the consent, agreement or approval of the local planning authority in relation to particular descriptions of permitted development.

(2) Different conditions or limitations may be specified in a simplified planning zone scheme for different cases or classes of case.

(3) Nothing in a simplified planning zone scheme shall affect the right of any person—

(a) to do anything not amounting to development, or

(b) to carry out development for which planning permission is not required or for which permission has been granted otherwise than by the scheme.

(4) No limitation or restriction subject to which permission has been granted otherwise than under the scheme shall affect the right of any person to carry out development for which permission has been granted under the scheme.

85 Duration of simplified planning zone scheme.

(1) A simplified planning zone scheme shall take effect on the date of its adoption or approval and shall cease to have effect at the end of the period of 10 years beginning with that date.

(2) When the scheme ceases to have effect planning permission under it shall also cease to have effect except in a case where the development authorised by it has been begun.

86 Alteration of simplified planning zone scheme.

(1) This section applies where alterations to a simplified planning zone scheme are adopted or approved.

(2) The adoption or approval of alterations providing for the inclusion of land in the simplified planning zone has effect to grant in relation to that land, or such part of it as is specified in the scheme, planning permission for development so specified or of any class so specified.

(3) The adoption or approval of alterations providing for the grant of planning permission has effect to grant such permission in relation to the simplified planning zone, or such part of it as is specified in the scheme, for development so specified or development of any class so specified.

(4) The adoption or approval of alterations providing for the withdrawal or relaxation of conditions, limitations or restrictions to which planning permission under the scheme is subject has effect to withdraw or relax the conditions, limitations or restrictions immediately.

(5) The adoption or approval of alterations providing for—

(a) the exclusion of land from the simplified planning zone,

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(b) the withdrawal of planning permission, or

(c) the imposition of new or more stringent conditions, limitations or restrictions to which planning permission under the scheme is subject,

has effect to withdraw permission, or to impose the conditions, limitations or restrictions, with effect from the end of the period of 12 months beginning with the date of the adoption or approval.

(6) The adoption or approval of alterations to a scheme does not affect planning permission under the scheme in any case where the development authorised by it has been begun.

87 Exclusion of certain descriptions of land or development.

(1) The following descriptions of land may not be included in a simplified planning zone —

(a) land in a National Park;

(b) land in a conservation area;

(c) land within the Broads;

(d) land in an area designated under **[**F228section 82 of the Countryside and Rights of Way Act 2000**]** as an area of outstanding natural beauty;

(e) land identified in the development plan for the district as part of a green belt;

[F229(f) land within a site of special scientific interest (within the meaning of the Wildlife and Countryside Act 1981).**]**

(2) Where land included in a simplified planning zone becomes land of a description mentioned in subsection (1), that subsection does not operate to exclude it from the zone.

(3) The Secretary of State may by order provide that no simplified planning zone scheme shall have effect to grant planning permission—

(a) in relation to an area of land specified in the order or to areas of land of a description so specified, or

(b) for development of a description specified in the order.

(4) An order under subsection (3) has effect to withdraw such planning permission under a simplified planning zone scheme already in force with effect from the date on which the order comes into force, except in a case where the development authorised by the permission has been begun.

Annotations:

Amendments (Textual)

F228 Words in s. 87(1)(d) substituted (1.4.2001) by 2000 c. 37, s. 93, **Sch. 15 Pt. I para. 10**; S.I. 2001/114, **art. 2(2)(e)**

F229 S. 87(1)(f) substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 7**

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Enterprise zone schemes

88 Planning permission for development in enterprise zones.

(1) An order designating an enterprise zone under Schedule 32 to the [M43]Local Government, Planning and Land Act 1980 shall (without more) have effect on the date on which the order designating the zone takes effect to grant planning permission for development specified in the scheme or for development of any class so specified.

(2) The approval of a modified scheme under paragraph 11 of that Schedule shall (without more) have effect on the date on which the modifications take effect to grant planning permission for development specified in the modified scheme or for development of any class so specified.

(3) Planning permission so granted shall be subject to such conditions or limitations as may be specified in the scheme or modified scheme or, if none is specified, shall be unconditional.

(4) Subject to subsection (5), where planning permission is so granted for any development or class of development the enterprise zone authority may direct that the permission shall not apply in relation—

(a) to a specified development; or

(b) to a specified class of development; or

(c) to a specified class of development in a specified area within the enterprise zone.

(5) An enterprise zone authority shall not give a direction under subsection (4) unless—

(a) they have submitted it to the Secretary of State, and

(b) he has notified them that he approves of their giving it.

(6) If the scheme or the modified scheme specifies, in relation to any development it permits, matters which will require approval by the enterprise zone authority, the permission shall have effect accordingly.

(7) The Secretary of State may by regulations make provision as to—

(a) the procedure for giving a direction under subsection (4); and

(b) the method and procedure relating to the approval of matters specified in a scheme or modified scheme as mentioned in subsection (6).

(8) Such regulations may modify any provision of the planning Acts or any instrument made under them or may apply any such provision or instrument (with or without modification) in making any such provision as is mentioned in subsection (7).

(9) Nothing in this section prevents planning permission being granted in relation to land in an enterprise zone otherwise than by virtue of this section (whether the permission is granted in pursuance of an application made under this Part or by a development order **[**[F230]or a local development order**]**).

(10) Nothing in this section prejudices the right of any person to carry out development apart from this section.

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Annotations:

Amendments (Textual)

F230 Words in s. 88(9) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(f)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

Marginal Citations

M43 1980 c.65.

89 Effect on planning permission of modification or termination of scheme.

(1) Modifications to an enterprise zone scheme do not affect planning permission under the scheme in any case where the development authorised by it has been begun before the modifications take effect.

(2) When an area ceases to be an enterprise zone, planning permission under the scheme shall cease to have effect except in a case where the development authorised by it has been begun.

Deemed planning permission

90 Development with government authorisation.

(1) Where the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority **[**F231or National Park authority**]**, or by statutory undertakers who are not a local authority **[**F231or National Park authority**]**, that department may, on granting that authorisation, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

(2) On granting a consent under section 36 or 37 of the M44Electricity Act 1989 in respect of any operation or change of use that constitutes development, the Secretary of State may direct that planning permission for that development and any ancillary development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

[F232(2A) On making an order under section 1 or 3 of the Transport and Works Act 1992 which includes provision for development, the Secretary of State may direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.**]**

(3) The provisions of this Act (except **[**F233Part**]**XII) shall apply in relation to any planning permission deemed to be granted by virtue of a direction under this section as if it had been granted by the Secretary of State on an application referred to him under section 77.

(4) For the purposes of this section development is authorised by a government department if—

(a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment;

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(b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;

(c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose;

(d) authority is given by the department—

(i) for the borrowing of money for the purpose of the development, or

(ii) for the application for that purpose of any money not otherwise so applicable; or

(e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants;

and references in this section to the authorisation of a government department shall be construed accordingly.

(5) In subsection (2) "ancillary development", in relation to development consisting of the extension of a generating station, does not include any development which is not directly related to the generation of electricity by that station; and in this subsection "extension" and "generating station" have the same meanings as in Part I of the [M45]Electricity Act 1989.

Annotations:

Amendments (Textual)

F231 Words in s. 90(1) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F232 S. 90(2A) inserted (1.1.1993) by Transport and Works Act 1992 (c. 42), **s. 16(1)**; S.I. 1992/2784, art. 2, **Sch. 1**.

F233 Word in s. 90(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 12** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Marginal Citations

M44 1989 c. 29.

M45 1989 c. 29.

Duration of planning permission

91 General condition limiting duration of planning permission.

(1) Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—

(a) **[**[F234]three years**]** beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or

(b) such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of planning permission may direct.

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(2) The period mentioned in subsection (1)(b) shall be a period which the authority consider appropriate having regard to the provisions of the development plan and to any other material considerations.

(3) If planning permission is granted without the condition required by subsection (1), it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the expiration of **[**F235three years**]** beginning with the date of the grant.

[F236(3A) Subsection (3B) applies if any proceedings are begun to challenge the validity of a grant of planning permission or of a deemed grant of planning permission.

(3B) The period before the end of which the development to which the planning permission relates is required to be begun in pursuance of subsection (1) or (3) must be taken to be extended by one year.

(3C) Nothing in this section prevents the development being begun from the time the permission is granted or deemed to be granted.**]**

(4) Nothing in this section applies—

(a) to any planning permission granted by a development order **[**F237or a local development order**]**;

(b) to any planning permission **[**F238granted for development carried out before the grant of that permission**]**;

(c) to any planning permission granted for a limited period;

[F239(d) to any planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste which is granted (or deemed to be granted) subject to a condition that the development to which it relates must be begun before the expiration of a specified period after—

(i) the completion of other development consisting of the winning and working of minerals already being carried out by the applicant for the planning permission; or

(ii) the cessation of depositing of mineral waste already being carried out by the applicant for the planning permission;**]**

(e) to any planning permission granted by an enterprise zone scheme;

(f) to any planning permission granted by a simplified planning zone scheme; or

(g) to any outline planning permission, as defined by section 92.

Annotations:

Amendments (Textual)

F234 Words in s. 91(1)(a) substituted (24.8.2005 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 51(1)(a)**, 121 (with ss. 51(6), 111); S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

F235 Words in s. 91(3) substituted (24.8.2005 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 51(1)(a)**, 121 (with ss. 51(6), 111); S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

F236 S. 91(3A)-(3C) inserted (24.8.2005 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 51(1)(b)**, 121 (with ss. 51(6), 111); S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

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F237 Words in s. 91(4)(a) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(g)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/ 1061, {art. 2}

F238 Words in s. 91(4)(b) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.20** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1**

F239 S. 91(4)(d) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 3**; S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C67 S. 91 excluded (5.11.1993) by 1993 c. 42, **s. 24(2)** (with ss. 2, 30(1), Sch. 2 para.9)
S. 91 excluded (18.12.1996) by 1996 c. 61, **s. 10(4)**

C68 S. 91 excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **ss. 11(4)**

92 Outline planning permission.

(1) In this section and section 91 "outline planning permission" means planning permission granted, in accordance with the provisions of a development order, with the reservation for subsequent approval by the local planning authority or the Secretary of State of matters not particularised in the application ("reserved matters").

(2) Subject to the following provisions of this section, where outline planning permission is granted for development consisting in or including the carrying out of building or other operations, it shall be granted subject to conditions to the effect—

(a) that, in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and

(b) that the development to which the permission relates must be begun not later than—

(i) F240 . . . . . .

(ii) F241. . . the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

(3) If outline planning permission is granted without the conditions required by subsection (2), it shall be deemed to have been granted subject to those conditions.

(4) The authority concerned with the terms of an outline planning permission may, in applying subsection (2), substitute, or direct that there be substituted, for the periods of three years, F242. . . or two years referred to in that subsection such other periods respectively (whether longer or shorter) as they consider appropriate.

(5) They may also specify, or direct that there be specified, separate periods under paragraph (a) of subsection (2) in relation to separate parts of the development to which the planning permission relates; and, if they do so, the condition required by paragraph (b) of that subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole.

(6) In considering whether to exercise their powers under subsections (4) and (5), the authority shall have regard to the provisions of the development plan and to any other material considerations.

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Annotations:

Amendments (Textual)

F240 S. 92(2)(b)(i) omitted (24.8.2005 for E. and otherwise prosp.) by virtue of Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 51(2)(a)**, 121 (with ss. 51(6), 111); S.I. 2004/2081, **art. 2** (subject to savings in art. 4)

F241 Words in s. 92(2)(b)(ii) omitted (28.8.2005 for E. and otherwise prosp.) by virtue of Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 51(2)(b)**, 121 (with ss. 51(6), 111); S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

F242 Words in s. 92(4) omitted (24.8.2005 for E. and otherwise prosp.) by virtue of Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 51(2)(c)**, 121 (with ss. 51(6), 111); S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

Modifications etc. (not altering text)

C69 S. 92: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

93 Provisions supplementary to ss. 91 and 92.

(1) The authority referred to in section 91(1)(b) or 92(4) is—

(a) the local planning authority or the Secretary of State, in the case of planning permission granted by them,

(b) in the case of planning permission deemed to be granted under section 90(1), the department on whose direction planning permission is deemed to be granted, and

(c) in the case of planning permission deemed to be granted under section 90(2), the Secretary of State.

(2) For the purposes of section 92, a reserved matter shall be treated as finally approved—

(a) when an application for approval is granted, or

(b) in a case where the application is made to the local planning authority and on an appeal to the Secretary of State against the authority's decision on the application the Secretary of State grants the approval, when the appeal is determined.

(3) Where a local planning authority grant planning permission, the fact that any of the conditions of the permission are required by the provisions of section 91 or 92 to be imposed, or are deemed by those provisions to be imposed, shall not prevent the conditions being the subject of an appeal under section 78 against the decision of the authority.

(4) In the case of planning permission (whether outline or other) which has conditions attached to it by or under section 91 or 92—

(a) development carried out after the date by which the conditions require it to be carried out shall be treated as not authorised by the permission; and

(b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.

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94 Termination of planning permission by reference to time limit: completion notices.

(1) This section applies where—

(a) by virtue of section 91 or 92, a planning permission is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period, that development has been begun within that period, but that period has elapsed without the development having been completed; or

(b) development has been begun in accordance with planning permission under a simplified planning zone scheme but has not been completed by the time the area ceases to be a simplified planning zone; or

(c) development has been begun in accordance with planning permission under an enterprise zone scheme but has not been completed by the time the area ceases to be an enterprise zone.

(2) If the local planning authority are of the opinion that the development will not be completed within a reasonable period, they may serve a notice ("a completion notice") stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice.

(3) The period so specified must not be less than 12 months after the notice takes effect.

(4) A completion notice shall be served—

(a) on the owner of the land,

(b) on the occupier of the land, and

(c) on any other person who in the opinion of the local planning authority will be affected by the notice.

(5) The local planning authority may withdraw a completion notice at any time before the expiration of the period specified in it as the period at the expiration of which the planning permission is to cease to have effect.

(6) If they do so they shall immediately give notice of the withdrawal to every person who was served with the completion notice.

Annotations:

Modifications etc. (not altering text)

C70 S. 94 applied (with modifications) (18.12.1996) by 1996 c. 61, **s. 10(5)(6)**

C71 S. 94(2): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

95 Effect of completion notice.

(1) A completion notice shall not take effect unless and until it is confirmed by the Secretary of State.

(2) In confirming a completion notice the Secretary of State may substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.

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(3) If, within such period as may be specified in a completion notice (which must not be less than 28 days from its service) any person on whom the notice is served so requires, the Secretary of State, before confirming the notice, shall give him and the local planning authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) If a completion notice takes effect, the planning permission referred to in it shall become invalid at the expiration of the period specified in the notice (whether the original period specified under section 94(2) or a longer period substituted by the Secretary of State under subsection (2)).

(5) Subsection (4) shall not affect any permission so far as development carried out under it before the end of the period mentioned in that subsection is concerned.

Annotations:

Modifications etc. (not altering text)
C72 S. 95(2) modified (18.12.1996) by 1996 c. 61, **s. 10(6)**

96 Power of Secretary of State to serve completion notices.

(1) If it appears to the Secretary of State to be expedient that a completion notice should be served in respect of any land, he may himself serve such a notice.

(2) A completion notice served by the Secretary of State shall have the same effect as if it had been served by the local planning authority.

(3) The Secretary of State shall not serve such a notice without consulting the local planning authority.

[F243 Non-material changes to planning permission

Annotations:

Amendments (Textual)
F243 S. 96A and cross-heading inserted (1.10.2009) by Planning Act 2008 (c. 29), **ss. 190(2)**, 241 (with s. 226); S.I. 2009/2260, **art. 3**

96A Power to make non-material changes to planning permission

(1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.

(2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

(3) The power conferred by subsection (1) includes power—

(a) to impose new conditions;

(b) to remove or alter existing conditions.

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(4) The power conferred by subsection (1) may be exercised only on an application made by or on behalf of a person with an interest in the land to which the planning permission relates.

(5) An application under subsection (4) must be made in the form and manner prescribed by development order.

(6) Subsection (7) applies in relation to an application under subsection (4) made by or on behalf of a person with an interest in some, but not all, of the land to which the planning permission relates.

(7) The application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest.

(8) A local planning authority must comply with such requirements as may be prescribed by development order as to consultation and publicity in relation to the exercise of the power conferred by subsection (1).**]**

Revocation and modification of planning permission

97 Power to revoke or modify planning permission.

(1) If it appears to the local planning authority that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part, the authority may by order revoke or modify the permission to such extent as they consider expedient.

(2) In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.

(3) The power conferred by this section may be exercised—

(a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;

(b) where the permission relates to a change of the use of any land, at any time before the change has taken place.

(4) The revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.

(5) References in this section to the local planning authority are to be construed in relation to development consisting of the winning and working of minerals as references to the mineral planning authority, [F244]. . ..

[[F245](6) Part II of Schedule 5 shall have effect for the purpose of making special provision with respect to the conditions that may be imposed by an order under this section which revokes or modifies permission for development—

(a) consisting of the winning and working of minerals; or

(b) involving the depositing of refuse or waste materials.**]**

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Annotations:

Amendments (Textual)

F244 Words in s. 97(5) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 4, **Sch. 19**, Pt.I (with s. 84(5)); S.I. 1991/2067, art. 3, **Sch.1** (subject to art. 4)

F245 S. 97(6) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para.4** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

98 Procedure for s. 97 orders: opposed cases.

(1) Except as provided in section 99, an order under section 97 shall not take effect unless it is confirmed by the Secretary of State.

(2) Where a local planning authority submit such an order to the Secretary of State for confirmation, they shall serve notice on—

(a) the owner of the land affected,

(b) the occupier of the land affected, and

(c) any other person who in their opinion will be affected by the order.

(3) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) If within that period such a person so requires, before the Secretary of State confirms the order he shall give such an opportunity both to him and to the local planning authority.

(5) The period referred to in subsection (3) must not be less than 28 days from the service of the notice.

(6) The Secretary of State may confirm an order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

99 Procedure for s. 97 orders: unopposed cases.

(1) This section applies where—

(a) the local planning authority have made an order under section 97; and

(b) the owner and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to it.

(2) Where this section applies, instead of submitting the order to the Secretary of State for confirmation the authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement must specify—

(a) the period within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and

(b) the period at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section without being confirmed by the Secretary of State.

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(3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(b).

(4) The period referred to in subsection (2)(a) must not be less than 28 days from the date the advertisement first appears.

(5) The period referred to in subsection (2)(b) must not be less than 14 days from the expiration of the period referred to in subsection (2)(a).

(6) The authority shall send a copy of any advertisement published under subsection (2) to the Secretary of State not more than three days after the publication.

(7) If—

(a) no person claiming to be affected by the order has given notice to the Secretary of State under subsection (2)(a) within the period referred to in that subsection, and

(b) the Secretary of State has not directed within that period that the order be submitted to him for confirmation,

the order shall take effect at the expiry of the period referred to in subsection (2)(b), without being confirmed by the Secretary of State as required by section 98(1).

(8) This section does not apply—

(a) to an order revoking or modifying a planning permission granted or deemed to have been granted by the Secretary of State under this Part or Part VII, or

(b) to an order modifying any conditions to which a planning permission is subject by virtue of section 91 or 92.

100 Revocation and modification of planning permission by the Secretary of State.

(1) If it appears to the Secretary of State that it is expedient that an order should be made under section 97, he may himself make such an order.

(2) Such an order which is made by the Secretary of State shall have the same effect as if it had been made by the local planning authority and confirmed by the Secretary of State.

(3) The Secretary of State shall not make such an order without consulting the local planning authority.

(4) Where the Secretary of State proposes to make such an order he shall serve notice on the local planning authority.

(5) The notice shall specify the period (which must not be less than 28 days from the date of its service) within which the authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) If within that period the authority so require, before the Secretary of State makes the order he shall give the authority such an opportunity.

(7) The provisions of this Part and of any regulations made under this Act with respect to the procedure to be followed in connection with the submission by the local planning authority of any order under section 97 and its confirmation by the Secretary of State shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order and its making by him.

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[F246(8) Subsections (5) and (6) of section 97 apply for the purposes of this section as they apply for the purposes of that.**]**

Annotations:

Amendments (Textual)

F246 S. 100(8) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para.5** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

References to Planning Inquiry Commission

101 Power to refer certain planning questions to Planning Inquiry Commission.

(1) The Secretary of State may constitute a Planning Inquiry Commission to inquire into and report on any matter referred to them under subsection (2) in the circumstances mentioned in subsection (3).

(2) The matters that may be referred to a Planning Inquiry Commission are—

(a) an application for planning permission which the Secretary of State has under section 77 directed to be referred to him instead of being dealt with by a local planning authority;

(b) an appeal under section 78 (including that section as applied by or under any other provision of this Act);

(c) a proposal that a government department should give a direction under section 90(1) that planning permission shall be deemed to be granted for development by a local authority **[**F247or National Park authority**]** or by statutory undertakers which is required by any enactment to be authorised by that department;

(d) a proposal that development should be carried out by or on behalf of a government department.

(3) Any of those matters may be referred to any such commission under this section if it appears expedient to the responsible Minister or Ministers that the question whether the proposed development should be permitted to be carried out should be the subject of a special inquiry on either or both of the following grounds—

(a) that there are considerations of national or regional importance which are relevant to the determination of that question and require evaluation, but a proper evaluation of them cannot be made unless there is a special inquiry for the purpose;

(b) that the technical or scientific aspects of the proposed development are of so unfamiliar a character as to jeopardise a proper determination of that question unless there is a special inquiry for the purpose.

(4) Part I of Schedule 8 shall have effect as respects the constitution of any such commission and its functions and procedure on references to it under this section, and the references in subsection (3) and in that Schedule to "the responsible Minister or Ministers" shall be construed in accordance with Part II of that Schedule.

(5) In relation to any matter affecting both England and Wales, the functions of the Secretary of State under subsection (1) shall be exercised by the Secretaries of State for

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the time being having general responsibility in planning matters in relation to England and in relation to Wales acting jointly.

Annotations:

Amendments (Textual)

F247 Words in s. 101(2)(c) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

Other controls over development

102 Orders requiring discontinuance of use or alteration or removal of buildings or works.

(1) If, having regard to the development plan and to any other material considerations, it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity)—

(a) that any use of land should be discontinued or that any conditions should be imposed on the continuance of a use of land; or

(b) that any buildings or works should be altered or removed,

they may by order—

(i) require the discontinuance of that use, or

(ii) impose such conditions as may be specified in the order on the continuance of it, or

(iii) require such steps as may be so specified to be taken for the alteration or removal of the buildings or works,

as the case may be.

(2) An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order.

(3) Section 97 shall apply in relation to any planning permission granted by an order under this section as it applies in relation to planning permission granted by the local planning authority on an application made under this Part.

[[F248](4) The planning permission which may be granted by an order under this section includes planning permission, subject to such conditions as may be specified in the order, for development carried out before the date on which the order was submitted to the Secretary of State under section 103.

(5) Planning permission for such development may be granted so as to have effect from—

(a) the date on which the development was carried out; or

(b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.**]**

(6) Where the requirements of an order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the local planning authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacement.

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(7) Subject to section 103(8), in the case of planning permission granted by an order under this section, the authority referred to in sections 91(1)(b) and 92(4) is the local planning authority making the order.

(8) The previous provisions of this section do not apply to the use of any land for development **[**F249consisting of the winning and working of minerals or involving the depositing of refuse or waste materials**]** except as provided in Schedule 9, and that Schedule shall have effect for the purpose of making provision as respects land which is or has been so used.

Annotations:

Amendments (Textual)

F248 S. 102(4)(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.21** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F249 Words in s. 102(8) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 6** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C73 S. 102: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

103 Confirmation by Secretary of State of s. 102 orders.

(1) An order under section 102 shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.

(2) The power of the Secretary of State under this section to confirm an order subject to modifications includes power—

(a) to modify any provision of the order granting planning permission, as mentioned in subsections (2) to (5) of section 102;

(b) to include in the order any grant of planning permission which might have been included in the order as submitted to him.

(3) Where a local planning authority submit an order to the Secretary of State for his confirmation under this section, they shall serve notice—

(a) on the owner of the land affected,

(b) on the occupier of that land, and

(c) on any other person who in their opinion will be affected by the order.

(4) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) If within that period such a person so requires, before the Secretary of State confirms the order, he shall give such an opportunity both to him and to the local planning authority.

(6) The period referred to in subsection (4) must not be less than 28 days from the service of the notice.

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(7) Where an order under section 102 has been confirmed by the Secretary of State, the local planning authority shall serve a copy of the order on the owner and occupier of the land to which the order relates.

(8) Where the Secretary of State exercises his powers under subsection (2) in confirming an order granting planning permission, he is the authority referred to in sections 91(1)(b) and 92(4).

104 Power of the Secretary of State to make s. 102 orders.

(1) If it appears to the Secretary of State that it is expedient that an order should be made under section 102, he may himself make such an order.

(2) Such an order made by the Secretary of State shall have the same effect as if it had been made by the local planning authority and confirmed by the Secretary of State.

(3) The Secretary of State shall not make such an order without consulting the local planning authority.

(4) Where the Secretary of State proposes to make such an order he shall serve notice on the local planning authority.

(5) The notice shall specify the period within which the authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) If within that period the authority so require, before the Secretary of State makes the order he shall give the authority such an opportunity.

(7) The period referred to in subsection (5) must not be less than 28 days from the date of the service of the notice.

(8) The provisions of this Part and of any regulations made under this Act with respect to the procedure to be followed in connection with the submission by the local planning authority of any order under section 102, its confirmation by the Secretary of State and the service of copies of it as confirmed shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order, its making by him and the service of copies of it.

F250 105 . . . . . .

Annotations:

Amendments (Textual)

F250 S. 105 repealed (1.11.1995) by 1995 c. 25, ss. 96(4), 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

[106 F251 Planning obligations.

(1) Any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation (referred to in this section and sections

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106A and 106B as "a planning obligation"), enforceable to the extent mentioned in subsection (3)—

(a) restricting the development or use of the land in any specified way;

(b) requiring specified operations or activities to be carried out in, on, under or over the land;

(c) requiring the land to be used in any specified way; or

(d) requiring a sum or sums to be paid to the authority **[**F252(or, in a case where section 2E applies, to the Greater London Authority)**]** on a specified date or dates or periodically.

[F253(1A) In the case of a development consent obligation, the reference to development in subsection (1)(a) includes anything that constitutes development for the purposes of the Planning Act 2008.**]**

(2) A planning obligation may—

(a) be unconditional or subject to conditions;

(b) impose any restriction or requirement mentioned in subsection (1)(a) to (c) either indefinitely or for such period or periods as may be specified; and

(c) if it requires a sum or sums to be paid, require the payment of a specified amount or an amount determined in accordance with the instrument by which the obligation is entered into and, if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period.

(3) Subject to subsection (4) a planning obligation is enforceable by the authority identified in accordance with subsection (9)(d)—

(a) against the person entering into the obligation; and

(b) against any person deriving title from that person.

(4) The instrument by which a planning obligation is entered into may provide that a person shall not be bound by the obligation in respect of any period during which he no longer has an interest in the land.

(5) A restriction or requirement imposed under a planning obligation is enforceable by injunction.

(6) Without prejudice to subsection (5), if there is a breach of a requirement in a planning obligation to carry out any operations in, on, under or over the land to which the obligation relates, the authority by whom the obligation is enforceable may—

(a) enter the land and carry out the operations; and

(b) recover from the person or persons against whom the obligation is enforceable any expenses reasonably incurred by them in doing so.

(7) Before an authority exercise their power under subsection (6)(a) they shall give not less than twenty-one days' notice of their intention to do so to any person against whom the planning obligation is enforceable.

(8) Any person who wilfully obstructs a person acting in the exercise of a power under subsection (6)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) A planning obligation may not be entered into except by an instrument executed as a deed which—

(a) states that the obligation is a planning obligation for the purposes of this section;

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[F254(aa) if the obligation is a development consent obligation, contains a statement to that effect;**]**

(b) identifies the land in which the person entering into the obligation is interested;

(c) identifies the person entering into the obligation and states what his interest in the land is; and

(d) identifies the local planning authority by whom the obligation is enforceable. **[**F255and, in a case where section 2E applies, identifies the Mayor of London as an authority by whom the obligation is also enforceable**]**

(10) A copy of any such instrument shall be given to the **[**F256local planning authority so identified and, in a case where section 2E applies, to the Mayor of London**]** .

(11) A planning obligation shall be a local land charge and for the purposes of the M46Local Land Charges Act 1975 the authority by whom the obligation is enforceable shall be treated as the originating authority as respects such a charge.

(12) Regulations may provide for the charging on the land of—

(a) any sum or sums required to be paid under a planning obligation; and

(b) any expenses recoverable by a local planning authority **[**F257or the Mayor of London**]** under subsection (6)(b),

and this section and sections 106A and 106B shall have effect subject to any such regulations.

(13) In this section "specified" means specified in the instrument by which the planning obligation is entered into and in this section and section 106A "land" has the same meaning as in the M47Local Land Charges Act 1975.

[F258(14) In this section and section 106A "development consent obligation" means a planning obligation entered into in connection with an application (or a proposed application) for an order granting development consent.**]]**

Annotations:

Amendments (Textual)

F251 Ss. 106-106B substituted for s. 106 (25.10.1991 so far as substituting the new s. 106, 25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 12(1)** (with s. 84(5)); S.I. 1991/2272, **art. 3(1)(a)**; S.I. 1991/2728, **art. 2**; S.I. 1992/2831, **art. 2**

F252 Words in s. 106(1)(d) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 33(2)**, 59; S.I. 2008/582, **art. 2(a)**

F253 S. 106(1A) inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 174(2)(a)**, 241 (with s. 226); S.I. 2010/101, **art. 3(k)** (with art. 6)

F254 S. 106(9)(aa) inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 174(2)(b)**, 241 (with s. 226); S.I. 2010/101, **art. 3(k)** (with art. 6)

F255 Words in s. 106(9)(d) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 33(3)**, 59; S.I. 2008/582, **art. 2(a)**

F256 Words in s. 106(10) substituted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 33(4)**, 59; S.I. 2008/582, **art. 2(a)**

F257 Words in s. 106(12)(b) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 33(5)**, 59; S.I. 2008/582, **art. 2(a)**

F258 S. 106(14) inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 174(2)(c)**, 241 (with s. 226); S.I. 2010/101, **art. 3(k)** (with art. 6)

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Modifications etc. (not altering text)

C74 S. 106 modified (1.4.1996) by 1994 c. 19, s. 66(7), **Sch. 17 para. 15(2)(b)** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 6(3), **Sch. 5**

C75 S. 106: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M46 1975 c. 76.

M47 1975 c. 76.

[F259 106A Modification and discharge of planning obligations.

(1) A planning obligation may not be modified or discharged except—

(a) by agreement between **[**F260 the appropriate authority (see subsection (11))**]** and the person or persons against whom the obligation is enforceable; or

(b) in accordance with this section and section 106B.

(2) An agreement falling within subsection (1)(a) shall not be entered into except by an instrument executed as a deed.

(3) A person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to **[**F261 the appropriate authority**]** for the obligation —

(a) to have effect subject to such modifications as may be specified in the application; or

(b) to be discharged.

(4) In subsection (3) "the relevant period" means—

(a) such period as may be prescribed; or

(b) if no period is prescribed, the period of five years beginning with the date on which the obligation is entered into.

(5) An application under subsection (3) for the modification of a planning obligation may not specify a modification imposing an obligation on any other person against whom the obligation is enforceable.

(6) Where an application is made to an authority under subsection (3), the authority may determine—

(a) that the planning obligation shall continue to have effect without modification;

(b) if the obligation no longer serves a useful purpose, that it shall be discharged; or

(c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

(7) The authority shall give notice of their determination to the applicant within such period as may be prescribed.

(8) Where an authority determine that a planning obligation shall have effect subject to modifications specified in the application, the obligation as modified shall be enforceable as if it had been entered into on the date on which notice of the determination was given to the applicant.

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(9) Regulations may make provision with respect to—

(a) the form and content of applications under subsection (3);

(b) the publication of notices of such applications;

(c) the procedures for considering any representations made with respect to such applications; and

(d) the notices to be given to applicants of determinations under subsection (6).

(10) Section 84 of the [M48]Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land) does not apply to a planning obligation.

[[F262](11) In this section "the appropriate authority" means—

(a) the Mayor of London, in the case of any planning obligation enforceable by him;

[[F263](aa) the Secretary of State, in the case of any development consent obligation where the application in connection with which the obligation was entered into was (or is to be) decided by the Secretary of State;

(ab) the Infrastructure Planning Commission, in the case of any other development consent obligation;**]**

(b) in the case of any other planning obligation, the local planning authority by whom it is enforceable.

(12) The Mayor of London must consult the local planning authority before exercising any function under this section.**]]**

Annotations:

Amendments (Textual)

F259 S. 106- 106B substituted for s. 106 (25.10.1991 so far as substituting the new s. 106, 25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 12(1)**; S.I. 1991/2272, **art. 3(1)(a)**; S.I. 1991/2728, **art. 2**; S.I. 1992/2831, **art. 2**

F260 Words in s. 106A(1)(a) substituted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 34(2)**, 59; S.I. 2008/582, **art. 2(a)**

F261 Words in s. 106A(3) substituted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 34(3)**, 59; S.I. 2008/582, **art. 2(a)**

F262 S. 106(11)(12) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 34(4)**, 59; S.I. 2008/582, **art. 2(a)**

F263 S. 106A(11)(aa)(ab) inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 174(3)**, 241 (with s. 226); S.I. 2010/101, **art. 3(k)** (with art. 6)

Marginal Citations

M48 1925 c. 20.

106B [F264]Appeals.

(1) Where **[**[F265]an authority**]**—**[**[F266] (other than the Secretary of State or the Infrastructure Planning Commission)**]**

(a) fail to give notice as mentioned in section 106A(7); or

(b) determine that a planning obligation shall continue to have effect without modification,

the applicant may appeal to the Secretary of State.

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(2) For the purposes of an appeal under subsection (1)(a), it shall be assumed that the authority have determined that the planning obligation shall continue to have effect without modification.

(3) An appeal under this section shall be made by notice served within such period and in such manner as may be prescribed.

(4) Subsections (6) to (9) of section 106A apply in relation to appeals to the Secretary of State under this section as they apply in relation to applications to authorities under that section.

(5) Before determining the appeal the Secretary of State shall, if either the applicant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) The determination of an appeal by the Secretary of State under this section shall be final.

(7) Schedule 6 applies to appeals under this section.

[F267(8) In the application of Schedule 6 to an appeal under this section in a case where the authority mentioned in subsection (1) is the Mayor of London, references in that Schedule to the local planning authority are references to the Mayor of London.**]**

Annotations:

Amendments (Textual)

F264 Ss. 106-106B substituted for s. 106 (25.10.1991 so far as substituting the new s. 106, 25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 12(1)**; S.I. 1991/2272, **art. 3(1)(a)**; S.I. 1991/2728, **art.2**; S.I. 1992/2831, **art. 2**

F265 Words in s. 106B(1) substituted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 34(6)**, 59; S.I. 2008/582, **art. 2(a)**

F266 Words in s. 106B(1) inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 174(4)**, 241 (with s. 226); S.I. 2010/101, **art. 3(k)** (with art. 6)

F267 S. 106B(8) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 34(7)**, 59; S.I. 2008/582, **art. 2(a)**

[F268**106C Legal challenges relating to development consent obligations**

(1) A court may entertain proceedings for questioning a failure by the Secretary of State or the Infrastructure Planning Commission to give notice as mentioned in section 106A(7) only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed during the period of 6 weeks beginning with the day on which the period prescribed under section 106A(7) ends.

(2) A court may entertain proceedings for questioning a determination by the Secretary of State or the Infrastructure Planning Commission that a planning obligation shall continue to have effect without modification only if—

(a) the proceedings are brought by a claim for judicial review, and

(b) the claim form is filed during the period of 6 weeks beginning with the day on which notice of the determination is given under section 106A(7).**]**

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Annotations:

Amendments (Textual)

F268 S. 106C inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 174(5)**, 241 (with s. 226); S.I. 2010/101, **art. 3(k)** (with art. 6)

PART IV

COMPENSATION FOR EFFECTS OF CERTAIN ORDERS, NOTICES, ETC.

Annotations:

Modifications etc. (not altering text)

C76 Pt. IV (ss. 107-118) modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 15(4)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Pt. IV (ss. 107-118) modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 13(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

C77 Pt. IV modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 74(1)(a)**
Pt. IV applied (with modifications) (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 74(2)**
Pt. IV modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 78(1)(a)**
Pt. IV applied (with modifications) (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 78(2)**
Pt. IV modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 82(1)**
Pt. IV applied (with modifications) (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 82(2)**

C78 Pt. 4 applied (with modifications) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), **reg. 89(1)-(3)**

C79 Pt. 4 applied (with modifications) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), **reg. 93(1)-(3)**

C80 Pt. 4 applied (with modifications) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), **reg. 97(1)-(3)**

Compensation for revocation of planning permission, etc.

107 Compensation where planning permission revoked or modified.

(1) Subject to section 116, where planning permission is revoked or modified by an order under section 97, then if, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the land or in minerals in, on or under it—

(a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or

(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

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the local planning authority shall pay that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory to it, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to subsection (2), no compensation shall be paid under this section in respect—

(a) of any work carried out before the grant of the permission which is revoked or modified, or

(b) of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission (other than loss or damage consisting of depreciation of the value of an interest in land).

(4) In calculating for the purposes of this section the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted **[**F269—

(a) subject to the condition set out in Schedule 10, for any development of the land of a class specified in paragraph 1 of Schedule 3;

(b) for any development of a class specified in paragraph 2 of Schedule 3.**]**

(5) In this Part any reference to an order under section 97 includes a reference to an order under the provisions of that section as applied by section 102(3) (or, subject to section 116, by paragraph **[**F270 1(3)**]** of Schedule 9).

Annotations:

Amendments (Textual)

F269 S. 107(4)(a)(b) substituted (25.7.1991 with effect or to be treated as having effect, in relation to claims made on or after 16.11.1990) for the words "for any development of the land of any class specified in Schedule 3" by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(4), **Sch 6 para. 13(1)(2)**

F270 Words in s. 107(5) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para.8** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C81 S. 107 applied (with modifications) (3.11.1995) by S.I. 1995/2863, reg. 3, **Sch.**

C82 S. 107(1)(a) applied (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 67(1)** (with reg. 3) (as amended by S.I. 2009/2438)

108 Compensation for refusal or conditional grant of planning permission formerly granted by development order.

(1) Where—

(a) planning permission granted by a development order **[**F271or a local development order**]** is withdrawn (whether by the revocation or amendment of the order or by the issue of directions under powers conferred by the order); and

(b) on an application made under Part III **[**F272or section 293A**]** planning permission for development formerly permitted by that order is refused or is granted subject to conditions other than those imposed by that order,

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section 107 shall apply as if the planning permission granted by the development order **[**F271or a local development order**]**—

(i) had been granted by the local planning authority under Part III **[**F273or section 293A**]** ; and

(ii) had been revoked or modified by an order under section 97.

(2) Where planning permission granted by a development order **[**F271or a local development order**]** is withdrawn by revocation or amendment of the order, this section applies only if the application referred to in subsection (1)(b) is made before the end of the period of 12 months beginning with the date on which the revocation or amendment came into operation.

[F274(2A) Where—

(a) planning permission granted by a development order for development in England of a prescribed description is withdrawn by the issue of directions under powers conferred by the order, or

(b) planning permission granted by a local development order for development in England is withdrawn by the issue of directions under powers conferred by the order,

this section applies only if the application referred to in subsection (1)(b) is made before the end of the period of 12 months beginning with the date on which the directions took effect.**]**

(3) This section shall not apply in relation to planning permission for the development of operational land of statutory undertakers.

[F275(3B) This section does not apply if—

(a) in the case of planning permission granted by a development order, the condition in subsection (3C) is met;

(b) in the case of planning permission granted by a local development order, the condition in subsection (3D) is met.

(3C) The condition referred to in subsection (3B)(a) is that—

(a) the planning permission is granted for development in England of a prescribed description,

(b) the planning permission is withdrawn in the prescribed manner,

(c) notice of the withdrawal was published in the prescribed manner not less than 12 months or more than the prescribed period before the withdrawal took effect, and

(d) either—

(i) the development authorised by the development order had not started before the notice was published, or

(ii) the development order includes provision in pursuance of section 61D permitting the development to be completed after the permission is withdrawn.

(3D) The condition referred to in subsection (3B)(b) is that—

(a) the planning permission is granted for development in England,

(b) the planning permission is withdrawn by the revocation or amendment of the local development order, or by the issue of directions under powers conferred by the local development order,

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(c) notice of the revocation, amendment or directions was published in the prescribed manner not less than 12 months or more than the prescribed period before the revocation, amendment or directions (as the case may be) took effect, and

(d) either—

(i) the development authorised by the local development order had not started before the notice was published, or

(ii) the local development order includes provision in pursuance of section 61D permitting the development to be completed after the permission is withdrawn.**]**

[F276(4) Regulations made by virtue of this subsection may provide that subsection (1) shall not apply where planning permission granted by a development order **[**F271or a local development order**]** for demolition of buildings or any description of buildings is withdrawn by the issue of directions under powers conferred by the order.**]**

[F277(5) Regulations under this section prescribing a description of development may (in particular) do so by reference to one or more classes or descriptions of development specified in a development order.

(6) In this section "prescribed" means prescribed by regulations made by the Secretary of State.**]**

Annotations:

Amendments (Textual)

F271 Words in s. 108 inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(h)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

F272 Words in s. 108(1)(b) inserted (7.6.2006) by The Planning and Compulsory Purchase Act 2004 (Commencement No. 9 and Consequential Provisions) Order 2006 (S.I. 2006/1281), **art. 5(a)(i)**

F273 Words in s. 108(1)(b)(i) inserted (7.6.2006) by The Planning and Compulsory Purchase Act 2004 (Commencement No. 9 and Consequential Provisions) Order 2006 (S.I. 2006/1281), **art. 5(a)(ii)**

F274 S. 108(2A) inserted (6.4.2010) by Planning Act 2008 (c. 29), **ss. 189(2)**, 241 (with s. 226); S.I. 2010/566, **art. 3(a)** (with art. 4)

F275 S. 108(3B)-(3D) inserted (6.4.2010) by Planning Act 2008 (c. 29), **ss. 189(3)**, 241 (with s. 226); S.I. 2010/566, **art. 3(a)** (with art. 4)

F276 S. 108(4) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 13(3)** (with s. 84(5)); S.I. 1992/1279, **art. 2** (with art. 3)

F277 S. 108(5)(6) inserted (6.4.2010) by Planning Act 2008 (c. 29), **ss. 189(4)**, 241 (with s. 226); S.I. 2010/566, **art. 3(a)** (with art. 4)

109 Apportionment of compensation for depreciation.

(1) Where compensation becomes payable under section 107 which includes compensation for depreciation of an amount exceeding £20, the local planning authority—

(a) if it appears to them to be practicable to do so, shall apportion the amount of the compensation for depreciation between different parts of the land to which the claim for that compensation relates; and

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(b) shall give particulars of any such apportionment to the claimant and to any other person entitled to an interest in land which appears to the authority to be substantially affected by the apportionment.

(2) In carrying out an apportionment under subsection (1)(a), the local planning authority shall divide the land into parts and shall distribute the compensation for depreciation between those parts, according to the way in which different parts of the land appear to the authority to be differently affected by the order or, in a case falling within section 108, the relevant planning decision, in consequence of which the compensation is payable.

(3) Regulations under this section shall make provision, subject to subsection (4)—

(a) for enabling the claimant and any other person to whom particulars of an apportionment have been given under subsection (1), or who establishes that he is entitled to an interest in land which is substantially affected by such an apportionment, if he wishes to dispute the apportionment, to require it to be referred to the **[**F278Upper Tribunal**]**;

(b) for enabling the claimant and every other person to whom particulars of any such apportionment have been so given to be heard by the Tribunal on any reference under this section of that apportionment; and

(c) for requiring the Tribunal, on any such reference, either to confirm or to vary the apportionment and to notify the parties of the decision of the Tribunal.

(4) Where on a reference to the **[**F278Upper Tribunal**]** under this section it is shown that an apportionment—

(a) relates wholly or partly to the same matters as a previous apportionment, and

(b) is consistent with that previous apportionment in so far as it relates to those matters,

the Tribunal shall not vary the apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.

(5) On a reference to the **[**F278Upper Tribunal**]** by virtue of subsection (3), subsections (1) and (2), so far as they relate to the making of an apportionment, shall apply with the substitution, for references to the local planning authority, of references to the **[**F278Upper Tribunal**]**.

(6) In this section and **[**F279section 110**]**—

"compensation for depreciation" means so much of any compensation payable under section 107 as is payable in respect of loss or damage consisting of depreciation of the value of an interest in land,

"interest" (where the reference is to an interest in land) means the fee simple or a tenancy of the land and does not include any other interest in it, and

"relevant planning decision" means the planning decision by which planning permission is refused, or is granted subject to conditions other than those previously imposed by the development order **[**F280or a local development order**]**.

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Annotations:

Amendments (Textual)

F278 Words in s. 109(3)(a)(4)(5) substituted (1.6.2009) by virtue of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 194**

F279 Words in s. 109(6) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para.14** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F280 Words in s. 109(6) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(i)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

110 Registration of compensation for depreciation.

(1) Where compensation becomes payable under section 107 which includes compensation for depreciation of an amount exceeding £20, the local planning authority shall give notice to the Secretary of State that such compensation has become payable, specifying the amount of the compensation for depreciation and any apportionment of it under section 109.

(2) Where the Secretary of State is given such notice he shall cause notice of that fact to be deposited—

(a) with the council of the district **[**F281, Welsh county, county borough**]** or London borough in which the land is situated, and

(b) if that council is not the local planning authority, with the local planning authority.

(3) Notices deposited under this section must specify—

(a) the order, or in a case falling within section 108 the relevant planning decision, and the land to which the claim for compensation relates; and

(b) the amount of compensation and any apportionment of it under section 109.

(4) Notices deposited under this section shall be local land charges, and for the purposes of the M49Local Land Charges Act 1975 the council with whom any such notice is deposited shall be treated as the originating authority as respects the charge constituted by it.

(5) In relation to compensation specified in a notice registered under this section, references in this Part to so much of the compensation as is attributable to a part of the land to which the notice relates shall be construed as follows—

(a) if the notice does not include an apportionment under section 109, the amount of the compensation shall be treated as distributed rateably according to area over the land to which the notice relates;

(b) if the notice includes such an apportionment—

(i) the compensation shall be treated as distributed in accordance with that apportionment as between the different parts of the land by reference to which the apportionment is made; and

(ii) so much of the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part.

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Annotations:

Amendments (Textual)

F281 Words in s. 110(2) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M49 1975 c. 76.

111 Recovery of compensation under s. 107 on subsequent development.

(1) No person shall carry out any [F282]. . .development to which this section applies on land in respect of which a notice ("a compensation notice") is registered under section 110 until any amount which is recoverable under this section in accordance with section 112 in respect of the compensation specified in the notice has been paid or secured to the satisfaction of the Secretary of State.

(2) Subject to subsections (3) **[**[F283]to (5)**]**, this section applies to any . . .development—

(a) which is development of a residential, commercial or industrial character and consists wholly or mainly of the construction of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination of them; or

(b) which consists in the winning and working of minerals; or

(c) to which, having regard to the probable value of the development, it is in the opinion of the Secretary of State reasonable that this section should apply.

(3) This section shall not apply to any development by virtue of subsection (2)(c) if, on an application made to him for the purpose, the Secretary of State has certified that, having regard to the probable value of the development, it is not in his opinion reasonable that this section should apply to it.

(4) Where the compensation under section 107 specified in the notice registered under section 110 became payable in respect of an order modifying planning permission or, in a case falling within section 108, of a relevant planning decision (within the meaning of section 109) granting conditional planning permission, this section shall not apply to development in accordance with that permission as modified by the order or, as the case may be, in accordance with those conditions.

[[F284](5) This section does not apply to any development—

(a) of a class specified in paragraph 1 of Schedule 3 which is carried out in accordance with the condition set out in Schedule 10; or

(b) of a class specified in paragraph 2 of Schedule 3.**]**

Annotations:

Amendments (Textual)

F282 Word in s. 111(1)(2) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 15(a), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F283 Words in s. 111(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 15(b)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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F284 S. 111(5) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 15(c)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

112 Amount recoverable under s. 111 and provisions for payment or remission of it.

(1) Subject to the following provisions of this section, the amount recoverable under section 111 in respect of the compensation specified in a notice registered under section 110—

(a) if the land on which the development is to be carried out ("the development area") is identical with, or includes (with other land) the whole of, the land comprised in the notice, shall be the amount of compensation specified in the notice;

(b) if the development area forms part of the land comprised in the notice, or includes part of that land together with other land not comprised in the notice, shall be so much of the amount of the compensation specified in the notice as is attributable to land comprised in the notice and falling within the development area.

(2) Where, in the case of any land in respect of which such a notice has been so registered, the Secretary of State is satisfied, having regard to the probable value of any proper development of that land, that no such development is likely to be carried out unless he exercises his powers under this subsection, he may, in the case of any particular development, remit the whole or part of any amount otherwise recoverable under section 111.

(3) Where part only of any such amount has been remitted in respect of any land, the Secretary of State shall cause the notice registered under section 110 to be amended by substituting in it, for the statement of the amount of the compensation, in so far as it is attributable to that land, a statement of the amount which has been remitted under subsection (2).

(4) Where, in connection with the development of any land, an amount becomes recoverable under section 111 in respect of the compensation specified in such a notice, then, except where, and to the extent that, payment of that amount has been remitted under subsection (2), no amount shall be recoverable under that section in respect of that compensation, in so far as it is attributable to that land, in connection with any subsequent development of it.

(5) No amount shall be recoverable under section 111 in respect of any compensation by reference to which a sum has become recoverable by the Secretary of State under section 308.

(6) An amount recoverable under section 111 in respect of any compensation shall be payable to the Secretary of State either—

(a) as a single capital payment, or

(b) as a series of instalments of capital and interest combined, or

(c) as a series of other annual or periodical payments, of such amounts, and payable at such times, as the Secretary of State may direct.

(7) Before giving a direction under subsection (6)(c) the Secretary of State shall take into account any representations made by the person by whom the development is to be carried out.

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(8) Except where the amount payable under subsection (6) is payable as a single capital payment, it shall be secured by the person by whom the development is to be carried out in such manner (whether by mortgage, covenant or otherwise) as the Secretary of State may direct.

(9) If any person initiates any [F285]. . . development to which section 111 applies in contravention of subsection (1) of that section, the Secretary of State may serve a notice on him—

(a) specifying the amount appearing to the Secretary of State to be the amount recoverable under that section in respect of the compensation in question, and

(b) requiring him to pay that amount to the Secretary of State within such period as may be specified in the notice.

(10) The period specified under subsection (9)(b) must not be less than three months after the service of the notice.

(11) Subject to subsection (12), any sum recovered by the Secretary of State under section 111 shall be paid to the local planning authority who paid the compensation to which that sum relates.

(12) Subject to subsection (13), in paying any such sum to the local planning authority, the Secretary of State shall deduct from it—

[F286](a) . . . . . .

(b) the amount of any grant paid by him under Part XIV in respect of that compensation.

(13) If the sum recovered by the Secretary of State under section 111—

(a) is an instalment of the total sum recoverable, or

(b) is recovered by reference to development of part of the land in respect of which the compensation was payable,

any deduction to be made under [F287]. . .subsection (12) shall be a deduction of such amount as the Secretary of State may determine to be the proper proportion of the amount referred to in that paragraph.

Annotations:

Amendments (Textual)

F285 Word in s. 112(9) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 16(a), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F286 S. 112(12)(a) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 16(b), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F287 Words in s. 112(13) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 16(c), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F288]113 . . . . . .

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Annotations:

Amendments (Textual)

F288 S. 113 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 17, **Sch. 19**, Pt.II (with ss. 31(7)(8), 84(5), Sch 6 paras. 1(2), 5(2), 13(2)); S.I. 1991/2067, **art.3** (subject to art. 4)

Compensation for other planning decisions

F289 114 Compensation for planning decisions restricting development other than new development.

. . . . . .

Annotations:

Amendments (Textual)

F289 S. 114 repealed (25.7.1991 with effect or to be treated as having had effect, where the application for planning permission was made on or after 16.11.1990) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(2)(7), 84(2)(4)(6), **Sch. 19 Pt. II** (with s. 84(5))

115 Compensation in respect of orders under s. 102, etc.

(1) This section shall have effect where an order is made under section 102—

(a) requiring a use of land to be discontinued,

(b) imposing conditions on the continuance of it, or

(c) requiring any buildings or works on land to be altered or removed.

(2) If, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that any person has suffered damage in consequence of the order—

(a) by depreciation of the value of an interest to which he is entitled in the land or in minerals in, on or under it, or

(b) by being disturbed in his enjoyment of the land or of such minerals,

that authority shall pay to that person compensation in respect of that damage.

(3) Without prejudice to subsection (2), any person who carries out any works in compliance with the order shall be entitled, on a claim made as mentioned in that subsection, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.

(4) Any compensation payable to a person under this section by virtue of such an order as is mentioned in subsection (1) shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

(5) Subject to section 116, this section applies where such an order as is mentioned in subsection (6) is made as it applies where an order is made under section 102.

(6) The orders referred to in subsection (5) are an order under paragraph 1 of Schedule 9—

(a) requiring a use of land to be discontinued, or

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(b) imposing conditions on the continuance of it, or

(c) requiring any buildings or works or plant or machinery on land to be altered or removed,

or an order under paragraph 3, 5 or 6 of that Schedule.

Annotations:

Modifications etc. (not altering text)

C83 S. 115 applied (with modifications) (25.3.1997) by S.I. 1997/1111, **reg. 5(1)(3)**

[F290 116 Modification of compensation provisions in respect of mineral working etc.

(1) Regulations made by virtue of this section with the consent of the Treasury may provide that where an order is made under—

(a) section 97 modifying planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste; or

(b) paragraph 1, 3, 5 or 6 of Schedule 9 with respect to such winning and working or depositing,

sections 107, 115, 117, 279 and 280 shall have effect subject, in such cases as may be prescribed, to such modifications as may be prescribed.

(2) Any such regulations may make provision—

(a) as to circumstances in which compensation is not to be payable;

(b) for the modification of the basis on which any amount to be paid by way of compensation is to be assessed;

(c) for the assessment of any such amount on a basis different from that on which it would otherwise have been assessed,

and may also make different provision for different cases and incidental or supplementary provision.

(3) No such regulations shall be made unless a draft of the instrument is laid before and approved by a resolution of each House of Parliament.

(4) Before making any such regulations the Secretary of State shall consult such persons as appear to him to be representative—

(a) of persons carrying out mining operations;

(b) of owners of interests in land containing minerals; and

(c) of mineral planning authorities.**]**

Annotations:

Amendments (Textual)

F290 S. 116 substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para.9**; S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C84 S. 116 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 15(6)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

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S. 116 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 13(6)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

General and supplemental provisions

117 General provisions as to compensation for depreciation under Part IV.

(1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 5 of the [M50]Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) Subject to regulations **[**[F291]by virtue of section 116**]**, this section applies to any compensation which under the provisions of this Part is payable in respect of depreciation of the value of an interest in land.

(3) Where an interest in land is subject to a mortgage—

(a) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

Annotations:

Amendments (Textual)

F291 Words in s. 117(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1**, para.10 (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C85 Ss. 117, 118 extended (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 16(5)**; S.I. 1992/725, **arts. 2**, 3

Marginal Citations

M50 1961 c.33.

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118 Determination of claims for compensation.

(1) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this Part shall be referred to and determined by the **[**F292Upper Tribunal**]**.

(2) In relation to the determination of any such question, the provisions of **[**F293section**]** 4 of the M51Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Annotations:

Amendments (Textual)

F292 Words in s. 118(1) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 195(a)**

F293 Words in s. 118(2) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 195(b)**

Modifications etc. (not altering text)

C86 S. 118 extended (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 16(5)**; S.I. 1992/725, **arts. 2**, 3
S. 118 applied (10.11.1993) by 1993 c. 28, **s. 163(9)**; S.I. 1993/2762, **art. 3**
S. 118 applied (25.11.1998 for specified purposes and otherwise 3.7.2000) by 1998 c. 45, **s. 21(9)**; S.I. 1998/2952, **art. 2(2)**; S.I. 2000/1173, **art. 2(c)**
S. 118 applied (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 296(2), **Sch. 24 para. 31(6)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art, 2(2)(b)(c), Sch.
S. 118 applied (1.2.2001 for E., 1.8.2001 for W. in relation to the powers to make regulations under the provisions mentioned in S.I. 2001/2788, **Sch. 1 para. 15**, otherwise *prosp.*) by 2000 c. 38, **ss. 190(7)**, 275(1) (with s. 196); S.I. 2001/57, art. 3(2), Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II**); S.I. 2001/2788, art. 2, **Sch. 1 para. 16**

C87 S. 118 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 6(7)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

C88 S. 118 applied (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), **s. 17(5)**; S.I. 2008/3068, **art. 2(1)(i)** (with savings and transitional provisions in arts. 6-13)

Marginal Citations

M51 1961 c.33.

F294PART V

Annotations:

Amendments (Textual)

F294 Part V repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II**; S.I. 1991/2067, **art.3** (subject to art. 4) and subject to an amendment (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

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Preliminary

F295 119 . . . . . .

Annotations:

Amendments (Textual)

F295 S. 119: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Right to compensation

F296 120 . . . . . .

Annotations:

Amendments (Textual)

F296 S. 120: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F297 121 . . . . . .

Annotations:

Amendments (Textual)

F297 S. 121: Pt. V (ss.119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F298 122 . . . . . .

Annotations:

Amendments (Textual)

F298 S. 122: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F299 123 . . . . . .

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Annotations:

Amendments (Textual)

F299 S. 123: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F300 124 . . . . . .

Annotations:

Amendments (Textual)

F300 S. 124: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Amount of compensation

F301 125 . . . . . .

Annotations:

Amendments (Textual)

F301 S. 125: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19P**t. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F302 126 . . . . . .

Annotations:

Amendments (Textual)

F302 S. 126: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Claims for and payment of compensation

F303 127 . . . . . .

Annotations:

Amendments (Textual)

F303 S. 127: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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F304 128 . . . . . .

Annotations:

Amendments (Textual)

F304 S. 128: Pt. V (ss.119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F305 129 . . . . . .

Annotations:

Amendments (Textual)

F305 S. 129: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F306 130 . . . . . .

Annotations:

Amendments (Textual)

F306 S. 130: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Recovery of compensation

F307 131 . . . . . .

Annotations:

Amendments (Textual)

F307 S. 131: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F308 132 . . . . . .

Annotations:

Amendments (Textual)

F308 S. 132: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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F309 133 . . . . . .

Annotations:

Amendments (Textual)

F309 S. 133: Pt. V (ss. 119 -136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F310 134 . . . . . .

Annotations:

Amendments (Textual)

F310 S. 134: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Supplementary provisions

F311 135 . . . . . .

Annotations:

Amendments (Textual)

F311 S. 135: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F312 136 . . . . . .

Annotations:

Amendments (Textual)

F312 S. 136: Pt. V (ss. 119 - 136) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

PART VI

RIGHTS OF OWNERS ETC. TO REQUIRE PURCHASE OF INTERESTS

Annotations:

Modifications etc. (not altering text)

C89 Part VI (ss. 137-171): power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**

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Pt. VI (ss. 137-171) modified (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. III** pareas. 15(1), 20 (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

CHAPTER I

INTERESTS AFFECTED BY PLANNING DECISIONS OR ORDERS

Service of purchase notices

137 Circumstances in which purchase notices may be served.

(1) This section applies where—

(a) on an application for planning permission to develop any land, permission is refused or is granted subject to conditions; or

(b) by an order under section 97 planning permission in respect of any land is revoked, or is modified by the imposition of conditions; or

(c) an order is made under section 102 or paragraph 1 of Schedule 9 in respect of any land.

(2) If—

(a) in the case mentioned in subsection (1)(a) or (b), any owner of the land claims that the conditions mentioned in subsection (3) are satisfied with respect to it, or

(b) in the case mentioned in subsection (1)(c), any person entitled to an interest in land in respect of which the order is made claims that the conditions mentioned in subsection (4) are satisfied with respect to it,

he may, within the prescribed time and in the prescribed manner, serve on the council of the district **[**[F313], Welsh county, county borough**]** or London borough in which the land is situated a notice (in this Act referred to as "a purchase notice") requiring that council to purchase his interest in the land in accordance with this Chapter.

(3) The conditions mentioned in subsection (2)(a) are—

(a) that the land has become incapable of reasonably beneficial use in its existing state; and

(b) in a case where planning permission was granted subject to conditions or was modified by the imposition of conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions; and

(c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the local planning authority or the Secretary of State has undertaken to grant planning permission.

(4) The conditions mentioned in subsection (2)(b) are—

(a) that by reason of the order the land is incapable of reasonably beneficial use in its existing state; and

(b) that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for which planning permission has been granted, whether by that order or otherwise.

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(5) For the purposes of subsection (1)(a) and any claim arising in the circumstances mentioned in that subsection, the conditions referred to in sections 91 and 92 shall be disregarded.

(6) A person on whom a [M52]repairs notice has been served under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 shall not be entitled to serve a notice under this section in the circumstances mentioned in subsection (1)(a) in respect of the building in question—

(a) until the expiration of three months beginning with the date of the service of the repairs notice; and

(b) if during that period the compulsory acquisition of the building is begun in the exercise of powers under section 47 of that Act, unless and until the compulsory acquisition is discontinued.

(7) For the purposes of subsection (6) a compulsory acquisition—

(a) is started when the the notice required by section 12 of the [M53]Acquisition of Land Act 1981 or, as the case may be, paragraph 3 of Schedule 1 to that Act is served; and

(b) is discontinued—

(i) in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order; and

(ii) in any other case, when the order is withdrawn or the Secretary of State decides not to confirm it.

(8) No purchase notice shall be served in respect of an interest in land while the land is incapable of reasonably beneficial use by reason only of such an order as is mentioned in subsection (1)(c), except by virtue of a claim under subsection (2)(b).

Annotations:

Amendments (Textual)

F313 Words in s. 137(2) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(3)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M52 1990 c. 9

M53 1981 c. 67.

[F314137A Purchase notices: Crown land

(1) A purchase notice may be served in respect of Crown land only as mentioned in this section.

(2) The owner of a private interest in Crown land must not serve a purchase notice unless —

(a) he first offers to dispose of his interest to the appropriate authority on equivalent terms, and

(b) the offer is refused by the appropriate authority.

(3) The appropriate authority may serve a purchase notice in relation to the following land —

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(a) land belonging to Her Majesty in right of Her private estates;
(b) land belonging to Her Majesty in right of the Duchy of Lancaster;
(c) land belonging to the Duchy of Cornwall;
(d) land which forms part of the Crown Estate.

(4) An offer is made on equivalent terms if the price payable for the interest is equal to (and, in default of agreement, determined in the same manner as) the compensation which would be payable in respect of it if it were acquired in pursuance of a purchase notice.

(5) Expressions used in this section and in Part 13 must be construed in accordance with that Part.**]**

Annotations:

Amendments (Textual)
F314 S. 137A inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 1** (with s. 111); S.I. 2004/1281, **art. 2**

138 Circumstances in which land incapable of reasonably beneficial use.

(1) Where, for the purpose of determining whether the conditions specified in section 137(3) or (4) are satisfied in relation to any land, any question arises as to what is or would in any particular circumstances be a reasonably beneficial use of that land, then, in determining that question for that purpose, no account shall be taken of any unauthorised prospective use of that land.

(2) A prospective use of land shall be regarded as unauthorised for the purposes of subsection (1)—
(a) if it would involve the carrying out of **[**F315development other than any development specified in paragraph 1 or 2 of Schedule 3;**]**or
(b) in the case of a purchase notice served in consequence of a refusal or conditional grant of planning permission, if it would contravene the condition set out in Schedule 10.

Annotations:

Amendments (Textual)
F315 Words in s. 138(2)(a) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para.18** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Duties of authorities on service of purchase notice

139 Action by council on whom purchase notice is served.

(1) The council on whom a purchase notice is served shall serve on the owner by whom the purchase notice was served a notice (a "response notice") stating either—
(a) that the council are willing to comply with the purchase notice; or
(b) that another local authority or statutory undertakers specified in the response notice have agreed to comply with it in their place; or

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(c) that for reasons so specified the council are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place, and that they have sent the Secretary of State a copy of the purchase notice and of the response notice.

(2) A response notice must be served before the end of the period of three months beginning with the date of service of the purchase notice.

(3) Where the council on whom a purchase notice is served by an owner have served a response notice on him in accordance with subsection (1)(a) or (b), the council or, as the case may be, the other local authority or statutory undertakers specified in the response notice shall be deemed—

(a) to be authorised to acquire the interest of the owner compulsorily in accordance with the relevant provisions, and

(b) to have served a notice to treat in respect of it on the date of service of the response notice.

(4) Where the council propose to serve such a response notice as is mentioned in subsection (1)(c), they must first send the Secretary of State a copy—

(a) of the proposed response notice, and

(b) of the purchase notice.

(5) A notice to treat which is deemed to have been served by virtue of subsection (3)(b) may not be withdrawn under section 31 of the [M54]Land Compensation Act 1961.

Annotations:

Modifications etc. (not altering text)

C90 S. 139: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3), **Sch. 29 Pt. II para. 1** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C91 S. 139 applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para.1** (with arts. 6, 7)
S. 139 applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 139 applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 139 applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 139 applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

Marginal Citations

M54 1961 c. 33.

140 Procedure on reference of purchase notice to Secretary of State.

(1) Where a copy of a purchase notice is sent to the Secretary of State under section 139(4), he shall consider whether to confirm the notice or to take other action under section 141 in respect of it.

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(2) Before confirming a purchase notice or taking such other action, the Secretary of State must give notice of his proposed action—

(a) to the person who served the purchase notice;

(b) to the council on whom it was served;

(c) **[**F316in England**]** outside Greater London—

(i) to the county planning authority and also, where that authority is a joint planning board, to the county council; and

(ii) if the district council on whom the purchase notice in question was served is a constituent member of a joint planning board, to that board;

[F317(cc) in Wales, to the local planning authority, where it is a joint planning board;**]** and

(d) if the Secretary of State proposes to substitute any other local authority or statutory undertakers for the council on whom the notice was served, to them.

(3) A notice under subsection (2) shall specify the period (which must not be less than 28 days from its service) within which any of the persons on whom it is served may require the Secretary of State to give those persons an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) If within that period any of those persons so require, before the Secretary of State confirms the purchase notice or takes any other action under section 141 in respect of it he must give those persons such an opportunity.

(5) If, after any of those persons have appeared before and been heard by the appointed person, it appears to the Secretary of State to be expedient to take action under section 141 otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.

Annotations:

Amendments (Textual)

F316 Words in s. 140(2)(c) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(4)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F317 S. 140(2)(cc) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(4)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Modifications etc. (not altering text)

C92 S. 140(2)(d): power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3), **Sch. 29 Pt. II para. 2** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C93 S. 140(2)(d) applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 2** (with arts. 6, 7)
S. 140(2)(d) applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 140(2)(d) applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 140(2)(d) applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 140(2)(d) applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

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141 Action by Secretary of State in relation to purchase notice.

(1) Subject to the following provisions of this section and to section 142(3), if the Secretary of State is satisfied that the conditions specified in subsection (3) or, as the case may be, subsection (4) of section 137 are satisfied in relation to a purchase notice, he shall confirm the notice.

(2) If it appears to the Secretary of State to be expedient to do so, he may, instead of confirming the purchase notice—

(a) in the case of a notice served on account of the refusal of planning permission, grant planning permission for the development in question;

(b) in the case of a notice served on account of planning permission for development being granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of that development;

(c) in the case of a notice served on account of the revocation of planning permission by an order under section 97, cancel the order;

(d) in the case of a notice served on account of the modification of planning permission by such an order by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the development in respect of which the permission was granted; or

(e) in the case of a notice served on account of the making of an order under section 102 or paragraph 1 of Schedule 9, revoke the order or, as the case may be, amend the order so far as appears to him to be required in order to prevent the land from being rendered incapable of reasonably beneficial use by the order.

(3) If it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other development for which planning permission ought to be granted, he may, instead of confirming the purchase notice, or, as the case may be, of confirming it so far as it relates to that part of the land, direct that, if an application for planning permission for that development is made, it must be granted.

(4) If it appears to the Secretary of State, having regard to the probable ultimate use of the land, that it is expedient to do so, he may, if he confirms the notice, modify it, either in relation to the whole or any part of the land, by substituting another local authority or statutory undertakers for the council on whom the notice was served.

(5) Any reference in section 140 to the taking of action by the Secretary of State under this section includes a reference to the taking by him of a decision not to confirm the purchase notice either on the grounds that any of the conditions referred to in subsection (1) are not satisfied or by virtue of section 142.

Annotations:

Modifications etc. (not altering text)

C94 S. 141(4): power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3), **Sch. 29 Pt. II para. 3** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

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C95 S. 141(4) applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 3** (with arts. 6, 7)
S. 141(4) applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 141(4) applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 141(4) applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 141(4) applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

142 Power to refuse to confirm purchase notice where land has restricted use by virtue of previous planning permission.

(1) This section applies where a purchase notice is served in respect of land which consists in whole or in part of land which has a restricted use by virtue of an existing planning permission.

(2) For the purposes of this section, land is to be treated as having a restricted use by virtue of an existing planning permission if it is part of a larger area in respect of which planning permission has previously been granted (and has not been revoked) and either—

(a) it remains a condition of the planning permission (however expressed) that that part shall remain undeveloped or be preserved or laid out in a particular way as amenity land in relation to the remainder; or

(b) the planning permission was granted on an application which contemplated (expressly or by necessary implication) that the part should not be comprised in the development for which planning permission was sought, or should be preserved or laid out as mentioned in paragraph (a).

(3) Where a copy of the purchase notice is sent to the Secretary of State under section 139(4), he need not confirm the notice under section 141(1) if it appears to him that the land having a restricted use by virtue of an existing planning permission ought, in accordance with that permission, to remain undeveloped or, as the case may be, remain or be preserved or laid out as amenity land in relation to the remainder of the large area for which that planning permission was granted.

143 Effect of Secretary of State's action in relation to purchase notice.

(1) Where the Secretary of State confirms a purchase notice—

(a) the council on whom the purchase notice was served, or

(b) if under section 141(4) the Secretary of State modified the purchase notice by substituting another local authority or statutory undertakers for that council, that other authority or those undertakers,

shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the relevant provisions, and to have served a notice to treat in respect of it on such date as the Secretary of State may direct.

(2) If, before the end of the relevant period, the Secretary of State has neither—

(a) confirmed the purchase notice, nor

(b) taken any such action in respect of it as is mentioned in section 141(2) or (3), nor

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(c) notified the owner by whom the notice was served that he does not propose to confirm the notice,

the notice shall be deemed to be confirmed at the end of that period, and the council on whom the notice was served shall be deemed to be authorised as mentioned in subsection (1) and to have served a notice to treat in respect of the owner's interest at the end of that period.

(3) Subject to subsection (4), for the purposes of subsection (2) the relevant period is—

(a) the period of nine months beginning with the date of service of the purchase notice; or

(b) if it ends earlier, the period of six months beginning with the date on which a copy of the purchase notice was sent to the Secretary of State.

(4) The relevant period does not run if the Secretary of State has before him at the same time both—

(a) a copy of the purchase notice sent to him under section 139(4); and

(b) a notice of appeal under section 78, 174 or 195 of this Act or under section 20 or 39 of the Planning [M55](Listed Buildings and Conservation Areas) Act 1990 (appeals against refusal of listed building consent, etc. and appeals against listed building enforcement notices) or under section 21 [M56]of the Planning (Hazardous Substances) Act 1990 (appeals against decisions and failure to take decisions relating to hazardous substances) relating to any of the land to which the purchase notice relates.

(5) Where—

(a) the Secretary of State has notified the owner by whom a purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice; and

(b) that decision is quashed under Part XII,

the purchase notice shall be treated as cancelled, but the owner may serve a further purchase notice in its place.

(6) The reference in subsection (5) to a decision to confirm, or not to confirm, the purchase notice includes—

(a) any decision not to confirm the notice in respect of any part of the land to which it relates, and

(b) any decision to grant any permission, or give any direction, instead of confirming the notice, either wholly or in part.

(7) For the purposes of determining whether a further purchase notice under subsection (5) was served within the period prescribed for the service of purchase notices, the planning decision in consequence of which the notice was served shall be treated as having been made on the date on which the decision of the Secretary of State was quashed.

(8) A notice to treat which is deemed to have been served by virtue of subsection (1) or (2) may not be withdrawn under section 31 of the [M57]Land Compensation Act 1961.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Modifications etc. (not altering text)

C96 S. 143(1)(b): power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3), **Sch. 29 Pt. II para. 4** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C97 S. 143(1)(b) applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 4** (with arts. 6, 7)
S. 143(1)(b) applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 143(1)(b) applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 143(1)(b) applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 143(1)(b) applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

Marginal Citations

M55 1990 c. 9.
M56 1990 c. 10.
M57 1961 c. 33.

Compensation

144 Special provisions as to compensation where purchase notice served.

(1) Where compensation is payable by virtue of section 107 in respect of expenditure incurred in carrying out any works on land, any compensation payable in respect of the acquisition of an interest in the land in pursuance of a purchase notice shall be reduced by an amount equal to the value of those works.

(2) Where—

(a) the Secretary of State directs under section 141(3) that, if an application for it is made, planning permission must be granted for the development of any land, and

(b) on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that the permitted development value of the interest in that land in respect of which the purchase notice was served is less than its **[**[F318]Schedule 3 value**]**,

that authority shall pay the person entitled to that interest compensation of an amount equal to the difference.

(3) If the planning permission mentioned in subsection (2)(a) would be granted subject to conditions for regulating the design or external appearance, or the size or height of buildings, or for regulating the number of buildings to be erected on the land, the Secretary of State may direct that in assessing any compensation payable under subsection (2) those conditions must be disregarded, either altogether or to such extent as may be specified in the direction.

(4) The Secretary of State may only give a direction under subsection (3) if it appears to him to be reasonable to do so having regard to the local circumstances.

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(5) Sections 117 and 118 shall have effect in relation to compensation under subsection (2) as they have effect in relation to compensation to which those sections apply.

(6) In this section—

["F319Schedule 3 value", in relation to such an interest, means the value of that interest calculated on the assumption that planning permission would be granted—

(a) subject to the condition in Schedule 10, for any development of a class specified in paragraph 1 of Schedule 3; and

(b) for any development of a class specified in paragraph 2 of Schedule 3.**]**

"permitted development value", in relation to an interest in land in respect of which a direction is given under section 141(3), means the value of that interest calculated with regard to that direction, but on the assumption that no planning permission would be granted otherwise than in accordance with that direction, and

(7) Where a purchase notice in respect of an interest in land is served in consequence of an order under section 102 or paragraph 1 of Schedule 9, then if—

(a) that interest is acquired in accordance with this Chapter; or

(b) compensation is payable in respect of that interest under subsection (2),

no compensation shall be payable in respect of that order under section 115.

Annotations:

Amendments (Textual)

F318 Words in s. 144(2)(b) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch.6 para. 19(a)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F319 Definition in s. 144(6) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 19(b)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Special provisions for requiring purchase of whole of partially affected agricultural unit

145 Counter-notice requiring purchase of remainder of agricultural unit.

(1) This section applies where—

(a) an acquiring authority is deemed under this Chapter to have served notice to treat in respect of any agricultural land on a person ("the claimant") who has a greater interest in the land than as tenant for a year or from year to year (whether or not he is in occupation of the land), and

(b) the claimant has such an interest in other agricultural land ("the unaffected area") comprised in the same agricultural unit as that to which the notice relates.

(2) Where this section applies the claimant may serve on the acquiring authority a counter-notice—

(a) claiming that the unaffected area is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and

(b) requiring the acquiring authority to purchase his interest in the whole of the unaffected area.

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(3) Subject to subsection (4), "other relevant land" in subsection (2) means—

(a) land which is comprised in the same agricultural unit as the land to which the notice to treat relates and in which the claimant does not have such an interest as is mentioned in subsection (1); and

(b) land which is comprised in any other agricultural unit occupied by the claimant on the date on which the notice to treat is deemed to have been served and in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.

(4) Where a notice to treat has been served or is deemed under this Chapter or under Part III of the [M58]Compulsory Purchase (Vesting Declarations) Act 1981 to have been served in respect of any of the unaffected area or in respect of other relevant land as defined in subsection (3), then, unless and until the notice to treat is withdrawn, this section and section 146 shall have effect as if that land did not form part of the unaffected land or, as the case may be, did not constitute other relevant land.

(5) Where a counter-notice is served under subsection (2) the claimant shall also serve a copy of it on any other person who has an interest in the unaffected area (but failure to comply with this subsection shall not invalidate the counter-notice).

(6) A counter-notice under subsection (2) and any copy of that notice required to be served under subsection (5) must be served within the period of two months beginning with the date on which the notice to treat is deemed to have been served.

(7) This section is without prejudice to the rights conferred by sections 93 and 94 of the [M59]Lands Clauses (Consolidation) Act 1845 or section 8(2) and (3) of the [M60]Compulsory Purchase Act 1965 (provisions as to divided land).

Annotations:

Marginal Citations

M58 1981 c. 66.
M59 1845 c. 18.
M60 1965 c. 56.

146 Effect of counter-notice under s. 145.

(1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 145 agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the **[**[F320]Upper Tribunal**]**.

(2) On such a reference the Tribunal shall determine whether the claim in the counter-notice is justified and declare the counter-notice valid or invalid accordingly.

(3) Where a counter-notice is accepted as valid under subsection (1) or declared to be valid under subsection (2), the acquiring authority shall be deemed—

(a) to be authorised to acquire compulsorily the interest of the claimant in the land to which the requirement in the counter-notice relates under the same provision of this Chapter as they are authorised to acquire the other land in the agricultural unit in question; and

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(b) to have served a notice to treat in respect of it on the date on which notice to treat is deemed to have been served under that provision.

(4) A claimant may withdraw a counter-notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the counter-notice has been determined by the **[**F320Upper Tribunal**]** or at any time before the end of six weeks beginning with the date on which it is determined.

(5) Where a counter-notice is withdrawn by virtue of subsection (4) any notice to treat deemed to have been served in consequence of it shall be deemed to have been withdrawn.

(6) Without prejudice to subsection (5), a notice to treat deemed to have been served by virtue of this section may not be withdrawn under section 31 of the M61Land Compensation Act 1961.

(7) The compensation payable in respect of the acquisition of an interest in land in pursuance of a notice to treat deemed to have been served by virtue of this section shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) of the M62Land Compensation Act 1973.

(8) Where by virtue of this section the acquiring authority become or will become entitled to a lease of any land but not to the interest of the lessor—

(a) the authority shall offer to surrender the lease to the lessor on such terms as the authority consider reasonable;

(b) the question of what is reasonable may be referred to the **[**F320Upper Tribunal**]** by the authority or the lessor and, if at the expiration of the period of three months after the date of the offer mentioned in paragraph (a) the authority and the lessor have not agreed on that question and that question has not been referred to the Tribunal by the lessor, it shall be so referred by the authority;

(c) if that question is referred to the Tribunal, the lessor shall be deemed—

(i) to have accepted the surrender of the lease at the expiry of one month after the date of the determination of the Tribunal or on such other date as the Tribunal may direct, and

(ii) to have agreed with the authority on the terms of surrender which the Tribunal has held to be reasonable.

(9) For the purposes of subsection (8) any terms as to surrender contained in the lease shall be disregarded.

(10) Where the lessor—

(a) refuses to accept any sum payable to him by virtue of subsection (8), or

(b) refuses or fails to make out his title to the satisfaction of the acquiring authority,

they may pay into court any such sum payable to the lessor and section 9(2) and (5) of the M63Compulsory Purchase Act 1965 (deposit of compensation in cases of refusal to convey etc.) shall apply to that sum with the necessary modifications.

(11) Where an acquiring authority who become entitled to the lease of any land as mentioned in subsection (8) are a body incorporated by or under any enactment, the corporate powers of the authority shall, if they would not otherwise do so, include the power to farm that land.

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Annotations:

Amendments (Textual)

F320 Words in s. 146(1)(4)(8)(b) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 196**

Marginal Citations

M61 1961 c. 33.
M62 1973 c. 26.
M63 1965 c. 56

147 Provisions supplemental to ss. 145 and 146.

(1) Sections 145 and 146 apply in relation to the acquisition of interests in land by government departments which possess compulsory purchase powers as they apply in relation to the acquisition of interests in land by authorities who are not government departments.

(2) In sections 145, 146 and this section—

"agricultural" and "agricultural land" have the meaning given in section 109 of the [M64]Agriculture Act 1947 and references to the farming of land include references to the carrying on in relation to the land of any agricultural activities;

"agricultural unit" has the meaning given in section 171(1);

"acquiring authority" has the same meaning as in the [M65]Land Compensation Act 1961 ; and

"government departments which possess compulsory purchase powers" means government departments being authorities possessing compulsory purchase powers within the meaning of that Act.

Annotations:

Marginal Citations

M64 1947 c. 48.
M65 1961 c. 33.

Supplemental

[F321147A Application of Chapter I to National Parks.

This Chapter shall have effect as if—

(a) the bodies on whom a purchase notice may be served under section 137 included any National Park authority which is the local planning authority for the area in which the land is situated; and

(b) a National Park authority were a local authority for the purposes of this Act and the National Park for which it is the local planning authority were its area;

and the references in this Chapter and in section 288(10)(a) to a council and to a local authority shall be construed accordingly.**]**

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Annotations:

Amendments (Textual)

F321 S. 147A inserted (19.9.1995) by 1995 c. 25, **ss. 67(5)**, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

148 Interpretation of Chapter I.

(1) In this Chapter—

"the relevant provisions" means—

(a) the provisions of Part IX, or

(b) in the case of statutory undertakers, any statutory provision (however expressed) under which they have power, or may be authorised, to purchase land compulsorily for the purposes of their undertaking; and

"statutory undertakers" includes **[**[F322]electronic communications code operators and former PTOs**]**.

(2) In the case of a purchase notice served by such a person as is mentioned in subsection (2)(b) of section 137, references in this Chapter to the owner of the land include references to that person unless the context otherwise requires.

Annotations:

Amendments (Textual)

F322 Words in s. 148(1) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 102** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

Modifications etc. (not altering text)

C98 S. 148: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3), **Sch. 29 Pt. II para. 5** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C99 S. 148 applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 5** (with arts. 6, 7)
S. 148 applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 148 applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 148 applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 148 applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

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CHAPTER II

INTERESTS AFFECTED BY PLANNING PROPOSALS: BLIGHT

Preliminary

149 Scope of Chapter II.

(1) This Chapter shall have effect in relation to land falling within any paragraph of Schedule 13 (land affected by planning proposals of public authorities etc.); and in this Chapter such land is referred to as "blighted land".

(2) Subject to the provisions of sections 161 and 162, an interest qualifies for protection under this Chapter if—

(a) it is an interest in a hereditament or part of a hereditament and on the relevant date it satisfies one of the conditions mentioned in subsection (3); or

(b) it is an interest in an agricultural unit or part of an agricultural unit and on the relevant date it is the interest of an owner-occupier of the unit;

and in this Chapter such an interest is referred to as "a qualifying interest".

(3) The conditions mentioned in subsection (2)(a) are—

(a) that the annual value of the hereditament does not exceed such amount as may be prescribed for the purposes of this paragraph by an order made by the Secretary of State, and the interest is the interest of an owner-occupier of the hereditament; or

(b) that the interest is the interest of a resident owner-occupier of the hereditament.

(4) In this section "the relevant date", in relation to an interest, means the date of service of a notice under section 150 in respect of it.

(5) In this Chapter "blight notice" means a notice served under section 150, 161 or 162.

Blight notices

150 Notices requiring purchase of blighted land.

(1) Where the whole or part of a hereditament or agricultural unit is comprised in blighted land and a person claims that—

(a) he is entitled to a qualifying interest in that hereditament or unit;

(b) he has made reasonable endeavours to sell that interest; **[**F323or the land falls within paragraph **[**F32421,**]** paragraph 22 (disregarding the notes) **[**F325or paragraph 24**]** of Schedule 13 and **[**F326(except in the case of land falling within paragraph 24(c) of that Schedule)**]** the powers of compulsory acquisition remain exercisable**]** and

(c) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in blighted land, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land,

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he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, this Chapter.

(2) Subject to subsection (3), subsection (1) shall apply in relation to an interest in part of a hereditament or unit as it applies in relation to an interest in the whole of a hereditament or unit.

(3) Subsection (2) shall not enable any person—

(a) if he is entitled to an interest in the whole of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of his interest in part of a hereditament or unit; or

(b) if he is entitled to an interest only in part of a hereditament or agricultural unit, to make or serve any such claim or notice in respect of his interest in less than the whole of that part.

(4) In this Chapter—

(a) subject to section 161(1), "the claimant", in relation to a blight notice, means the person who served that notice, and

(b) any reference to the interest of the claimant, in relation to a blight notice, is a reference to the interest which the notice requires the appropriate authority to purchase as mentioned in subsection (1).

Annotations:

Amendments (Textual)

F323 Words in s. 150(1)(b) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 para.13** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F324 S. 150(1)(b): "21," inserted (1.3.2010) for "21 or" by Planning Act 2008 (c. 29), **ss. 175(3)(a)**, 241 (with s. 226); S.I. 2010/101, **art. 4(f)** (with art. 6)

F325 Words in s. 150(1)(b) inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 175(3)(b)**, 241 (with s. 226); S.I. 2010/101, **art. 4(f)** (with art. 6)

F326 Words in s. 150(1)(b) inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 175(3)(c)**, 241 (with s. 226); S.I. 2010/101, **art. 4(f)** (with art. 6)

151 Counter-notices objecting to blight notices.

(1) Where a blight notice has been served in respect of a hereditament or an agricultural unit, the appropriate authority may serve on the claimant a counter-notice in the prescribed form objecting to the notice.

(2) A counter-notice under subsection (1) may be served at any time before the end of the period of two months beginning with the date of service of the blight notice.

(3) Such a counter-notice shall specify the grounds on which the appropriate authority object to the blight notice (being one or more of the grounds specified in subsection (4) or, as relevant, in section 159(1), 161(5) or 162(5)).

(4) Subject to the following provisions of this Act, the grounds on which objection may be made in a counter-notice to a notice served under section 150 are—

(a) that no part of the hereditament or agricultural unit to which the notice relates is comprised in blighted land;

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(b) that the appropriate authority (unless compelled to do so by virtue of this Chapter) do not propose to acquire any part of the hereditament, or in the case of an agricultural unit any part of the affected area, in the exercise of any relevant powers;

(c) that the appropriate authority propose in the exercise of relevant powers to acquire a part of the hereditament or, in the case of an agricultural unit, a part of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of this Chapter) do not propose to acquire any other part of that hereditament or area in the exercise of any such powers;

(d) in the case of land falling within paragraph 1, 3 or 13 but not 14, 15 or 16 of Schedule 13, that the appropriate authority (unless compelled to do so by virtue of this Chapter) do not propose to acquire in the exercise of any relevant powers any part of the hereditament or, in the case of an agricultural unit, any part of the affected area during the period of 15 years from the date of the counter-notice or such longer period from that date as may be specified in the counter-notice;

(e) that, on the date of service of the notice under section 150, the claimant was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;

(f) that (for reasons specified in the counter-notice) the interest of the claimant is not a qualifying interest;

(g) that the conditions specified in paragraphs (b) and (c) of section 150(1) are not fulfilled.

(5) Where the appropriate enactment confers power to acquire rights over land, subsection (4) shall have effect as if—

(a) in paragraph (b) after the word "acquire" there were inserted the words " or to acquire any rights over ";

(b) in paragraph (c) for the words "do not propose to acquire" there were substituted the words " propose neither to acquire, nor to acquire any right over ";

(c) in paragraph (d) after the words "affected area" there were inserted " or to acquire any right over any part of it ".

(6) An objection may not be made on the grounds mentioned in paragraph (d) of subsection (4) if it may be made on the grounds mentioned in paragraph (b) of that subsection.

(7) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of paragraph 19 of Schedule 13 shall not include those mentioned in subsection (4)(b) or (c).

[[F327](7A) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of paragraph 25 of Schedule 13 do not include those mentioned in subsection (4)(b).**]**

(8) In this section "relevant powers", in relation to blighted land falling within any paragraph of Schedule 13, means any powers under which the appropriate authority are or could be authorised—

(a) to acquire that land or to acquire any rights over it compulsorily as being land falling within that paragraph; or

(b) to acquire that land or any rights over it compulsorily for any of the relevant purposes;

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and "the relevant purposes", in relation to any such land, means the purposes for which, in accordance with the circumstances by virtue of which that land falls within the paragraph in question, it is liable to be acquired or is indicated as being proposed to be acquired.

Annotations:

Amendments (Textual)

F327 S. 151(7A) inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by Planning Act 2008 (c. 29), **ss. 175(4)**, 241 (with s. 226); S.I. 2009/400, **art. 3**; S.I. 2010/101, **art. 4(f)** (with art. 6)

152 Further counter-notices where certain proposals have come into force.

(1) Where—

(a) an appropriate authority have served a counter-notice objecting to a blight notice in respect of any land falling within paragraph 1, 2, 3, 4 or 14 of Schedule 13 by virtue of Note (1) to that paragraph, and

(b) the relevant plan or alterations or, as the case may be, the relevant order or scheme comes into force (whether in its original form or with modifications),

the appropriate authority may serve on the claimant, in substitution for the counter-notice already served, a further counter-notice specifying different grounds of objection.

(2) Such a further counter-notice shall not be served—

(a) at any time after the end of the period of two months beginning with the date on which the relevant plan or alterations come into force; or

(b) if the objection in the counter-notice already served has been withdrawn or the **[**F328Upper Tribunal**]** has already determined whether or not to uphold that objection.

Annotations:

Amendments (Textual)

F328 Words in s. 152(2)(b) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 197**

153 Reference of objection to **[**F329Upper Tribunal**]**: general.

(1) Where a counter-notice has been served under section 151 objecting to a blight notice, the claimant may require the objection to be referred to the **[**F329Upper Tribunal**]**.

(2) F330 . . . . . .

(3) On any such reference, if the objection is not withdrawn, the **[**F329Upper Tribunal**]** shall consider—

(a) the matters set out in the notice served by the claimant, and

(b) the grounds of the objection specified in the counter-notice;

and, subject to subsection (4), unless it is shown to the satisfaction of the Tribunal that the objection is not well-founded, the Tribunal shall uphold the objection.

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(4) An objection on the grounds mentioned in section 151(4)(b), (c) or (d) shall not be upheld by the Tribunal unless it is shown to the satisfaction of the Tribunal that the objection is well-founded.

(5) If the Tribunal determines not to uphold the objection, the Tribunal shall declare that the notice to which the counter-notice relates is a valid notice.

(6) If the Tribunal upholds the objection, but only on the grounds mentioned in section 151(4)(c), the Tribunal shall declare that the notice is a valid notice in relation to the part of the hereditament, or in the case of an agricultural unit the part of the affected area, specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in that notice, but not in relation to any other part of the hereditament or affected area.

(7) In a case falling within subsection (5) or (6), the Tribunal shall give directions specifying the date on which notice to treat (as mentioned in section 154) is to be deemed to have been served.

(8) This section shall have effect in relation to a further counter-notice served by virtue of section 152(1) as it has effect in relation to the counter-notice for which it is substituted.

Annotations:

Amendments (Textual)

F329 S. 153: words in heading substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 198(a)**

F330 Words in s. 153(2) omitted (1.6.2009) by virtue of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 198(b)**

154 Effect of valid blight notice.

(1) Subsection (2) applies where a blight notice has been served and either—

(a) no counter-notice objecting to that notice is served in accordance with this Chapter; or

(b) where such a counter-notice has been served, the objection is withdrawn or, on a reference to the **[**[F331]Upper Tribunal**]**, is not upheld by the Tribunal.

(2) Where this subsection applies, the appropriate authority shall be deemed—

(a) to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in the hereditament, or in the case of an agricultural unit the interest of the claimant in so far as it subsists in the affected area, and

(b) to have served a notice to treat in respect of it on the date mentioned in subsection (3).

(3) The date referred to in subsection (2)—

(a) in a case where, on a reference to the **[**[F331]Upper Tribunal**]**, the Tribunal determines not to uphold the objection, is the date specified in directions given by the Tribunal in accordance with section 153(7);

(b) in any other case, is the date on which the period of two months beginning with the date of service of the blight notice comes to an end.

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(4) Subsection (5) applies where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 151(4)(c) and either—

(a) the claimant, without referring that objection to the **[**F331Upper Tribunal**]**, and before the time for so referring it has expired—

(i) gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the hereditament or affected area specified in the counter-notice, and

(ii) withdraws his claim as to the remainder of that hereditament or area; or

(b) on a reference to the **[**F331Upper Tribunal**]**, the Tribunal makes a declaration in accordance with section 153(6) in respect of that part of the hereditament or affected area.

(5) Where this subsection applies, the appropriate authority shall be deemed—

(a) to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the part of the hereditament or affected area specified in the counter-notice (but not in so far as it subsists in any other part of that hereditament or area), and

(b) to have served a notice to treat in respect of it on the date mentioned in subsection (6).

(6) The date referred to in subsection (5)—

(a) in a case falling within paragraph (a) of subsection (4), is the date on which notice is given in accordance with that paragraph; and

(b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the **[**F331Upper Tribunal**]** in accordance with section 153(7).

Annotations:

Amendments (Textual)

F331 Words in s. 154(1)(b)(3)(a)(4)(a)(b)(6)(b) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 199**

155 Effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire.

(1) Subsection (2) shall have effect where the grounds of objection specified in a counter-notice served under section 151 consist of or include the grounds mentioned in paragraph (b) or (d) of subsection (4) of that section and either—

(a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the **[**F332Upper Tribunal**]**; or

(b) the time for referring that objection to the **[**F332Upper Tribunal**]** expires without its having been so referred.

(2) If—

(a) a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes the whole or part of the hereditament or agricultural unit to which the counter-notice relates, or

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(b) the land in question falls within paragraph 21 of Schedule 13,

any power conferred by that order or, as the case may be, by special enactment for the compulsory acquisition of the interest of the claimant in the hereditament or agricultural unit or any part of it shall cease to have effect.

(3) Subsection (4) shall have effect where the grounds of objection specified in a counter-notice under section 151 consist of or include the grounds mentioned in paragraph (c) of subsection (4) of that section and either—

(a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the **[**F332Upper Tribunal**]**; or

(b) the time for referring that objection to the **[**F332Upper Tribunal**]** expires without its having been so referred;

and in subsection (4) any reference to "the part of the hereditament or affected area not required" is a reference to the whole of that hereditament or area except the part specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in the counter-notice.

(4) If—

(a) a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes any of the part of the hereditament or affected area not required, or

(b) the land in question falls within paragraph 21 of Schedule 13,

any power conferred by that order or, as the case may be, by the special enactment for the compulsory acquisition of the interest of the claimant in any land comprised in the part of the hereditament or affected area not required shall cease to have effect.

Annotations:

Amendments (Textual)

F332 Words in s. 155(1)(a)(b)(3)(a)(b) substituted (1.6.2009) by virtue of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 200**

156 Withdrawal of blight notice.

(1) Subject to subsection (3), the person by whom a blight notice has been served may withdraw the notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the notice has been determined by the **[**F333Upper Tribunal**]** or, if there has been such a determination, at any time before the end of the period of six weeks beginning with the date of the determination.

(2) Where a blight notice is withdrawn by virtue of subsection (1) any notice to treat deemed to have been served in consequence of it shall be deemed to have been withdrawn.

(3) A person shall not be entitled by virtue of subsection (1) to withdraw a notice after the appropriate authority have exercised a right of entering and taking possession of land in pursuance of a notice to treat deemed to have been served in consequence of that notice.

(4) No compensation shall be payable in respect of the withdrawal of a notice to treat which is deemed to have been withdrawn by virtue of subsection (2).

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Annotations:

Amendments (Textual)

F333 Words in s. 156(1) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 201**

Compensation

157 Special provisions as to compensation for acquisitions in pursuance of blight notices.

(1) Where—

(a) an interest in land is acquired in pursuance of a blight notice, and

(b) the interest is one in respect of which a compulsory purchase order is in force under section 1 of the [M66]Acquisition of Land Act 1981, as applied by section 47 of the [M67]Planning (Listed Buildings and Conservation Areas) Act 1990, containing a direction for minimum compensation under section 50 of that Act of 1990,

the compensation payable for the acquisition shall be assessed in accordance with that direction and as if the notice to treat deemed to have been served in respect of the interest under section 154 had been served in pursuance of the compulsory purchase order.

(2) Where—

(a) an interest in land is acquired in pursuance of a blight notice, and

(b) the interest is one in respect of which a compulsory purchase order is in force under section 290 of the [M68]Housing Act 1985 (acquisition of land for clearance);

the compensation payable for the acquisition shall be assessed in accordance with that Act and as if the notice to treat deemed to have been served in respect of the interest under section 154 had been served in pursuance of the compulsory purchase order.

(3) The compensation payable in respect of the acquisition by virtue of section 160 of an interest in land comprised in—

(a) the unaffected area of an agricultural unit; or

(b) if the appropriate authority have served a counter-notice objecting to the blight notice on the grounds mentioned in section 151(4)(c), so much of the affected area of the unit as is not specified in the counter-notice,

shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) of the [M69]Land Compensation Act 1973.

(4) In subsection (3) the reference to "the appropriate authority" shall be construed as if the unaffected area of an agricultural unit were part of the affected area.

Annotations:

Marginal Citations

M66 1981 c.67.

M67 1990 c. 9.

M68 1985 c.68.

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M69 1973 c.26.

Special provisions for requiring purchase of whole of partially affected agricultural unit

158 Inclusion in blight notices of requirement to purchase parts of agricultural units unaffected by blight.

(1) This section applies where—

(a) a blight notice is served in respect of an interest in the whole or part of an agricultural unit, and

(b) on the date of service that unit or part contains land ("the unaffected area") which is not blighted land as well as land ("the affected area") which is such land.

(2) Where this section applies the claimant may include in the blight notice—

(a) a claim that the unaffected area is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and

(b) a requirement that the appropriate authority shall purchase his interest in the whole of the unit or, as the case may be, in the whole of the part of it to which the notice relates.

(3) Subject to section 159(4), "other relevant land" in subsection (2) means—

(a) if the blight notice is served only in respect of part of land comprised in the agricultural unit, the remainder of it; and

(b) land which is comprised in any other agricultural unit occupied by the claimant on the date of service and in respect of which he is then entitled to an owner's interest as defined in section 168(4).

159 Objections to s. 158 notices.

(1) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of section 158 shall include the ground that the claim made in the notice is not justified.

(2) Objection shall not be made to a blight notice served by virtue of section 158 on the grounds mentioned in section 151(4)(c) unless it is also made on the grounds mentioned in subsection (1).

(3) The **[**F334Upper Tribunal**]** shall not uphold an objection to a notice served by virtue of section 158 on the grounds mentioned in section 151(4)(c) unless it also upholds the objection on the grounds mentioned in subsection (1).

(4) Where objection is made to a blight notice served by virtue of section 158 on the ground mentioned in subsection (1) and also on those mentioned in section 151(4)(c), the **[**F334Upper Tribunal**]**, in determining whether or not to uphold the objection, shall treat that part of the affected area which is not specified in the counter-notice as included in "other relevant land" as defined in section 158(3).

(5) If the **[**F334Upper Tribunal**]** upholds an objection but only on the ground mentioned in subsection (1), the Tribunal shall declare that the blight notice is a valid notice in relation to the affected area but not in relation to the unaffected area.

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(6) If the Tribunal upholds an objection both on the ground mentioned in subsection (1) and on the grounds mentioned in section 151(4)(c) (but not on any other grounds) the Tribunal shall declare that the blight notice is a valid notice in relation to the part of the affected area specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in that notice but not in relation to any other part of the affected area or in relation to the unaffected area.

(7) In a case falling within subsection (5) or (6), the Tribunal shall give directions specifying a date on which notice to treat (as mentioned in sections 154 and section 160) is to be deemed to have been served.

(8) Section 153(6) shall not apply to any blight notice served by virtue of section 158.

Annotations:

Amendments (Textual)

F334 Words in s. 159(3)(4)(5) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 202**

160 Effect of notices served by virtue of s. 158.

(1) In relation to a blight notice served by virtue of section 158—

(a) subsection (2) of section 154 shall have effect as if for the words "or in the case of an agricultural unit the interest of the claimant in so far as it subsists in the affected area" there were substituted the words " or agricultural unit "; and

(b) subsections (4) and (5) of that section shall not apply to any such blight notice.

(2) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 159(1), then if either—

(a) the claimant, without referring that objection to the **[**F335Upper Tribunal**]** and before the time for so referring it has expired, gives notice to the appropriate authority that he withdraws his claim as to the unaffected area; or

(b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 159(5),

the appropriate authority shall be deemed—

(i) to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the affected area (but not in so far as it subsists in the unaffected area), and

(ii) to have served a notice to treat in respect of it on the date mentioned in subsection (3).

(3) The date referred to in subsection (2)—

(a) in a case falling within paragraph (a) of subsection (2), is the date on which notice is given in accordance with that paragraph; and

(b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Tribunal in accordance with section 159(7).

(4) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 159(1) and also on the grounds mentioned in section 151(4)(c), then if either—

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(a) the claimant, without referring that objection to the **[**F335Upper Tribunal**]** and before the time for so referring it has expired—

(i) gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the affected area specified in the counter-notice, and

(ii) withdraws his claim as to the remainder of that area and as to the unaffected area; or

(b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 159(6) in respect of that part of the affected area,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the part of the affected area specified in the counter-notice (but not in so far as it subsists in any other part of that area or in the unaffected area) and to have served a notice to treat in respect of it on the date mentioned in subsection (5).

(5) The date referred to in subsection (4)—

(a) in a case falling within paragraph (a) of that subsection, is the date on which notice is given in accordance with that paragraph; and

(b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Tribunal in accordance with section 159(7).

(6) In relation to a blight notice served by virtue of section 158 references to "the appropriate authority" and "the appropriate enactment" shall be construed as if the unaffected area of an agricultural unit were part of the affected area.

Annotations:

Amendments (Textual)

F335 Words in s. 160(2)(a)(4)(a) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 203**

Personal representatives, mortgagees and partnerships

161 Powers of personal representatives in respect of blight notice.

(1) In relation to any time after the death of a person who has served a blight notice, sections 151(1), 152(1), 153(1), 154(4) and (5), 156(1) and 160(2) and (4) shall apply as if any reference in them to the claimant were a reference to the claimant's personal representatives.

(2) Where the whole or part of a hereditament or agricultural unit is comprised in blighted land and a person claims that—

(a) he is the personal representative of a person ("the deceased") who at the date of his death was entitled to an interest in that hereditament or unit;

(b) the interest was one which would have been a qualifying interest if a notice under section 150 had been served in respect of it on that date;

(c) he has made reasonable endeavours to sell that interest **[**F336or the land falls within paragraph 21 or paragraph 22 (disregarding the notes) of Schedule 13 and the powers of compulsory acquisition remain exercisable**]**;

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(d) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in blighted land, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land; and

(e) one or more individuals are (to the exclusion of any body corporate) beneficially entitled to that interest,

he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, this Chapter.

(3) Subject to subsection (4), subsection (2) shall apply in relation to an interest in part of a hereditament or agricultural unit as it applies in relation to an interest in the whole of a hereditament or agricultural unit.

(4) Subsection (3) shall not enable any person—

(a) if the deceased was entitled to an interest in the whole of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of the deceased's interest in part of the hereditament or unit; or

(b) if the deceased was entitled to an interest only in part of the hereditament or agricultural unit, to make or serve any such claim or notice in respect of the deceased's interest in less than the whole of that part.

(5) Subject to sections 151(7) and 159(2) and (3), the grounds on which objection may be made in a counter-notice under section 151 to a notice under this section are those specified in paragraphs (a) to (c) of subsection (4) of that section and, in a case to which it applies, the grounds specified in paragraph (d) of that subsection and also the following grounds—

(a) that the claimant is not the personal representative of the deceased or that, on the date of the deceased's death, the deceased was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;

(b) that (for reasons specified in the counter-notice) the interest of the deceased is not such as is specified in subsection (2)(b);

(c) that the conditions specified in subsection (2)(c), (d) or (e) are not satisfied.

Annotations:

Amendments (Textual)

F336 Words in s. 161(2)(c) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 para.13** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

162 Power of mortgagees to serve blight notice.

(1) Where the whole or part of a hereditament or agricultural unit is comprised in blighted land and a person claims that—

(a) he is entitled as mortgagee (by virtue of a power which has become exercisable) to sell an interest in the hereditament or unit, giving immediate vacant possession of the land;

(b) he has made reasonable endeavours to sell that interest **[**[F337]or the land falls within paragraph 21 or paragraph 22 (disregarding the notes) of Schedule 13 and the powers of compulsory acquisition remain exercisable**]**; and

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(c) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in blighted land, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land,

then, subject to the provisions of this section, he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, this Chapter.

(2) Subject to subsection (3), subsection (1) shall apply in relation to an interest in part of a hereditament or unit as it applies in relation to an interest in the whole of a hereditament or unit.

(3) Subsection (2) shall not enable a person—

(a) if his interest as mortgagee is in the whole of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of any interest in part of the hereditament or unit; or

(b) if his interest as mortgagee is only in part of a hereditament or agricultural unit, to make or serve any such notice or claim in respect of any interest in less than the whole of that part.

(4) Notice under this section shall not be served unless the interest which the mortgagee claims he has the power to sell—

(a) could be the subject of a notice under section 150 served by the person entitled to it on the date of service of the notice under this section; or

(b) could have been the subject of such a notice served by that person on a date not more than six months before the date of service of the notice under this section.

(5) Subject to sections 151(7) and 159(2) and (3), the grounds on which objection may be made in a counter-notice under section 151 to a notice under this section are those specified in paragraphs (a) to (c) of subsection (4) of that section and, in a case to which it applies, the grounds specified in paragraph (d) of that subsection and also the following grounds—

(a) that, on the date of service of the notice under this section, the claimant had no interest as mortgagee in any part of the hereditament or agricultural unit to which the notice relates;

(b) that (for reasons specified in the counter-notice) the claimant had not on that date the power referred to in subsection (1)(a);

(c) that the conditions specified in subsection (1)(b) and (c) are not fulfilled;

(d) that (for reasons specified in the counter-notice) neither of the conditions specified in subsection (4) was, on the date of service of the notice under this section, satisfied with regard to the interest referred to in that subsection.

Annotations:

Amendments (Textual)

F337 Words in s. 162(1)(b) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 para.13** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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163 Prohibition on service of simultaneous notices under ss. 150, 161 and 162.

(1) No notice shall be served under section 150 or 161 in respect of a hereditament or agricultural unit, or any part of it, at a time when a notice already served under section 162 is outstanding with respect to it, and no notice shall be served under section 162 at a time when a notice already served under section 150 or 161 is outstanding with respect to the relevant hereditament, unit or part.

(2) For the purposes of subsection (1), a notice shall be treated as outstanding with respect to a hereditament, unit or part—

(a) until it is withdrawn in relation to the hereditament, unit or part; or

(b) in a case where an objection to the notice has been made by a counter-notice under section 151, until either—

(i) the period of two months specified in section 153 elapses without the claimant having required the objection to be referred to the **[**F338Upper Tribunal**]** under that section; or

(ii) the objection, having been so referred, is upheld by the Tribunal with respect to the hereditament, unit or part.

Annotations:

Amendments (Textual)

F338 Words in s. 163(2)(b)(i) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 204**

164 Special provisions as to partnerships.

(1) This section shall have effect for the purposes of the application of this Chapter to a hereditament or agricultural unit occupied for the purposes of a partnership firm.

(2) Occupation for the purposes of the firm shall be treated as occupation by the firm, and not as occupation by any one or more of the partners individually, and the definitions of "owner-occupier" in section 168(1) and (2) shall apply in relation to the firm accordingly.

(3) If, after the service by the firm of a blight notice, any change occurs (whether by death or otherwise) in the constitution of the firm, any proceedings, rights or obligations consequential upon that notice may be carried on or exercised by or against, or, as the case may be, shall be incumbent upon, the partners for the time being constituting the firm.

(4) Nothing in this Chapter shall be construed as indicating an intention to exclude the operation of the definition of "person" in Schedule 1 to the M70Interpretation Act 1978 (by which, unless the contrary intention appears, "person" includes any body of persons corporate or unincorporate) in relation to any provision of this Chapter.

(5) Subsection (2) shall not affect the definition of "resident owner-occupier" in section 168(3).

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Annotations:

Marginal Citations

M70 1978 c. 30.

Miscellaneous and supplementary provisions

165 Power of Secretary of State to acquire land affected by orders relating to new towns etc. where blight notice served.

(1) Where a blight notice has been served in respect of land falling within paragraph 7, 8 or 9 of Schedule 13, then until such time as a development corporation is established for the new town or, as the case may be, an urban development corporation is established for the urban development area the Secretary of State shall have power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.

(2) Where the Secretary of State acquires an interest under subsection (1), then—

(a) if the land is or becomes land within paragraph 8 or, as the case may be, paragraph 9(b) of Schedule 13, the interest shall be transferred by him to the development corporation established for the new town or, as the case may be, the urban development corporation established for the urban development area; and

(b) in any other case, the interest may be disposed of by him in such manner as he thinks fit.

(3) The [M71]Land Compensation Act 1961 shall have effect in relation to the compensation payable in respect of the acquisition of an interest by the Secretary of State under subsection (1) as if—

(a) the acquisition were by a development corporation under the [M72]New Towns Act 1981 or, as the case may be, by an urban development corporation under Part XVI of the [M73]Local Government, Planning and Land Act 1980;

(b) in the case of land within paragraph 7 of Schedule 13, the land formed part of an area designated as the site of a new town by an order which has come into operation under section 1 of the New Towns Act 1981; and

(c) in the case of land within paragraph 9(a) of Schedule 13, the land formed part of an area designated as an urban development area by an order under section 134 of the [M74]Local Government, Planning and Land Act 1980 which has come into operation.

Annotations:

Marginal Citations

M71 1961 c. 33.
M72 1981 c. 64.
M73 1980 c. 65.
M74 1980 c. 65.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[F339 165A Power of Secretary of State to acquire land identified in national policy statements where blight notice served

Where a blight notice has been served in respect of land falling within paragraph 25 of Schedule 13, the Secretary of State has power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.**]**

Annotations:

Amendments (Textual)

F339 S. 165A inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by Planning Act 2008 (c. 29), **ss. 175(5)**, 241 (with s. 226); S.I. 2009/400, **art. 3**; S.I. 2010/101, **art. 4(f)** (with art. 6)

166 Saving for claimant's right to sell whole hereditament, etc.

(1) The provisions of sections 151(4)(c), 153(6), 154(4) and (5) and 155(3) and (4) relating to hereditaments shall not affect—

(a) the right of a claimant under section 92 of the M75 Lands Clauses Consolidation Act 1845 to sell the whole of the hereditament or, in the case of an agricultural unit, the whole of the affected area, which he has required the authority to purchase; or

(b) the right of a claimant under section 8 of the M76 Compulsory Purchase Act 1965 to sell (unless the **[**F340 Upper Tribunal**]** otherwise determines) the whole of the hereditament or, as the case may be, affected area which he has required that authority to purchase.

(2) In accordance with subsection (1)(b), in determining whether or not to uphold an objection relating to a hereditament on the grounds mentioned in section 151(4)(c), the **[**F340 Upper Tribunal**]** shall consider (in addition to the other matters which they are required to consider) whether—

(a) in the case of a house, building or factory, the part proposed to be acquired can be taken without material detriment to the house, building or factory; or

(b) in the case of a park or garden belonging to a house, the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house.

Annotations:

Amendments (Textual)

F340 Words in s. 166(1)(b)(2) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 205**

Marginal Citations

M75 1845 c. 18.

M76 1965 c. 56.

167 No withdrawal of constructive notice to treat.

Without prejudice to the provisions of section 156(1) and (2), a notice to treat which is deemed to have been served by virtue of this Chapter may not be withdrawn under section 31 of the M77 Land Compensation Act 1961.

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Annotations:

Marginal Citations

M77 1961 c. 33.

168 Meaning of "owner-occupier" and "resident owner-occupier".

(1) Subject to the following provisions of this section, in this Chapter "owner-occupier", in relation to a hereditament, means—

(a) a person who occupies the whole or a substantial part of the hereditament in right of an owner's interest in it, and has so occupied the hereditament or that part of it during the whole of the period of six months ending with the date of service; or

(b) if the whole or a substantial part of the hereditament was unoccupied for a period of not more than 12 months ending with that date, a person who so occupied the hereditament or, as the case may be, that part of it during the whole of a period of six months ending immediately before the period when it was not occupied.

(2) Subject to the following provisions of this section, in this Chapter "owner-occupier", in relation to an agricultural unit, means a person who—

(a) occupies the whole of that unit and has occupied it during the whole of the period of six months ending with the date of service; or

(b) occupied the whole of that unit during the whole of a period of six months ending not more than 12 months before the date of service,

and, at all times material for the purposes of paragraph (a) or, as the case may be, paragraph (b) has been entitled to an owner's interest in the whole or part of that unit.

(3) In this Chapter "resident owner-occupier", in relation to a hereditament, means—

(a) an individual who occupies the whole or a substantial part of the hereditament as a private dwelling in right of an owner's interest in it, and has so occupied the hereditament or, as the case may be, that part during the whole of the period of six months ending with the date of service; or

(b) if the whole or a substantial part of the hereditament was unoccupied for a period of not more than 12 months ending with that date, an individual who so occupied the hereditament or, as the case may be, that part during the whole of a period of six months ending immediately before the period when it was not occupied.

(4) In this section—

"owner's interest", in relation to a hereditament or agricultural unit, means a freehold interest in it or a tenancy of it granted or extended for a term of years certain not less than three years of which remain unexpired on the date of service; and

"date of service", in relation to a hereditament or agricultural unit, means the date of service of a notice in respect of it under section 150.

169 "Appropriate authority" for purposes of Chapter II.

(1) Subject to the following provisions of this section, in this Chapter "the appropriate authority", in relation to any land, means the government department, local authority

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[[F341]National Park authority**]** or other body or person by whom, in accordance with the circumstances by virtue of which the land falls within any paragraph of Schedule 13, the land is liable to be acquired or is indicated as being proposed to be acquired or, as the case may be, any right over the land is proposed to be acquired.

(2) If any question arises—

(a) whether the appropriate authority in relation to any land for the purposes of this Chapter is the Secretary of State or a local highway authority; or

(b) which of two or more local highway authorities is the appropriate authority in relation to any land for those purposes; or

(c) which of two or more local authorities is the appropriate authority in relation to any land for those purposes,

that question shall be referred to the Secretary of State, whose decision shall be final.

(3) If any question arises which authority is the appropriate authority for the purposes of this Chapter—

(a) section 151(2) shall have effect as if the reference to the date of service of the blight notice were a reference to that date or, if it is later, the date on which that question is determined;

(b) section 162(4)(b) shall apply with the substitution for the period of six months of a reference to that period extended by so long as it takes to obtain a determination of the question; and

(c) section 168(1)(b), (2)(b) and (3)(b) shall apply with the substitution for the reference to 12 months before the date of service of a reference to that period extended by so long as it takes to obtain a determination of the question.

(4) In relation to land falling within paragraph 7, 8 or 9 of Schedule 13, until such time as a development corporation is established for the new town or, as the case may be, an urban development corporation is established for the urban development area, this Chapter shall have effect as if "the appropriate authority" were the Secretary of State.

(5) In relation to land falling within paragraph 19 of Schedule 13, "the appropriate authority" shall be the highway authority for the highway in relation to which the order mentioned in that paragraph was made.

[[F342](6) In relation to land falling within paragraph 25 of Schedule 13, "the appropriate authority" is—

(a) if the national policy statement identifies a statutory undertaker as an appropriate person to carry out the specified description of development in the location, the statutory undertaker;

(b) in any other case, the Secretary of State.

(7) If any question arises by virtue of subsection (6)—

(a) whether the appropriate authority in relation to any land for the purposes of this Chapter is the Secretary of State or a statutory undertaker; or

(b) which of two or more statutory undertakers is the appropriate authority in relation to any land for those purposes,

that question shall be referred to the Secretary of State, whose decision shall be final.

(8) In subsections (6) and (7) "statutory undertaker" means a person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part 11.**]**

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Annotations:

Amendments (Textual)

F341 Words in s. 169(1) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(5)** (with ss. 7(6), 115, 117, Sch. 8 para. 3); S.I. 1995/2950, **art. 2(1)**

F342 S. 169(6)-(8) inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by Planning Act 2008 (c. 29), **ss. 175(6)**, 241 (with s. 226); S.I. 2009/400, **art. 3**; S.I. 2010/101, **art. 4(f)** (with art. 6)

170 "Appropriate enactment" for purposes of Chapter II.

(1) Subject to the following provisions of this section, in this Chapter "the appropriate enactment", in relation to land falling within any paragraph of Schedule 13, means the enactment which provides for the compulsory acquisition of land as being land falling within that paragraph or, as respects paragraph 22(b), the enactment under which the compulsory purchase order referred to in that paragraph was made.

(2) In relation to land falling within paragraph 2, 3 or 4 of that Schedule, an enactment shall for the purposes of subsection (1) be taken to be an enactment which provides for the compulsory acquisition of land as being land falling within that paragraph if—

(a) the enactment provides for the compulsory acquisition of land for the purposes of the functions which are indicated in the development plan as being the functions for the purposes of which the land is allocated or is proposed to be developed; or

(b) where no particular functions are so indicated in the development plan, the enactment provides for the compulsory acquisition of land for the purposes of any of the functions of the government department, local authority **[**F343National Park authority**]** or other body for the purposes of whose functions the land is allocated or is defined as the site of proposed development.

(3) In relation to land falling within paragraph 2, 3 or 4 of that Schedule by virtue of Note (1) to that paragraph, "the appropriate enactment" shall be determined in accordance with subsection (2) as if references in that subsection to the development plan were references to any such plan, proposal or modifications as are mentioned in paragraph (a), (b) or (c) of that Note.

(4) In relation to land falling within paragraph 5 or 6 of that Schedule, "the appropriate enactment" shall be determined in accordance with subsection (2) as if references in that subsection to the development plan were references to the resolution or direction in question.

(5) In relation to land falling within paragraph 7, 8 or 9 of that Schedule, until such time as a development corporation is established for the new town or, as the case may be, an urban development corporation is established for the urban development area, this Chapter shall have effect as if "the appropriate enactment" were section 165(1).

(6) In relation to land falling within paragraph 10 or 11 of that Schedule, "the appropriate enactment" shall be section 290 of the M78Housing Act 1985.

(7) In relation to land falling within paragraph 19 of that Schedule, "the appropriate enactment" shall be section 239(6) of the M79Highways Act 1980.

(8) In relation to land falling within paragraph 22 of that Schedule by virtue of Note (1) to that paragraph, "the appropriate enactment" shall be the enactment which would

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provide for the compulsory acquisition of the land or of the rights over the land if the relevant compulsory purchase order were confirmed or made.

[F344(8A) In relation to land falling within paragraph 24(a) or (b) of that Schedule, "the appropriate enactment" is the order granting development consent.

(8B) In relation to land falling within paragraph 24(c) of that Schedule, "the appropriate enactment" is an order in the terms of the order applied for.

(8C) In relation to land falling within paragraph 25 of that Schedule, "the appropriate enactment" is section 165A.**]**

(9) Where, in accordance with the circumstances by virtue of which any land falls within any paragraph of that Schedule, it is indicated that the land is proposed to be acquired for highway purposes, any enactment under which a highway authority are or (subject to the fulfilment of the relevant conditions) could be authorised to acquire that land compulsorily for highway purposes shall, for the purposes of subsection (1), be taken to be an enactment providing for the compulsory acquisition of that land as being land falling within that paragraph.

(10) In subsection (9) the reference to the fulfilment of the relevant conditions is a reference to such one or more of the following as are applicable to the circumstances in question —

(a) the coming into operation of any requisite order or scheme made, or having effect as if made, under the provisions of Part II of the Highways Act 1980;

(b) the coming into operation of any requisite scheme made, or having effect as if made, under section 106(3) of that Act;

(c) the making or approval of any requisite plans.

(11) If, apart from this subsection, two or more enactments would be the appropriate enactment in relation to any land for the purposes of this Chapter, the appropriate enactment for those purposes shall be taken to be that one of those enactments under which, in the circumstances in question, it is most likely that (apart from this Chapter) the land would have been acquired by the appropriate authority.

(12) If any question arises as to which enactment is the appropriate enactment in relation to any land for the purposes of this Chapter, that question shall be referred—

(a) where the appropriate authority are a government department, to the Minister in charge of that department;

(b) where the appropriate authority are statutory undertakers, to the appropriate Minister; and

(c) in any other case, to the Secretary of State,

and the decision of the Minister or, as the case may be, the Secretary of State shall be final.

Annotations:

Amendments (Textual)

F343 Words in s. 170(2) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(5)** (with ss. 7(6), 115, 117); S.I. 1995/2950, **art. 2(1)**

F344 S. 170(8A)-(8C) inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by Planning Act 2008 (c. 29), **ss. 175(7)**, 241 (with s. 226); S.I. 2009/400, **art. 3**; S.I. 2010/101, **art. 4(f)** (with art. 6)

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Marginal Citations

M78 1985 c. 68.

M79 1980 c. 66.

171 General interpretation of Chapter II.

(1) Subject to the following provisions of this section, in this Chapter—

"the affected area", in relation to an agricultural unit, means so much of that unit as, on the date of service, consists of land falling within any paragraph of Schedule 13;

"agricultural" has the same meaning as in section 109 of the [M80]Agriculture Act 1947 and references to the farming of land include references to the carrying on in relation to the land of agricultural activities;

"agricultural unit" means land which is occupied as a unit for agricultural purposes, including any dwellinghouse or other building occupied by the same person for the purpose of farming the land;

"annual value" means—

(a) in the case of a hereditament which is shown in a local non-domestic rating list and none of which consists of domestic property or property exempt from local non-domestic rating, the value shown in that list as the rateable value of that hereditament on the date of service;

(b) in the case of a hereditament which is shown in a local non-domestic rating list and which includes domestic property or property exempt from local non-domestic rating, the sum of—

(i) the value shown in that list as the rateable value of that hereditament on the date of service; and

(ii) the value attributable to the non-rateable part of that hereditament in accordance with subsections (2) and (3);

(c) in the case of any other hereditament, the value attributable to that hereditament in accordance with subsections (2) and (3);

"blight notice" has the meaning given in section 149(5);

"the claimant" has the meaning given in section 150(4);

"hereditament" means a relevant hereditament within the meaning of section 64(4)(a) to (c) of the [M81]Local Government Finance Act 1988;

[[F345]"national policy statement" has the meaning given by section 5(2) of the Planning Act 2008;**]**

"special enactment" means a local enactment, or a provision contained in an Act other than a local or private Act, which is a local enactment or provision authorising the compulsory acquisition of land specifically identified in it; and in this definition "local enactment" means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure.

(2) The value attributable to a hereditament, or the non-rateable part of it, in respect of domestic property shall be the value certified by the relevant valuation officer as being 5 per cent. of the compensation which would be payable in respect of the value of that property if it were purchased compulsorily under statute with vacant possession and the compensation payable were calculated in accordance with Part II of the [M82]Land Compensation Act 1961 by reference to the relevant date.

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(3) The value attributable to a hereditament, or the non-rateable part of it, in respect of property exempt from local non-domestic rating shall be the value certified by the relevant valuation officer as being the value which would have been shown as the rateable value of that property on the date of service if it were a relevant non-domestic hereditament consisting entirely of non-domestic property, none of which was exempt from local non-domestic rating.

(4) Land which (apart from this subsection) would comprise separate hereditaments solely by reason of being divided by a boundary between rating areas shall be treated for the purposes of the definition of "hereditament" in subsection (1) as if it were not so divided.

(5) In this section—

"date of service" has the same meaning as in section 168;

"relevant valuation officer" means the valuation officer who would have determined the rateable value in respect of the hereditament for the purposes of Part III of the [M83]Local Government Finance Act 1988 if the hereditament had fulfilled the conditions set out in section 42(1)(b) to (d) of that Act;

"relevant date" is the date by reference to which that determination would have been made;

and expressions used in the definition of "annual value" in subsection (1) or in subsection (2) or (3) which are also used in Part III of that Act have the same meaning as in that Part.

Annotations:

Amendments (Textual)

F345 S. 171(1): definition of "national policy statement" inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by Planning Act 2008 (c. 29), **ss. 175(8)**, 241 (with s. 226); S.I. 2009/400, **art. 3**; S.I. 2010/101, **art. 4(f)** (with art. 6)

Marginal Citations

M80 1947 c.48.
M81 1988 c. 41.
M82 1961 c. 33.
M83 1988 c.41.

PART VII

ENFORCEMENT

Annotations:

Modifications etc. (not altering text)

C100 Pt. VII (ss. 172-196C) applied (with modifications) (17.7.1992) by S.I. 1992/1492, **regs. 2(1)(b)**, 3-11
Pt. VII (ss. 172-196C) applied (with modifications) (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

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[F346 Introductory

Annotations:

Amendments (Textual)

F346 Ss. 171A, 171B and cross heading inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 4(1)**, (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5); S.I. 1992/1630, **art. 2** (with art. 3(1))

F347 171A Expressions used in connection with enforcement.

(1) For the purposes of this Act—

(a) carrying out development without the required planning permission; or

(b) failing to comply with any condition or limitation subject to which planning permission has been granted,

constitutes a breach of planning control.

(2) For the purposes of this Act—

(a) the issue of an enforcement notice (defined in section 172); or

(b) the service of a breach of condition notice (defined in section 187A),

constitutes taking enforcement action.

(3) In this Part "planning permission" includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

Annotations:

Amendments (Textual)

F347 Ss. 171A, 171B inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 4(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5); S.I. 1992/1630, **art. 2** (with art. 3(1))

F348 171B Time limits.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

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(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.**]**

Annotations:

Amendments (Textual)

F348 Ss. 171A, 171B inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 4(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5); S.I. 1992/1630, **art. 2** (with art. 3(1))

I[F349] Planning contravention notices

Annotations:

Amendments (Textual)

F349 Ss. 171C, 171D and cross heading inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.1** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

[F350] 171C Power to require information about activities on land.

(1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land, they may serve notice to that effect (referred to in this Act as a "planning contravention notice") on any person who—

(a) is the owner or occupier of the land or has any other interest in it; or

(b) is carrying out operations on the land or is using it for any purpose.

(2) A planning contravention notice may require the person on whom it is served to give such information as to—

(a) any operations being carried out on the land, any use of the land and any other activities being carried out on the land; and

(b) any matter relating to the conditions or limitations subject to which any planning permission in respect of the land has been granted,

as may be specified in the notice.

(3) Without prejudice to the generality of subsection (2), the notice may require the person on whom it is served, so far as he is able—

(a) to state whether or not the land is being used for any purpose specified in the notice or any operations or activities specified in the notice are being or have been carried out on the land;

(b) to state when any use, operations or activities began;

(c) to give the name and **[**[F351]postal**]** address of any person known to him to use or have used the land for any purpose or to be carrying out, or have carried out, any operations or activities on the land;

(d) to give any information he holds as to any planning permission for any use or operations or any reason for planning permission not being required for any use or operations;

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(e) to state the nature of his interest (if any) in the land and the name and **[**[F351]postal**]** address of any other person known to him to have an interest in the land.

(4) A planning contravention notice may give notice of a time and place at which—

(a) any offer which the person on whom the notice is served may wish to make to apply for planning permission, to refrain from carrying out any operations or activities or to undertake remedial works; and

(b) any representations which he may wish to make about the notice,

will be considered by the authority, and the authority shall give him an opportunity to make in person any such offer or representations at that time and place.

(5) A planning contravention notice must inform the person on whom it is served—

(a) of the likely consequences of his failing to respond to the notice and, in particular, that enforcement action may be taken; and

(b) of the effect of section 186(5)(b).

(6) Any requirement of a planning contravention notice shall be complied with by giving information in writing to the local planning authority.

(7) The service of a planning contravention notice does not affect any other power exercisable in respect of any breach of planning control.

(8) In this section references to operations or activities on land include operations or activities in, under or over the land.

Annotations:

Amendments (Textual)

F350 Ss. 171C, 171D inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.1**(with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

F351 Word in s. 171C(3)(c)(e) inserted (E.) (31.3.2003) by The Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956), **art. 5(a)**; (W.) (1.1.2005) by The Town and Country Planning (Electronic Communications) (Wales) Order 2004 (S.I. 2004/3156), **arts. 5(a)**, 14

Modifications etc. (not altering text)

C101 S. 171C: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C102 S. 171C: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

[F352]171D Penalties for non-compliance with planning contravention notice.

(1) If, at any time after the end of the period of twenty-one days beginning with the day on which a planning contravention notice has been served on any person, he has not complied with any requirement of the notice, he shall be guilty of an offence.

(2) An offence under subsection (1) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.

(3) It shall be a defence for a person charged with an offence under subsection (1) to prove that he had a reasonable excuse for failing to comply with the requirement.

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(4) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) If any person—

(a) makes any statement purporting to comply with a requirement of a planning contravention notice which he knows to be false or misleading in a material particular; or

(b) recklessly makes such a statement which is false or misleading in a material particular,

he shall be guilty of an offence.

(6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.**]**

Annotations:

Amendments (Textual)

F352 Ss. 171C, 171D inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.1**(with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C103 S. 171D: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

I[F353] Temporary stop notices

Annotations:

Amendments (Textual)

F353 Ss. 171E-171H and cross-heading inserted (6.8.2004 for certain purposes, 7.3.2005 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 52**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2005/204, **art. 2**

171E Temporary stop notice

(1) This section applies if the local planning authority think—

(a) that there has been a breach of planning control in relation to any land, and

(b) that it is expedient that the activity (or any part of the activity) which amounts to the breach is stopped immediately.

(2) The authority may issue a temporary stop notice.

(3) The notice must be in writing and must—

(a) specify the activity which the authority think amounts to the breach;

(b) prohibit the carrying on of the activity (or of so much of the activity as is specified in the notice);

(c) set out the authority's reasons for issuing the notice.

(4) A temporary stop notice may be served on any of the following—

(a) the person who the authority think is carrying on the activity;

(b) a person who the authority think is an occupier of the land;

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(c) a person who the authority think has an interest in the land.

(5) The authority must display on the land—

(a) a copy of the notice;

(b) a statement of the effect of the notice and of section 171G.

(6) A temporary stop notice has effect from the time a copy of it is first displayed in pursuance of subsection (5).

(7) A temporary stop notice ceases to have effect—

(a) at the end of the period of 28 days starting on the day the copy notice is so displayed,

(b) at the end of such shorter period starting on that day as is specified in the notice, or

(c) if it is withdrawn by the local planning authority.

171F Temporary stop notice: restrictions

(1) A temporary stop notice does not prohibit—

(a) the use of a building as a dwelling house;

(b) the carrying out of an activity of such description or in such circumstances as is prescribed.

(2) A temporary stop notice does not prohibit the carrying out of any activity which has been carried out (whether or not continuously) for a period of four years ending with the day on which the copy of the notice is first displayed as mentioned in section 171E(6).

(3) Subsection (2) does not prevent a temporary stop notice prohibiting—

(a) activity consisting of or incidental to building, engineering, mining or other operations, or

(b) the deposit of refuse or waste materials.

(4) For the purposes of subsection (2) any period during which the activity is authorised by planning permission must be ignored.

(5) A second or subsequent temporary stop notice must not be issued in respect of the same activity unless the local planning authority has first taken some other enforcement action in relation to the breach of planning control which is constituted by the activity.

(6) In subsection (5) enforcement action includes obtaining the grant of an injunction under section 187B.

171G Temporary stop notice: offences

(1) A person commits an offence if he contravenes a temporary stop notice—

(a) which has been served on him, or

(b) a copy of which has been displayed in accordance with section 171E(5).

(2) Contravention of a temporary stop notice includes causing or permitting the contravention of the notice.

(3) An offence under this section may be charged by reference to a day or a longer period of time.

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(4) A person may be convicted of more than one such offence in relation to the same temporary stop notice by reference to different days or periods of time.

(5) A person does not commit an offence under this section if he proves—

(a) that the temporary stop notice was not served on him, and

(b) that he did not know, and could not reasonably have been expected to know, of its existence.

(6) A person convicted of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £20,000;

(b) on conviction on indictment, to a fine.

(7) In determining the amount of the fine the court must have regard in particular to any financial benefit which has accrued or has appeared to accrue to the person convicted in consequence of the offence.

171H Temporary stop notice: compensation

(1) This section applies if and only if a temporary stop notice is issued and at least one of the following paragraphs applies—

(a) the activity which is specified in the notice is authorised by planning permission or a development order or local development order;

(b) a certificate in respect of the activity is issued under section 191 or granted under that section by virtue of section 195;

(c) the authority withdraws the notice.

(2) Subsection (1)(a) does not apply if the planning permission is granted on or after the date on which a copy of the notice is first displayed as mentioned in section 171E(6).

(3) Subsection (1)(c) does not apply if the notice is withdrawn following the grant of planning permission as mentioned in subsection (2).

(4) A person who at the time the notice is served has an interest in the land to which the notice relates is entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition effected by the notice.

(5) Subsections (3) to (7) of section 186 apply to compensation payable under this section as they apply to compensation payable under that section; and for that purpose references in those subsections to a stop notice must be taken to be references to a temporary stop notice.**]**

Enforcement notices

[F354172 Issue of enforcement notice.

(1) The local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them—

(a) that there has been a breach of planning control; and

(b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served—

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(a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

(3) The service of the notice shall take place—

(a) not more than twenty-eight days after its date of issue; and

(b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.**]**

Annotations:

Amendments (Textual)

F354 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, **s. 5(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C104 S. 172: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C105 S. 172: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

173 [F355]Contents and effect of notice.

(1) An enforcement notice shall state—

(a) the matters which appear to the local planning authority to constitute the breach of planning control; and

(b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

(a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

(b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—

(a) the alteration or removal of any buildings or works;

(b) the carrying out of any building or other operations;

(c) any activity on the land not to be carried on except to the extent specified in the notice; or

(d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a

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building (in this section referred to as a "replacement building") which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building—

(a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;

(b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;

(c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,

then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

Annotations:

Amendments (Textual)

F355 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, **s. 5(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C106 S. 173: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

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C107 S. 173(10) applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

173A [F356]Variation and withdrawal of enforcement notices.

(1) The local planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

Annotations:

Amendments (Textual)

F356 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, **s. 5(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

C108 S. 173A applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 173A: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

174 Appeal against enforcement notice.

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

[F357F358(2) An appeal may be brought on any of the following grounds—

(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) that those matters have not occurred;

(c) that those matters (if they occurred) do not constitute a breach of planning control;

(d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

(e) that copies of the enforcement notice were not served as required by section 172;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning

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control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

(3) An appeal under this section shall be made [F359]. . . —

(a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or

(b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date**[**[F357]; or

(c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.**]]**

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—

(a) specifying the grounds on which he is appealing against the enforcement notice; and

(b) giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section "relevant occupier" means a person who—

(a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence [[F360]. . .; and

(b) continues so to occupy the land when the appeal is brought.

Annotations:

Amendments (Textual)

F357 Word and s. 174(3)(c) inserted (E.) (31.3.2003) by The Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956), **art. 3** and added (W.) (1.1.2005) by The Town and Country Planning (Electronic Communications) (Wales) Order 2004 (S.I. 2004/3156), **arts. 3**, 14

F358 S. 174(2)(3) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F359 Word in s. 174(3) repealed (E.) (31.3.2003) by The Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956), **art. 3** and (W.) (1.1.2005) by The Town and Country Planning (Electronic Communications) (Wales) Order 2004 (S.I. 2004/3156), **arts. 3**, 14

F360 Words in s. 174(6) omitted (2.1.1992) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1),s. 32, Sch. 7 para. 22 (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 1** (subject to art. 5)

Modifications etc. (not altering text)

C109 S. 174: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

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C110 S. 174 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 18(1), **Sch. 4 Pt. I**
S. 174: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

175 Appeals: supplementary provisions.

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—

(a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;

(b) specify the matters to be included in such a statement;

(c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;

(d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

[[F361](3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.**]**

(4) Where an appeal is brought under section 174 the enforcement notice shall **[**[F362]subject to any order under section 289(4A)**]** be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

[[F363](7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.**]**

Annotations:

Amendments (Textual)

F361 S. 175(3A) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 5** (with s. 226); S.I. 2009/400, **art. 3**

F362 Words in s. 175(4) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(2)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

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F363 S. 175(7) inserted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **3** (which temp. insertion falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3))

Modifications etc. (not altering text)

C111 S. 175: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C112 S. 175(1)–(4)(6): power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

C113 S. 175(3)(6) applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 18(1), **Sch. 4 Pt. I**

C114 S. 175(5)(7) applied (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

176 General provisions relating to determination of appeals.

[F364(1) On an appeal under section 174 the Secretary of State may—

(a) correct any defect, error or misdescription in the enforcement notice; or

(b) vary the terms of the enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.**]**

(3) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.

(4) If **[**F365section 175(3) would otherwise apply and**]** the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) **[**F366of this section**]** or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Annotations:

Amendments (Textual)

F364 S. 176(1)(2)(2A) substituted (2.1.1992) for s. 176(1)(2) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.23** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F365 Words in s. 176(4) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 6(a)** (with s. 226); S.I. 2009/400, **art. 3**

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F366 Words in s. 176(4) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 6(b)** (with s. 226); S.I. 2009/400, **art. 3**

Modifications etc. (not altering text)

C115 Ss. 176, 177: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

C116 S. 176 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 18(1), **Sch. 4 Pt. I**
S. 176: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

177 Grant or modification of planning permission on appeals against enforcement notices.

(1) On the determination of an appeal under section 174, the Secretary of State may—

[F367(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;**]**

(b) discharge any condition or limitation subject to which planning permission was granted;

[F368(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

(a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

(b) references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194**]**

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

[F369(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.**]**

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission **[**F370in respect of the matters stated in the enforcement notice as constituting a breach of planning control**]**.

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[F371(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.**]**

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Annotations:

Amendments (Textual)

F367 S. 177(1)(a) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24(1)(a)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F368 S. 177(1)(c)(1A)(1B) substituted (27.7.1992) for s. 177(1)(c) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24(1)(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F369 S. 177(3) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24(2)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F370 Words in s. 177(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24** (3) (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F371 S. 177(5A) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(3)**, (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

C117 Ss. 176, 177: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

C118 S. 177 applied (with modifications) (1.6.1992) by S.I.1992/656, reg. 18(1), **Sch. 4 Pt. I**
S. 177: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

178 Execution and cost of works required by enforcement notice.

[F372(1) Where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice, the local planning authority may—

(a) enter the land and take the steps; and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.**]**

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(2) Where a copy of an enforcement notice has been served in respect of any breach of planning control [F373]. . .—

(a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and

(b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken,

shall be deemed to be incurred or paid for the use and at the request of the person by whom the breach of planning control was committed.

(3) Regulations made under this Act may provide that—

(a) section 276 of the [M84]Public Health Act 1936, (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

(b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); and

(c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by an enforcement notice.

(4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.

(5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local planning authority under subsection (1).

[[F374](6) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.**]**

Annotations:

Amendments (Textual)

F372 S. 178(1) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 7(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F373 Words in s. 178(2) repealed (2.1.1992) by Planning and Compensation Act 1991 (c.34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 25, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.2** (subject to art. 5)

F374 178(6) substituted (2.1.1992) for s. 178(6)(7) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 7(2)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C119 S. 178 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 20(1), **Sch. 4 Pt. 2**
S. 178: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C120 S. 178: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)** (as amended (2.1.1992) by 1991 c. 34, s. 84, **Sch. 19**; S.I. 1991/2905, art. 3, **Sch. 2**); S.I. 1992/725, **arts. 2**, 3

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Marginal Citations

M84 1936 c. 49.

[F375 179 Offence where enforcement notice not complied with.

(1) Where, at any time after the end of the period for compliance with an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner of the land is in breach of the notice.

(2) Where the owner of the land is in breach of an enforcement notice he shall be guilty of an offence.

(3) In proceedings against any person for an offence under subsection (2), it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.

(4) A person who has control of or an interest in the land to which an enforcement notice relates (other than the owner) must not carry on any activity which is required by the notice to cease or cause or permit such an activity to be carried on.

(5) A person who, at any time after the end of the period for compliance with the notice, contravenes subsection (4) shall be guilty of an offence.

(6) An offence under subsection (2) or (5) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under the subsection in question by reference to any period of time following the preceding conviction for such an offence.

(7) Where—

(a) a person charged with an offence under this section has not been served with a copy of the enforcement notice; and

(b) the notice is not contained in the appropriate register kept under section 188,

it shall be a defence for him to show that he was not aware of the existence of the notice.

(8) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £20,000; and

(b) on conviction on indictment, to a fine.

(9) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.**]**

Annotations:

Amendments (Textual)

F375 S. 179 substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.8** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

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Modifications etc. (not altering text)

C121 S. 179: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **arts. 2**, 3
S. 179 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 20(1), **Sch. 4 Pt. 2**
S. 179 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 179: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 179 restricted (E.) (13.4.2001) by S.I. 2001/1478, **reg. 3(a)**

[F376 180 Effect of planning permission, etc., on enforcement or breach of condition notice.

(1) Where, after the service of—

(a) a copy of an enforcement notice; or

(b) a breach of condition notice,

planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.

(2) Where after a breach of condition notice has been served any condition to which the notice relates is discharged, the notice shall cease to have effect so far as it requires any person to secure compliance with the condition in question.

(3) The fact that an enforcement notice or breach of condition notice has wholly or partly ceased to have effect by virtue of this section shall not affect the liability of any person for an offence in respect of a previous failure to comply, or secure compliance, with the notice.**]**

Annotations:

Amendments (Textual)

F376 S. 180 substituted (2.1.1992 for certain purposes, otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.26** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Modifications etc. (not altering text)

C122 S. 180: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (C.10,SIF 123:1),s. 25(1)(c); S.I. 1992/725, **arts. 2**,3
S. 180 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 20(1), **Sch. 4**
S. 180: power to apply conferred (10.11.1993) by 1993 c.28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C123 S. 180(1)(3) applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

181 Enforcement notice to have effect against subsequent development.

(1) Compliance with an enforcement notice, whether in respect of—

(a) the completion, **[**F377removal**]** or alteration of any buildings or works;

(b) the discontinuance of any use of land; or

(c) any other requirements contained in the notice,

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shall not discharge the notice.

(2) Without prejudice to subsection (1), any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(3) Without prejudice to subsection (1), if any development is carried out on land by way of reinstating or restoring buildings or works which have been **[**F378removed**]** or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were **[**F378removed**]** or altered; and, subject to subsection (4), the provisions of section 178(1) and (2) shall apply accordingly.

(4) Where, at any time after an enforcement notice takes effect—

(a) any development is carried out on land by way of reinstating or restoring buildings or works which have been **[**F378removed**]** or altered in compliance with the notice; and

(b) the local planning authority propose, under section 178(1), to take any steps required by the enforcement notice for the **[**F377removal**]** or alteration of the buildings or works in consequence of the reinstatement or restoration,

the local planning authority shall, not less than 28 days before taking any such steps, serve on the owner and occupier of the land a notice of their intention to do so.

(5) Where without planning permission a person carries out any development on land by way of reinstating or restoring buildings or works which have been **[**F378removed**]** or altered in compliance with an enforcement notice—

(a) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, and

(b) no person shall be liable under **[**F379section 179(2)**]** for failure to take any steps required to be taken by an enforcement notice by way of **[**F377removal**]** or alteration of what has been so reinstated or restored.

Annotations:

Amendments (Textual)

F377 Word in s. 181(1)(a)(4)(b)(5)(b) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 27(a)** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 1** (subject to art. 5)

F378 Word in s. 181(3)(4)(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 27(b)** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 1**(subject to art. 5)

F379 Words in s. 181(5)(b) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 27(c)** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 1** (subject to art. 5)

Modifications etc. (not altering text)

C124 S. 181: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **arts. 2**, 3

C125 S. 181 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 20(1), **Sch. 4 Pt. 2**
S. 181 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

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S. 181: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

182 Enforcement by the Secretary of State.

(1) If it appears to the Secretary of State to be expedient that an enforcement notice should be issued in respect of any land, he may issue such a notice.

(2) The Secretary of State shall not issue such a notice without consulting the local planning authority.

(3) An enforcement notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority.

(4) In relation to an enforcement notice issued by the Secretary of State, sections 178 and 181 shall apply as if for any reference in those sections to the local planning authority there were substituted a reference to the Secretary of State.

Annotations:

Modifications etc. (not altering text)
C126 S. 182: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Stop notices

183 Stop notices.

[[F380](1) Where the local planning authority consider it expedient that any relevant activity should cease before the expiry of the period for compliance with an enforcement notice, they may, when they serve the copy of the enforcement notice or afterwards, serve a notice (in this Act referred to as a "stop notice") prohibiting the carrying out of that activity on the land to which the enforcement notice relates, or any part of that land specified in the stop notice.

(2) In this section and sections 184 and 186 "relevant activity" means any activity specified in the enforcement notice as an activity which the local planning authority require to cease and any activity carried out as part of that activity or associated with that activity.

(3) A stop notice may not be served where the enforcement notice has taken effect.

(4) A stop notice shall not prohibit the use of any building as a dwellinghouse.

(5) A stop notice shall not prohibit the carrying out of any activity if the activity has been carried out (whether continuously or not) for a period of more than four years ending with the service of the notice; and for the purposes of this subsection no account is to be taken of any period during which the activity was authorised by planning permission.

(5A) Subsection (5) does not prevent a stop notice prohibiting any activity consisting of, or incidental to, building, engineering, mining or other operations or the deposit of refuse or waste materials.**]**

(6) A stop notice may be served by the local planning authority on any person who appears to them to have an interest in the land or to be engaged in any activity prohibited by the notice.

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(7) The local planning authority may at any time withdraw a stop notice (without prejudice to their power to serve another) by serving notice to that effect on persons served with the stop notice.

Annotations:

Amendments (Textual)

F380 S. 183(1)-(5A) substituted (2.1.1992) for s. 183(1)-(5) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 9(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C127 S. 183: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **arts. 2**, 3

C128 S. 183 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch**
S. 183: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C129 S. 183(1): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

184 Stop notices: supplementary provisions.

(1) A stop notice must refer to the enforcement notice to which it relates and have a copy of that notice annexed to it.

(2) A stop notice must specify the date on which it will take effect (and it cannot be contravened until that date).

[F381(3) That date—

(a) must not be earlier than three days after the date when the notice is served, unless the local planning authority consider that there are special reasons for specifying an earlier date and a statement of those reasons is served with the stop notice; and

(b) must not be later than twenty-eight days from the date when the notice is first served on any person.**]**

(4) A stop notice shall cease to have effect when—

(a) the enforcement notice to which it relates is withdrawn or quashed; or

(b) the **[**F382period for compliance with the enforcement notice**]** expires; or

(c) notice of the withdrawal of the stop notice is first served under section 183(7).

(5) A stop notice shall also cease to have effect if or to the extent that the activities prohibited by it cease, on a variation of the enforcement notice, to be **[**F383relevant activities**]**.

(6) Where a stop notice has been served in respect of any land, the local planning authority may display there a notice (in this section and section 187 referred to as a "site notice") —

(a) stating that a stop notice has been served and that any person contravening it may be prosecuted for an offence under section 187,

(b) giving the date when the stop notice takes effect, and

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(c) indicating its requirements.

(7) If under section 183(7) the local planning authority withdraw a stop notice in respect of which a site notice was displayed, they must display a notice of the withdrawal in place of the site notice.

(8) A stop notice shall not be invalid by reason that a copy of the enforcement notice to which it relates was not served as required by section **[**F384172**]**if it is shown that the local planning authority took all such steps as were reasonably practicable to effect proper service.

Annotations:

Amendments (Textual)

F381 S. 184(3) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 9(2)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F382 Words in s. 184(4)(b) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 28(a)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F383 Words in s. 184(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 28(b)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F384 Word in s. 184(8) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 28(c)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C130 S. 184: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **art. 2**, 3

C131 S. 184 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 184: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

185 Service of stop notices by Secretary of State.

(1) If it appears to the Secretary of State to be expedient that a stop notice should be served in respect of any land, he may himself serve such a notice.

(2) A notice served by the Secretary of State under subsection (1) shall have the same effect as if it had been served by the local planning authority.

(3) The Secretary of State shall not serve such a notice without consulting the local planning authority.

Annotations:

Modifications etc. (not altering text)

C132 S. 185: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

186 Compensation for loss due to stop notice.

(1) Where a stop notice is served under section 183 compensation may be payable under this section in respect of a prohibition contained in the notice only if—

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(a) the enforcement notice is quashed on grounds other than those mentioned in paragraph (a) of section 174(2);

(b) the enforcement notice is varied (otherwise than on the grounds mentioned in that paragraph) so that **[**F385any activity the carrying out of which is prohibited by the stop notice ceases to be a relevant activity**]**;

(c) the enforcement notice is withdrawn by the local planning authority otherwise than in consequence of the grant by them of planning permission for the development to which the notice relates F386. . . ; or

(d) the stop notice is withdrawn.

(2) A person who, when the stop notice is first served, has an interest in or occupies the land to which the notice relates shall be entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice or, in a case within subsection (1)(b), **[**F387the prohibition of such of the activities prohibited by the stop notice as cease to be relevant activities**]**.

(3) A claim for compensation under this section shall be made to the local planning authority within the prescribed time and in the prescribed manner.

(4) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include any sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.

[F388(5) No compensation is payable under this section—

(a) in respect of the prohibition in a stop notice of any activity which, at any time when the notice is in force, constitutes or contributes to a breach of planning control; or

(b) in the case of a claimant who was required to provide information under section 171C or 330 or section 16 of the M85Local Government (Miscellaneous Provisions) Act 1976, in respect of any loss or damage suffered by him which could have been avoided if he had provided the information or had otherwise co-operated with the local planning authority when responding to the notice.**]**

(6) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this Part shall be referred to and determined by the **[**F389Upper Tribunal**]**.

(7) In relation to the determination of any such question, the provisions of **[**F390section**]** 4 of the M86Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Annotations:

Amendments (Textual)

F385 Words in s. 186(1)(b) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1) s. 32, Sch. 7 para. 29(a) (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F386 Words in s. 186(1)(c) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 29(b), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, art.3, Schs. 1, **2** (subject to art. 5)

F387 Words in s. 186(2) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 29(c)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F388 S. 186(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 9(3)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

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F389 Words in s. 186(6) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 206(a)**

F390 Word in s. 186(7) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 206(b)**

Modifications etc. (not altering text)

C133 S. 186 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

Marginal Citations

M85 1976 c. 57

M86 1961 c.33.

187 Penalties for contravention of stop notice.

[F391(1) If any person contravenes a stop notice after a site notice has been displayed or the stop notice has been served on him he shall be guilty of an offence.

(1A) An offence under this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under this section by reference to any period of time following the preceding conviction for such an offence.

(1B) References in this section to contravening a stop notice include causing or permitting its contravention.

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £20,000; and

(b) on conviction on indictment, to a fine.

(2A) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.**]**

(3) In proceedings for an offence under this section it shall be a defence for the accused to prove—

(a) that the stop notice was not served on him, and

(b) that he did not know, and could not reasonably have been expected to know, of its existence.

Annotations:

Amendments (Textual)

F391 S. 187(1)(1A)(1B)(2)(2A) substituted (2.1.1992) for s. 187(1)(2) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 9(4)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C134 S. 187: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **arts. 2**, 3

C135 S. 187 applied (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 187: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

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S. 187 restricted (E.) (13.4.2001) by S.I. 2001/1478, **reg. 3(a)**

[F392 Breach of condition

Annotations:

Amendments (Textual)

F392 S. 187A and cross heading inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.2** (with s. 84(5)); S.I. 1992/1630, **art. 2** (with art. 3(1))

F393 187A Enforcement of conditions.

(1) This section applies where planning permission for carrying out any development of land has been granted subject to conditions.

(2) The local planning authority may, if any of the conditions is not complied with, serve a notice (in this Act referred to as a "breach of condition notice") on—

(a) any person who is carrying out or has carried out the development; or

(b) any person having control of the land,

requiring him to secure compliance with such of the conditions as are specified in the notice.

(3) References in this section to the person responsible are to the person on whom the breach of condition notice has been served.

(4) The conditions which may be specified in a notice served by virtue of subsection (2)(b) are any of the conditions regulating the use of the land.

(5) A breach of condition notice shall specify the steps which the authority consider ought to be taken, or the activities which the authority consider ought to cease, to secure compliance with the conditions specified in the notice.

(6) The authority may by notice served on the person responsible withdraw the breach of condition notice, but its withdrawal shall not affect the power to serve on him a further breach of condition notice in respect of the conditions specified in the earlier notice or any other conditions.

(7) The period allowed for compliance with the notice is—

(a) such period of not less than twenty-eight days beginning with the date of service of the notice as may be specified in the notice; or

(b) that period as extended by a further notice served by the local planning authority on the person responsible.

(8) If, at any time after the end of the period allowed for compliance with the notice—

(a) any of the conditions specified in the notice is not complied with; and

(b) the steps specified in the notice have not been taken or, as the case may be, the activities specified in the notice have not ceased,

the person responsible is in breach of the notice.

(9) If the person responsible is in breach of the notice he shall be guilty of an offence.

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(10) An offence under subsection (9) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.

(11) It shall be a defence for a person charged with an offence under subsection (9) to prove —

(a) that he took all reasonable measures to secure compliance with the conditions specified in the notice; or

(b) where the notice was served on him by virtue of subsection (2)(b), that he no longer had control of the land.

(12) A person who is guilty of an offence under subsection (9) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) In this section—

(a) "conditions" includes limitations; and

(b) references to carrying out any development include causing or permitting another to do so.**]**

Annotations:

Amendments (Textual)

F393 S. 187A and cross heading inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.2** (with s. 84(5)); S.I. 1992/1630, **art. 2** (with art. 3(1))

Modifications etc. (not altering text)

C136 S. 187A: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C137 S. 187A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**
S. 187A restricted (E.) (13.4.2001) by S.I. 2001/1478, **reg. 3(a)**

I[F394] Injunctions

Annotations:

Amendments (Textual)

F394 S. 187B and cross heading inserted (25.11.1991 for certain purposes and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.3** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.3** (subject to art. 5)

[F395]187B Injunctions restraining breaches of planning control.

(1) Where a local planning authority consider it necessary or expedient for any actual or apprehended breach of planning control to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Part.

(2) On an application under subsection (1) the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the breach.

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(3) Rules of court may provide for such an injunction to be issued against a person whose identity is unknown.

(4) In this section "the court" means the High Court or the county court.**]**

Annotations:

Amendments (Textual)

F395 S. 187B and cross heading inserted (25.11.1991 for certain purposes and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.3** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C138 S. 187B: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C139 S. 187B: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Registers

188 Register of enforcement and stop notices.

(1) Every district planning authority **[**F396, every local planning authority for an area in Wales**]** and the council of every metropolitan district or London borough shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect—

(a) to enforcement notices; F397 . . .

(b) to stop notices,**[**F398and

(c) to breach of condition notices**]**

which relate to land in their area.

(2) A development order may make provision—

(a) for the entry relating to any enforcement notice **[**F399stop notice or breach of condition notice**]**, and everything relating to any such notice, to be removed from the register in such circumstances as may be specified in the order; and

(b) for requiring a county planning authority to supply to a district planning authority such information as may be so specified with regard to enforcement notices issued and stop notices **[**F400and breach of condition notices**]** served by the county planning authority.

(3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Annotations:

Amendments (Textual)

F396 Words in s. 188(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(5)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F397 Word in s. 188(1)(a) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 30(a), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

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F398 S. 188(1)(c) and 'and' preceding it inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 30(a)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F399 Words in s. 188(2)(a) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 30(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F400 Words in s. 188(2)(b) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 30(c)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Modifications etc. (not altering text)

C140 Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(c)**; S.I. 1992/725, **arts. 2**, 3

C141 S. 188 applied (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 188 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 21(1), **Sch. 4 Pt. 3**
S. 188: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Enforcement of orders for discontinuance of use, etc.

189 Penalties for contravention of orders under s. 102 and Schedule 9.

(1) Any person who without planning permission—

(a) uses land, or causes or permits land to be used—

(i) for any purpose for which an order under section 102 or paragraph 1 of Schedule 9 has required that its use shall be discontinued; or

(ii) in contravention of any condition imposed by such an order by virtue of subsection (1) of that section or, as the case may be, sub-paragraph (1) of that paragraph; or

(b) resumes, or causes or permits to be resumed, development consisting of the winning and working of minerals **[**[F401] or involving the depositing of mineral waste**]** the the resumption of which an order under paragraph 3 of that Schedule has prohibited; or

(c) contravenes, or causes or permits to be contravened, any such requirement as is specified in sub-paragraph (3) or (4) of that paragraph,

shall be guilty of an offence.

(2) Any person who contravenes any requirement of an order under paragraph 5 or 6 of that Schedule or who causes or permits any requirement of such an order to be contravened shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(4) It shall be a defence for a person charged with an offence under this section to prove that he took all reasonable measures and exercised all due diligence to avoid commission of the offence by himself or by any person under his control.

(5) If in any case the defence provided by subsection (4) involves an allegation that the commission of the offence was due to the act or default of another person or due to reliance on information supplied by another person, the person charged shall not,

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without the leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

Annotations:

Amendments (Textual)

F401 Words in s. 189(1)(b) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 21 Sch. 1 para. 11** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C142 S. 189: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

190 Enforcement of orders under s. 102 and Schedule 9.

(1) This section applies where—

(a) any step required by an order under section 102 or paragraph 1 of Schedule 9 to be taken for the alteration or removal of any buildings or works or any plant or machinery;

(b) any step required by an order under paragraph 3 of that Schedule to be taken—

(i) for the alteration or removal of plant or machinery; or

(ii) for the removal or alleviation of any injury to amenity; or

(c) any step for the protection of the environment required to be taken by an order under paragraph 5 or 6 of that Schedule,

has not been taken within the period specified in the order or within such extended period as the local planning authority or, as the case may be, the mineral planning authority may allow.

(2) Where this section applies the local planning authority or, as the case may be, the mineral planning authority may enter the land and take the required step.

(3) Where the local planning authority or, as the case may be, the mineral planning authority have exercised their power under subsection (2) they may recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

F402(4) . . . . . .

(5) Section 276 of the M87Public Health Act 1936 shall apply in relation to any works executed by an authority under subsection (2) as it applies in relation to works executed by a local authority under that Act.

Annotations:

Amendments (Textual)

F402 S. 190(4) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32 , 84(6), Sch. 7 para. 31, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, art. 3, Sch. 1, **Sch.2** (subject to art. 5)

Modifications etc. (not altering text)

C143 S. 190: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

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Marginal Citations

M87 1936 c.49.

I[F403] Certificate of lawful use or development

Annotations:

Amendments (Textual)

F403 Ss. 191 - 194 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, **art. 2** (with art. 3(1)(2))

F404191 Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if—

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—

(a) the time for taking enforcement action in respect of the failure has then expired; and

(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(5) A certificate under this section shall—

(a) specify the land to which it relates;

(b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

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(c) give the reasons for determining the use, operations or other matter to be lawful; and

(d) specify the date of the application for the certificate.

(6) The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

(7) A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission—

(a) section 3(3) of the [M88]Caravan Sites and Control of Development Act 1960;

(b) section 5(2) of the [M89]Control of Pollution Act 1974; and

(c) section 36(2)(a) of the [M90]Environmental Protection Act 1990.

Annotations:

Amendments (Textual)

F404 S. 191 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, **art. 2** (with art. 3(1)(2))

Modifications etc. (not altering text)

C144 S. 191: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C145 S. 191 modified (1.8.2000) by S.I. 2000/1973, **reg. 10(3)** (with reg. 10(14))

C146 S. 191(4): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M88 1960 c. 62.

M89 1974 c. 40.

M90 1990 c. 43.

[F405]192 Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether—

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land,

would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall—

(a) specify the land to which it relates;

(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use or operations to be lawful; and

(d) specify the date of the application for the certificate.

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(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

Annotations:

Amendments (Textual)

F405 S. 192 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, **art. 2** (with art. 3(1)(2))

Modifications etc. (not altering text)

C147 S. 192: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C148 S. 192 modified (1.8.2000) by S.I. 2000/1973, **reg. 10(5)** (with reg. 10(14))

C149 S. 192(2): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

F406 193 Certificates under sections 191 and 192: supplementary provisions.

(1) An application for a certificate under section 191 or 192 shall be made in such manner as may be prescribed by a development order and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any directions given under such an order or by the local planning authority.

(2) Provision may be made by a development order for regulating the manner in which applications for certificates under those sections are to be dealt with by local planning authorities.

(3) In particular, such an order may provide for requiring the authority—

(a) to give to any applicant within such time as may be prescribed by the order such notice as may be so prescribed as to the manner in which his application has been dealt with; and

(b) to give to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to such applications made to the authority, including information as to the manner in which any application has been dealt with.

(4) A certificate under either of those sections may be issued—

(a) for the whole or part of the land specified in the application; and

(b) where the application specifies two or more uses, operations or other matters, for all of them or some one or more of them;

and shall be in such form as may be prescribed by a development order.

(5) A certificate under section 191 or 192 shall not affect any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted unless that matter is described in the certificate.

(6) In section 69 references to applications for planning permission shall include references to applications for certificates under section 191 or 192.

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(7) A local planning authority may revoke a certificate under either of those sections if, on the application for the certificate—

(a) a statement was made or document used which was false in a material particular; or

(b) any material information was withheld.

(8) Provision may be made by a development order for regulating the manner in which certificates may be revoked and the notice to be given of such revocation.

Annotations:

Amendments (Textual)

F406 S. 193 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, **art. 2** (with art. 3(1)(2))

Modifications etc. (not altering text)

C150 S. 193: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

F407 194 Offences.

(1) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for the issue of a certificate under section 191 or 192—

(a) knowingly or recklessly makes a statement which is false or misleading in a material particular;

(b) with intent to deceive, uses any document which is false or misleading in a material particular; or

(c) with intent to deceive, withholds any material information,

he shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.

(3) Notwithstanding section 127 of the M91Magistrates' Courts Act 1980, a magistrates' court may try an information in respect of an offence under subsection (1) whenever laid.**]**

Annotations:

Amendments (Textual)

F407 S. 194 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, **art. 2** (with art. 3(1)(2))

Modifications etc. (not altering text)

C151 S. 194: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

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Marginal Citations
M91 1980 c. 43.

195 Appeals against refusal or failure to give decision on application.

(1) Where an application is made to a local planning authority for **[**F408a certificate under section 191 or 192**]** and—

(a) the application is refused or is refused in part, or

(b) the authority do not give notice to the applicant of their decision on the application within such period as may be prescribed by a development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority,

the applicant may by notice appeal to the Secretary of State.

[F409(1B) A notice of appeal under this section must be—

(a) served within such time and in such manner as may be prescribed by a development order;

(b) accompanied by such information as may be prescribed by such an order.

(1C) The time prescribed for the service of a notice of appeal under this section must not be less than—

(a) 28 days from the date of notification of the decision on the application; or

(b) in the case of an appeal under subsection (1)(b), 28 days from—

(i) the end of the period prescribed as mentioned in subsection (1)(b), or

(ii) as the case may be, the extended period mentioned in subsection (1)(b).

(1D) The power to make a development order under subsection (1B) is exercisable by—

(a) the Secretary of State, in relation to England;

(b) the Welsh Ministers, in relation to Wales.

(1E) Section 333(5) does not apply in relation to a development order under subsection (1B) made by the Welsh Ministers.

(1F) A development order under subsection (1B) made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.**]**

(2) On any such appeal, if and so far as the Secretary of State is satisfied—

(a) in the case of an appeal under subsection (1)(a), that the authority's refusal is not well-founded, or

(b) in the case of an appeal under subsection (1)(b), that if the authority had refused the application their refusal would not have been well-founded,

he shall grant the appellant **[**F410a certificate under section 191 or, as the case may be, 192**]** accordingly or, in the case of a refusal in part, modify the certificate granted by the authority on the application.

(3) If and so far as the Secretary of State is satisfied that the authority's refusal is or, as the case may be, would have been well-founded, he shall dismiss the appeal.

[F411(4) References in this section to a refusal of an application in part include a modification or substitution of the description in the application of the use, operations or other matter in question.**]**

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(5) For the purposes of the application of section 288(10)(b) in relation to an appeal in a case within subsection (1)(b) it shall be assumed that the authority decided to refuse the application in question.

(6) Schedule 6 applies to appeals under this section.

Annotations:

Amendments (Textual)

F408 Words in s. 195(1) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 32(a)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F409 S. 195(1B)-(1F) inserted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 197, 241, **Sch. 11 para. 3** (with s. 226); S.I. 2009/400, **art. 5**

F410 Words in s. 195(2) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch.7 para. 32(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F411 S. 195(4) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 32(c)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Modifications etc. (not altering text)

C152 S. 195: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

196 Further provisions as to references and appeals to the Secretary of State.

(1) Before determining F412. . . an appeal to him under section 195(1), the Secretary of State shall, if either the **[**F413appellant**]** or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(2) Where the Secretary of State grants **[**F414a certificate under section 191 or 192 on**]** such a reference or such an appeal, he shall give notice to the local planning authority of that fact.

(3) The decision of the Secretary of State on such F415. . . appeal shall be final.

(4) The information which may be prescribed as being required to be contained in a register kept under section 69 shall include information with respect to **[**F416certificates under section 191 or 192**]** granted by the Secretary of State.

F417(5) . . . . . .

(6) . . . . . .

(7) . . . . . .

[F418(8) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 195 as if those proceedings were an inquiry held by the Secretary of State under section 250.**]**

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Annotations:

Amendments (Textual)

F412 Words in s. 196(1) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 33(a), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F413 Word in s. 196(1) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 33(a)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F414 Words in s. 196(2) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 33(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F415 Words in s. 196(3) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 33(c), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F416 Words in s. 196(4) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 33(d)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F417 S. 196(5)-(7) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 33(e), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F418 S. 196(8) inserted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **4** (which temp. insertion falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3))

Modifications etc. (not altering text)

C153 S. 196: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

[F419 Rights of entry for enforcement purposes

Annotations:

Amendments (Textual)

F419 Ss. 196A - 196C inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 11(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F420 196A Rights to enter without warrant.

(1) Any person duly authorised in writing by a local planning authority may at any reasonable hour enter any land—

(a) to ascertain whether there is or has been any breach of planning control on the land or any other land;

(b) to determine whether any of the powers conferred on a local planning authority by this Part should be exercised in relation to the land or any other land;

(c) to determine how any such power should be exercised in relation to the land or any other land;

(d) to ascertain whether there has been compliance with any requirement imposed as a result of any such power having been exercised in relation to the land or any other land,

if there are reasonable grounds for entering for the purpose in question.

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(2) Any person duly authorised in writing by the Secretary of State may at any reasonable hour enter any land to determine whether an enforcement notice should be issued in relation to the land or any other land, if there are reasonable grounds for entering for that purpose.

(3) The Secretary of State shall not so authorise any person without consulting the local planning authority.

(4) Admission to any building used as a dwellinghouse shall not be demanded as of right by virtue of subsection (1) or (2) unless twenty-four hours' notice of the intended entry has been given to the occupier of the building.

Annotations:

Amendments (Textual)

F420 S. 196A: ss. 196A - 196C inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 11(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C154 S. 196A: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C155 S. 196A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

F421 196B Right to enter under warrant.

(1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 196A(1) or (2); and

(b) that—

(i) admission to the land has been refused, or a refusal is reasonably apprehended; or

(ii) the case is one of urgency,

the justice may issue a warrant authorising any person duly authorised in writing by a local planning authority or, as the case may be, the Secretary of State to enter the land.

(2) For the purposes of subsection (1)(b)(i) admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.

(3) A warrant authorises entry on one occasion only and that entry must be—

(a) within one month from the date of the issue of the warrant; and

(b) at a reasonable hour, unless the case is one of urgency.

Annotations:

Amendments (Textual)

F421 196B: Ss. 196A- 196C inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 11(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

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Modifications etc. (not altering text)
C156 S. 196B: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

F422 196C Rights of entry: supplementary provisions.

(1) A person authorised to enter any land in pursuance of a right of entry conferred under or by virtue of section 196A or 196B (referred to in this section as "a right of entry")—

(a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;

(b) may take with him such other persons as may be necessary; and

(c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.

(2) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If any damage is caused to land or chattels in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State.

(4) The provisions of section 118 shall apply in relation to compensation under subsection (3) as they apply in relation to compensation under Part IV.

(5) If any person who enters any land, in exercise of a right of entry, discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.

(6) Subsection (5) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.

(7) A person who is guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(8) In sections 196A and 196B and this section references to a local planning authority include, in relation to a building situated in Greater London, a reference to the Historic Buildings and Monuments Commission for England.**]**

Annotations:

Amendments (Textual)
F422 S. 196C: ss. 196A- 196C inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 11(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)
C157 S. 196C: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

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PART VIII

SPECIAL CONTROLS

Annotations:

Modifications etc. (not altering text)

C158 Pt. VIII (ss. 197-225) except s. 223 applied (with modifications) (17.7.1992) by S.I. 1992/1492, **reg. 2(1)(b)**
Pt. VIII (ss. 197-225) applied (with modifications) (17.7.1992) by S.I. 1992/1492, **reg. 2(2)**
Pt. VIII (ss. 197-225) modified (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

CHAPTER I

TREES

General duty of planning authorities as respects trees

197 Planning permission to include appropriate provision for preservation and planting of trees.

It shall be the duty of the local planning authority—

(a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and

(b) to make such orders under section 198 as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

Annotations:

Modifications etc. (not altering text)

C159 S. 197: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C160 S. 197: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Tree preservation orders

198 Power to make tree preservation orders.

(1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.

(2) An order under subsection (1) is in this Act referred to as a "tree preservation order".

(3) A tree preservation order may, in particular, make provision—

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(a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions;

(b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;

(c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Act mentioned in subsection (4), subject to such adaptations and modifications as may be specified in the order.

(4) The provisions referred to in subsection (3)(c) are—

(a) the provisions of Part III relating to planning permission and to applications for planning permission, except sections 56, 62, 65 [F423]. . ., 69(3) and (4), 71, [F424]. . ., 91 to 96, 100 and 101 and Schedule 8; and

(b) sections 137 to 141, 143 and 144 (except so far as they relate to purchase notices served in consequence of such orders as are mentioned in section 137(1)(b) or (c));

(c) section 316.

(5) A tree preservation order may be made so as to apply, in relation to trees to be planted pursuant to any such conditions as are mentioned in section 197(a), as from the time when those trees are planted.

(6) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, no such order shall apply—

(a) to the cutting down, uprooting, topping or lopping of trees which are dying or dead or have become dangerous, or

(b) to the cutting down, uprooting, topping or lopping of any trees in compliance with any obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.

(7) This section shall have effect subject to—

(a) section 39(2) of the [M92]Housing and Planning Act 1986 (saving for effect of section 2(4) of the [M93]Opencast Coal Act 1958 on land affected by a tree preservation order despite its repeal); and

(b) section 15 of the [M94]Forestry Act 1967 (licences under that Act to fell trees comprised in a tree preservation order).

[[F425](8) In relation to an application for consent under a tree preservation order the appropriate authority may by regulations make provision as to—

(a) the form and manner in which the application must be made;

(b) particulars of such matters as are to be included in the application;

(c) the documents or other materials as are to accompany the application.

(9) The appropriate authority is—

(a) the Secretary of State in relation to England;

(b) the National Assembly for Wales in relation to Wales,

and in the case of regulations made by the National Assembly for Wales section 333(3) must be ignored.**]**

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Annotations:

Amendments (Textual)

F423 Words in s. 198(4)(a) repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 34, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

F424 Words in s. 198(4)(a) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 20, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F425 S. 198(8)(9) inserted (6.8.2004 for certain purposes and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 42(3)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**

Modifications etc. (not altering text)

C161 S. 198: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C162 S. 198: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M92 1986 c. 63.

M93 1958 c.69.

M94 1967 c.10.

199 Form of and procedure applicable to orders.

(1) A tree preservation order shall not take effect until it is confirmed by the local planning authority and the local planning authority may confirm any such order either without modification or subject to such modifications as they consider expedient.

(2) Provision may be made by regulations under this Act with respect—

(a) to the form of tree preservation orders, and

(b) to the procedure to be followed in connection with the making and confirmation of such orders.

(3) Without prejudice to the generality of subsection (2), the regulations may make provision—

(a) that, before a tree preservation order is confirmed by the local planning authority, notice of the making of the order shall be given to the owners and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;

(b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the local planning authority; and

(c) that copies of the order, when confirmed by the authority, shall be served on such persons as may be specified in the regulations.

Annotations:

Modifications etc. (not altering text)

C163 S. 199: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C164 S. 199: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

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[F426 200 Tree preservation orders: Forestry Commissioners

(1) A tree preservation order does not have effect in respect of anything done—

(a) by or on behalf of the Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision;

(b) by or on behalf of any other person in accordance with a relevant plan which is for the time being in force.

(2) A relevant plan is a plan of operations or other working plan approved by the Forestry Commissioners under—

(a) a forestry dedication covenant within the meaning of section 5 of the Forestry Act 1967, or

(b) conditions of a grant or loan made under section 1 of the Forestry Act 1979.

(3) A reference to a provision of the Forestry Act 1967 or the Forestry Act 1979 includes a reference to a corresponding provision replaced by that provision or any earlier corresponding provision.**]**

Annotations:

Amendments (Textual)

F426 S. 200 substituted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 85**, 121 (with s. 111); S.I. 2006/1281, **art. 2**

Modifications etc. (not altering text)

C165 S. 200: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C166 S. 200: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

201 Provisional tree preservation orders.

(1) If it appears to a local planning authority that a tree preservation order proposed to be made by that authority should take effect immediately without previous confirmation, they may include in the order as made by them a direction that this section shall apply to the order.

(2) Notwithstanding section 199(1), an order which contains such a direction—

(a) shall take effect provisionally on such date as may be specified in it, and

(b) shall continue in force by virtue of this section until—

(i) the expiration of a period of six months beginning with the date on which the order was made; or

(ii) the date on which the order is confirmed,

whichever first occurs.

Annotations:

Modifications etc. (not altering text)

C167 S. 201: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 201 applied (2..8.1999) by S.I. 1999/1892, reg. 2(1), **Sch. art. 3**

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C168 S. 201: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

202 Power for Secretary of State to make tree preservation orders.

(1) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that a tree preservation order or an order amending or revoking such an order should be made, he may himself make such an order.

(2) Any order so made by the Secretary of State shall have the same effect as if it had been made by the local planning authority and confirmed by them under this Chapter.

(3) The provisions of this Chapter and of any regulations made under it with respect to the procedure to be followed in connection with the making and confirmation of any order to which subsection (1) applies and the service of copies of it as confirmed shall have effect, subject to any necessary modifications—

(a) in relation to any proposal by the Secretary of State to make such an order,

(b) in relation to the making of it by the Secretary of State, and

(c) in relation to the service of copies of it as so made.

Annotations:

Modifications etc. (not altering text)

C169 S. 202: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C170 S. 202: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

PROSPECTIVE

[F427 202A Tree preservation regulations: general

(1) The appropriate national authority may by regulations make provision in connection with tree preservation orders.

(2) Sections 202B to 202G make further provision about what may, in particular, be contained in regulations under subsection (1).

(3) In this section and those sections "tree preservation order" includes an order under section 202(1).

(4) In this Act "tree preservation regulations" means regulations under subsection (1).

(5) In subsection (1) "the appropriate national authority"—

(a) in relation to England means the Secretary of State, and

(b) in relation to Wales means the Welsh Ministers.

(6) Section 333(3) does not apply in relation to tree preservation regulations made by the Welsh Ministers.

(7) Tree preservation regulations made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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Annotations:

Amendments (Textual)

F427 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

PROSPECTIVE

202B Tree preservation regulations: making of tree preservation orders

(1) Tree preservation regulations may make provision about—

(a) the form of tree preservation orders;

(b) the procedure to be followed in connection with the making of tree preservation orders;

(c) when a tree preservation order takes effect.

(2) If tree preservation regulations make provision for tree preservation orders not to take effect until confirmed, tree preservation regulations may—

(a) make provision for tree preservation orders to take effect provisionally until confirmed;

(b) make provision about who is to confirm a tree preservation order;

(c) make provision about the procedure to be followed in connection with confirmation of tree preservation orders.

Annotations:

Amendments (Textual)

F427 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

PROSPECTIVE

202C Tree preservation regulations: prohibited activities

(1) Tree preservation regulations may make provision for prohibiting all or any of the following—

(a) cutting down of trees;

(b) topping of trees;

(c) lopping of trees;

(d) uprooting of trees;

(e) wilful damage of trees;

(f) wilful destruction of trees.

(2) A prohibition imposed on a person may (in particular) relate to things whose doing the person causes or permits (as well as to things the person does).

(3) A prohibition may be imposed subject to exceptions.

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(4) In particular, provision may be made for a prohibition not to apply to things done with consent.

(5) In this section "tree" means a tree in respect of which a tree preservation order is in force.

Annotations:

Amendments (Textual)

F427 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

PROSPECTIVE

202D Tree preservation regulations: consent for prohibited activities

(1) This section applies if tree preservation regulations make provision under section 202C(4).

(2) Tree preservation regulations may make provision—

(a) about who may give consent;

(b) for the giving of consent subject to conditions;

(c) about the procedure to be followed in connection with obtaining consent.

(3) The conditions for which provision may be made under subsection (2)(b) include—

(a) conditions as to planting of trees;

(b) conditions requiring approvals to be obtained from the person giving the consent;

(c) conditions limiting the duration of the consent.

(4) The conditions mentioned in subsection (3)(a) include—

(a) conditions requiring trees to be planted;

(b) conditions about the planting of any trees required to be planted by conditions within paragraph (a), including conditions about how, where or when planting is to be done;

(c) conditions requiring things to be done, or installed, for the protection of any trees planted in pursuance of conditions within paragraph (a).

(5) In relation to any tree planted in pursuance of a condition within subsection (4)(a), tree preservation regulations may make provision —

(a) for the tree preservation order concerned to apply to the tree;

(b) authorising the person imposing the condition to specify that the tree preservation order concerned is not to apply to the tree.

(6) "The tree preservation order concerned" is the order in force in relation to the tree in respect of which consent is given under tree preservation regulations.

(7) The provision that may be made under subsection (2)(c) includes provision about applications for consent, including provision as to—

(a) the form or manner in which an application is to be made;

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(b) what is to be in, or is to accompany, an application.

(8) Tree preservation regulations may make provision for appeals—

(a) against refusal of consent;
(b) where there is a failure to decide an application for consent;
(c) against conditions subject to which consent is given;
(d) against refusal of an approval required by a condition;
(e) where there is a failure to decide an application for such an approval.

(9) Tree preservation regulations may make provision in connection with appeals under provision made under subsection (8), including—

(a) provision imposing time limits;
(b) provision for further appeals;
(c) provision in connection with the procedure to be followed on an appeal (or further appeal);
(d) provision about who is to decide an appeal (or further appeal);
(e) provision imposing duties, or conferring powers, on a person deciding an appeal (or further appeal).

Annotations:

Amendments (Textual)

F427 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

PROSPECTIVE

202E Tree preservation regulations: compensation

(1) Tree preservation regulations may make provision for the payment of compensation—

(a) where any consent required under tree preservation regulations is refused;
(b) where any such consent is given subject to conditions;
(c) where any approval required under such a condition is refused.

(2) Tree preservation regulations may provide for entitlement conferred under subsection (1) to apply only in, or to apply except in, cases specified in tree preservation regulations.

(3) Tree preservation regulations may provide for entitlement conferred by provision under subsection (1) to be subject to conditions, including conditions as to time limits.

(4) Tree preservation regulations may, in relation to compensation under provision under subsection (1), make provision about—

(a) who is to pay the compensation;
(b) who is entitled to the compensation;
(c) what the compensation is to be paid in respect of;
(d) the amount, or calculation of, the compensation.

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(5) Tree preservation regulations may make provision about the procedure to be followed in connection with claiming any entitlement conferred by provision under subsection (1).

(6) Tree preservation regulations may make provision for the determination of disputes about entitlement conferred by provision under subsection (1), including provision for and in connection with the referral of any such disputes to, and their determination by the First-tier Tribunal or the Upper Tribunal.

Annotations:

Amendments (Textual)

F427 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

PROSPECTIVE

202F Tree preservation regulations: registers

Tree preservation regulations may make provision for the keeping of, and public access to, registers containing information related to tree preservation orders.

Annotations:

Amendments (Textual)

F427 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

PROSPECTIVE

202G Tree preservation regulations: supplementary

(1) Tree preservation regulations may provide for the application (with or without modifications) of, or make provision comparable to, any provision of this Act mentioned in subsection (2).

(2) The provisions are any provision of Part 3 relating to planning permission or applications for planning permission, except sections 56, 62, 65, 69(3) and (4), 71, 91 to 96, 100 and 101 and Schedule 8.

(3) Tree preservation regulations may make provision comparable to—

(a) any provision made by the Town and Country Planning (Tree Preservation Order) Regulations 1969 or the Town and Country Planning (Trees) Regulations 1999;

(b) any provision that could have been made under section 199(2) and (3).

(4) Tree preservation regulations may contain incidental, supplementary, consequential, transitional and transitory provision and savings.**]**

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Annotations:

Amendments (Textual)

F427 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), **ss. 192(7)**, 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), **Sch. 1 para. 295**)

Compensation for loss or damage caused by orders, etc.

203 Compensation in respect of tree preservation orders.

A tree preservation order may make provision for the payment by the local planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of loss or damage caused or incurred in consequence—

(a) of the refusal of any consent required under the order, or

(b) of the grant of any such consent subject to conditions.

Annotations:

Modifications etc. (not altering text)

C171 S. 203: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

204 Compensation in respect of requirement as to replanting of trees.

(1) This section applies where—

(a) in pursuance of provision made by a tree preservation order, a direction is given by the local planning authority or the Secretary of State for securing the replanting of all or any part of a woodland area which is felled in the course of forestry operations permitted by or under the order; and

(b) the Forestry Commissioners decide not to make any grant or loan under section 1 of the [M95]Forestry Act 1979 in respect of the replanting by reason that the direction frustrates the use of the woodland area for the growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry.

(2) Where this section applies, the local planning authority exercising functions under the tree preservation order shall be liable, on the making of a claim in accordance with this section, to pay compensation in respect of such loss or damage, if any, as is caused or incurred in consequence of compliance with the direction.

(3) The Forestry Commissioners shall, at the request of the person under a duty to comply with such a direction as is mentioned in subsection (1)(a), give a certificate stating—

(a) whether they have decided not to make such a grant or loan as is mentioned in subsection (1)(b), and

(b) if so, the grounds for their decision.

(4) A claim for compensation under this section must be served on the local planning authority—

(a) within 12 months from the date on which the direction was given, or

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(b) where an appeal has been made to the Secretary of State against the decision of the local planning authority, within 12 months from the date of the decision of the Secretary of State on the appeal,

but subject in either case to such extension of that period as the local planning authority may allow.

Annotations:

Modifications etc. (not altering text)

C172 S. 204: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M95 1979 c. 21.

205 Determination of compensation claims.

(1) Except in so far as may be otherwise provided by any tree preservation order or any regulations made under this Act, any question of disputed compensation under section 203 or 204 shall be referred to and determined by the **[**F428Upper Tribunal**]**.

(2) In relation to the determination of any such question, the provisions of **[**F429section**]** 4 of the M96Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Annotations:

Amendments (Textual)

F428 Words in s. 205(1) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 207(a)**

F429 Word in s. 205(2) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 207(b)**

Modifications etc. (not altering text)

C173 S. 205: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M96 1961 c.33.

Consequences of tree removal, etc.

206 Replacement of trees.

(1) If any tree in respect of which a tree preservation order is for the time being in force—

(a) is removed, uprooted or destroyed in contravention of the order, or

(b) except in the case of a tree to which the order applies as part of a woodland, is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by virtue of section 198(6)(a),

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it shall be the duty of the owner of the land to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

(2) The duty imposed by subsection (1) does not apply to an owner if on application by him the local planning authority dispense with it.

(3) In respect of trees in a woodland it shall be sufficient for the purposes of this section to replace the trees removed, uprooted or destroyed by planting the same number of trees—

(a) on or near the land on which the trees removed, uprooted or destroyed stood, or

(b) on such other land as may be agreed between the local planning authority and the owner of the land,

and in such places as may be designated by the local planning authority.

(4) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.

(5) The duty imposed by subsection (1) on the owner of any land shall attach to the person who is from time to time the owner of the land.

Annotations:

Modifications etc. (not altering text)

C174 S. 206: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C175 S. 206: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

207 Enforcement of duties as to replacement of trees.

(1) If it appears to the local planning authority that—

(a) the provisions of section 206, or

(b) any conditions of a consent given under a tree preservation order which require the replacement of trees,

are not complied with in the case of any tree or trees, that authority may serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified.

(2) A notice under subsection (1) may only be served within four years from the date of the alleged failure to comply with those provisions or conditions.

[[F430](3) A notice under subsection (1) shall specify a period at the end of which it is to take effect.

(4) The specified period shall be a period of not less than twenty-eight days beginning with the date of service of the notice.**]**

(5) The duty imposed by section 206(1) may only be enforced as provided by this section and not otherwise.

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Annotations:

Amendments (Textual)

F430 S. 207(3)(4) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(1)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C176 S. 207: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C177 S. 207: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

208 Appeals against s. 207 notices.

(1) A person on whom a notice under section 207(1) is served may appeal to the Secretary of State against the notice on any of the following grounds—

(a) that the provisions of section 206 or, as the case may be, the conditions mentioned in section 207(1)(b) are not applicable or have been complied with;

[F431(aa) that in all the circumstances of the case the duty imposed by section 206(1) should be dispensed with in relation to any tree;**]**

(b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified in it;

(c) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;

(d) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose.

[F432(2) An appeal under subsection (1) shall be made either—

(a) by giving written notice of the appeal to the Secretary of State before the end of the period specified in accordance with section 207(3); or

(b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before the end of that period.**]**

(4) **[**F433The notice shall—

(a) indicate the grounds of the appeal,

(b) state the facts on which the appeal is based, and

(c) be accompanied by such information as may be prescribed.**]**

[F434(4A) The power to make regulations under subsection (4)(c) is exercisable by—

(a) the Secretary of State, in relation to England;

(b) the Welsh Ministers, in relation to Wales.**]**

[F435(4B) Section 333(3) does not apply in relation to regulations under subsection (4)(c) made by the Welsh Ministers.**]**

[F436(4C) Regulations under subsection (4)(c) made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the National Assembly for Wales.**]**

(5) On **[**F437an appeal under subsection (1)**]** the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity

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of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) Where such an appeal is brought , the notice under section 207(1) shall be of no effect pending the final determination or the withdrawal of the appeal.

[F438(7) On such an appeal the Secretary of State may—

(a) correct any defect, error or misdescription in the notice; or

(b) vary any of its requirements,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(8) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(8A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.**]**

(9) Schedule 6 applies to appeals under this section.

(10) Where any person has appealed to the Secretary of State under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

[F439(11) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under this section as if those proceedings were an inquiry held by the Secretary of State under section 250.**]**

Annotations:

Amendments (Textual)

F431 S. 208(1)(aa) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(2)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F432 S. 208(2) substituted (2.1.1992) for s. 208(2)(3) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(3)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F433 S. 208(4)-(4C) substituted (6.4.2009 for E. and otherwise prosp.) for s. 208(4) by Planning Act 2008 (c. 29), ss. 197, 241, **Sch. 11 para. 4(2)** (with s. 226); S.I. 2009/400, **art. 5**

F434 S. 208(4)-(4C) substituted (6.4.2009 for E. and otherwise prosp.) for s. 208(4) by Planning Act 2008 (c. 29), ss. 197, 241, **Sch. 11 para. 4(2)** (with s. 226); S.I. 2009/400, **art. 5**

F435 S. 208(4)-(4C) substituted (6.4.2009 for E. and otherwise prosp.) for s. 208(4) by Planning Act 2008 (c. 29), ss. 197, 241, **Sch. 11 para. 4(2)** (with s. 226); S.I. 2009/400, **art. 5**

F436 S. 208(4)-(4C) substituted (6.4.2009 for E. and otherwise prosp.) for s. 208(4) by Planning Act 2008 (c. 29), ss. 197, 241, **Sch. 11 para. 4(2)** (with s. 226); S.I. 2009/400, **art. 5**

F437 Words in s. 208(5) substituted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 197, 241, **Sch. 11 para. 4(3)** (with s. 226); S.I. 2009/400, **art. 5**

F438 S. 208(7)(8)(8A) substituted (2.1.1992) for s. 208(7)(8) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(4)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F439 S. 208(11) inserted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **5** (which temp. insertion falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3))

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Modifications etc. (not altering text)

C178 S. 208: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C179 S. 208: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

209 Execution and cost of works required by s. 207 notice.

(1) If, within the period specified in a notice under section 207(1) for compliance with it, or within such extended period as the local planning authority may allow, any trees which are required to be planted by a notice under that section have not been planted, the local planning authority may—

(a) enter the land and plant those trees, and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Where such a notice has been served—

(a) any expenses incurred by the owner of any land for the purpose of complying with the notice, and

(b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in planting trees required by such a notice to be planted,

shall be deemed to be incurred or paid for the use and at the request of any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.

(3) Regulations made under this Act may provide that—

(a) section 276 of the [M97]Public Health Act 1936 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

(b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); or

(c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a notice under section 207(1).

(4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.

(5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local authority **[**[F440]or National Park authority**]** under subsection (1).

[[F441](6) Any person who wilfully obstructs a person acting in the exercise of the power under subsection (1)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.**]**

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Annotations:

Amendments (Textual)

F440 Words in s. 209(5) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(6)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F441 S. 209(6) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(5)**(with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

C180 S. 209: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C181 S. 209: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

C182 S. 209(1)(2)(6) applied (with modifications) (1.6.1997) by S.I. 1997/1160, **reg. 8(3)(4)**

Marginal Citations

M97 1936 c.49.

210 Penalties for non-compliance with tree preservation order.

(1) If any person, in contravention of a tree preservation order—

(a) cuts down, uproots or wilfully destroys a tree, or

(b) wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it,

he shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable—

[F442(a) on summary conviction to a fine not exceeding £20,000;**]** or

(b) on conviction on indictment, to a fine.

(3) In determining the amount of any fine to be imposed on a person convicted F443. . . of an offence under subsection (1), the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

(4) If any person contravenes the provisions of a tree preservation order otherwise than as mentioned in subsection (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

F444(5) . . . . . .

Annotations:

Amendments (Textual)

F442 S. 210(2)(a) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(6)(a)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

F443 Words in s. 210(3) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 23(6)(b), 84(6), **Sch. 19 PtI** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 2** (subject to art. 5)

F444 S. 210(5) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 23(6)(c), 84(6), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 2** (subject to art. 5)

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Modifications etc. (not altering text)

C183 S. 210: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C184 S. 210: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Trees in conservation areas

211 Preservation of trees in conservation areas.

(1) Subject to the provisions of this section and section 212, any person who, in relation to a tree to which this section applies, does any act which might by virtue of section 198(3)(a) be prohibited by a tree preservation order shall be guilty of an offence.

[F445(1A) Subsection (1) does not apply so far as the act in question is authorised by an order granting development consent.**]**

(2) Subject to section 212, this section applies to any tree in a conservation area in respect of which no tree preservation order is for the time being in force.

(3) It shall be a defence for a person charged with an offence under subsection (1) to prove —

(a) that he served notice of his intention to do the act in question (with sufficient particulars to identify the tree) on the local planning authority in whose area the tree is or was situated; and

(b) that he did the act in question—

(i) with the consent of the local planning authority in whose area the tree is or was situated, or

(ii) after the expiry of the period of six weeks from the date of the notice but before the expiry of the period of two years from that date.

(4) Section 210 shall apply to an offence under this section as it applies to a contravention of a tree preservation order .

[F446(5) An emanation of the Crown must not, in relation to a tree to which this section applies, do an act mentioned in subsection (1) above unless—

(a) the first condition is satisfied, and

(b) either the second or third condition is satisfied.

[F447(5A) Subsection (5) does not apply so far as the act in question is authorised by an order granting development consent.**]**

(6) The first condition is that the emanation serves notice of an intention to do the act (with sufficient particulars to identify the tree) on the local planning authority in whose area the tree is situated.

(7) The second condition is that the act is done with the consent of the authority.

(8) The third condition is that the act is done—

(a) after the end of the period of six weeks starting with the date of the notice, and

(b) before the end of the period of two years starting with that date.**]**

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Annotations:

Amendments (Textual)

F445 S. 211(1A) inserted (1.3.2010) by Planning Act 2008 (c. 29), ss. 36, 241, **Sch. 2 para. 36(2)** (with s. 226); S.I. 2010/101, **art. 2** (with art. 6)

F446 S. 211(5)-(8) inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 86**, 121 (with s. 111); S.I. 2006/1281, **art. 2**

F447 S. 211(5A) inserted (1.3.2010) by Planning Act 2008 (c. 29), ss. 36, 241, **Sch. 2 para. 36(3)** (with s. 226); S.I. 2010/101, **art. 2** (with art. 6)

Modifications etc. (not altering text)

C185 S. 211: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 211 excluded (2.8.1999) by S.I. 1999/1892, **reg. 10(1)**

C186 S. 211: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

C187 S. 211(1) excluded (18.12.1996) by 1996 c. 61, **s. 28(1)(b)**

C188 S. 211(1) excluded (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), **art. 28(4)(b)** (with art. 38)

C189 S. 211(1) excluded (22.3.2005) by The Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), **art. 45** (with art. 51)
S. 211(1) excluded (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), **art. 43(4)** (with art. 52)
S. 211(1) excluded (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), **art. 33(4)**

C190 S. 211(1) excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 19**

C191 S. 211(5) excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 19**

212 Power to disapply s. 211.

(1) The Secretary of State may by regulations direct that section 211 shall not apply in such cases as may be specified in the regulations.

(2) Without prejudice to the generality of subsection (1), the regulations may be framed so as to exempt from the application of that section cases defined by reference to all or any of the following matters—

(a) acts of such descriptions or done in such circumstances or subject to such conditions as may be specified in the regulations;

(b) trees in such conservation areas as may be so specified;

(c) trees of a size or species so specified; or

(d) trees belonging to persons or bodies of a description so specified.

(3) The regulations may, in relation to any matter by reference to which an exemption is conferred by them, make different provision for different circumstances.

(4) Regulations under subsection (1) may in particular, but without prejudice to the generality of that subsection, exempt from the application of section 211 cases exempted from section 198 by subsection (6) of that section.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Modifications etc. (not altering text)

C192 S. 212: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C193 S. 212: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

213 Enforcement of controls as respects trees in conservation areas.

(1) If any tree to which section 211 applies—

(a) is removed, uprooted or destroyed in contravention of that section; or

(b) is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by virtue of the provisions of such regulations under subsection (1) of section 212 as are mentioned in subsection (4) of that section,

it shall be the duty of the owner of the land to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

(2) The duty imposed by subsection (1) does not apply to an owner if on application by him the local planning authority dispense with it.

(3) The duty imposed by subsection (1) on the owner of any land attaches to the person who is from time to time the owner of the land and may be enforced as provided by section 207 and not otherwise.

Annotations:

Modifications etc. (not altering text)

C194 S. 213: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C195 S. 213: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

214 Registers of s. 211 notices.

It shall be the duty of a local planning authority to compile and keep available for public inspection free of charge at all reasonable hours and at a convenient place a register containing such particulars as the Secretary of State may determine of notices under section 211 affecting trees in their area.

Annotations:

Modifications etc. (not altering text)

C196 S. 214: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C197 S. 214: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

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[F448 Injunctions]

Annotations:

Amendments (Textual)

F448 S. 214A and cross heading inserted (25.11.1991 for certain purposes so far as it relates to s. 214A(2) and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(7)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1991/2905, **art.3** (subject to art. 5)

[F449 214A Injunctions.

(1) Where a local planning authority consider it necessary or expedient for an actual or apprehended offence under section 210 or 211 to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Chapter.

(2) Subsections (2) to (4) of section 187B apply to an application under this section as they apply to an application under that section.]

Annotations:

Amendments (Textual)

F449 S. 214A inserted (25.11.1991 for certain purposes so far as it relates to s. 214A(2) and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(7)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C198 S. 214A: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C199 S. 214A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

[F450 Rights of entry]

Annotations:

Amendments (Textual)

F450 Crossheading inserted (2.1.1992 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(7)** (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

214B [F451 Rights to enter without warrant.]

(1) Any person duly authorised in writing by a local planning authority may enter any land for the purpose of—

(a) surveying it in connection with making or confirming a tree preservation order with respect to the land;

(b) ascertaining whether an offence under section 210 or 211 has been committed on the land; or

(c) determining whether a notice under section 207 should be served on the owner of the land,

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if there are reasonable grounds for entering for the purpose in question.

(2) Any person duly authorised in writing by the Secretary of State may enter any land for the purpose of surveying it in connection with making, amending or revoking a tree preservation order with respect to the land, if there are reasonable grounds for entering for that purpose.

(3) Any person who is duly authorised in writing by a local planning authority may enter any land in connection with the exercise of any functions conferred on the authority by or under this Chapter.

(4) Any person who is an officer of the Valuation Office may enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of any land which is payable by the local planning authority under this Chapter (other than section 204).

(5) Any person who is duly authorised in writing by the Secretary of State may enter any land in connection with the exercise of any functions conferred on the Secretary of State by or under this Chapter.

(6) The Secretary of State shall not authorise any person as mentioned in subsection (2) without consulting the local planning authority.

(7) Admission shall not be demanded as of right—

(a) by virtue of subsection (1) or (2) to any building used as a dwellinghouse; or

(b) by virtue of subsection (3), (4) or (5) to any land which is occupied,

unless twenty-four hours' notice of the intended entry has been given to the occupier.

(8) Any right to enter by virtue of this section shall be exercised at a reasonable hour.

Annotations:

Amendments (Textual)

F451 S. 214B inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(7)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C200 S. 214B: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C201 S. 214B: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

[F452 214C Right to enter under warrant.

(1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 214B(1) or (2); and

(b) that—

(i) admission to the land has been refused, or a refusal is reasonably apprehended; or

(ii) the case is one of urgency,

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the justice may issue a warrant authorising any person duly authorised in writing by a local planning authority or, as the case may be, the Secretary of State to enter the land.

(2) For the purposes of subsection (1)(b)(i) admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.

(3) A warrant authorises entry on one occasion only and that entry must be—

(a) within one month from the date of the issue of the warrant; and

(b) at a reasonable hour, unless the case is one of urgency.**]**

Annotations:

Amendments (Textual)

F452 S. 214C inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(7)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C202 S. 214C: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C203 S. 214C: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

[F453 214D Rights of entry: supplementary provisions.

(1) Any power conferred under or by virtue of section 214B or 214C to enter land (referred to in this section as "a right of entry") shall be construed as including power to take samples from any tree and samples of the soil.

(2) A person authorised to enter land in the exercise of a right of entry—

(a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;

(b) may take with him such other persons as may be necessary; and

(c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.

(3) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If any damage is caused to land or chattels in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State.

(5) The provisions of section 118 shall apply in relation to compensation under subsection (4) as they apply in relation to compensation under Part IV.**]**

Annotations:

Amendments (Textual)

F453 S. 214D inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23**(7 (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

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Modifications etc. (not altering text)

C204 S. 214D: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C205 S. 214D: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

CHAPTER II

LAND ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD

215 Power to require proper maintenance of land.

(1) If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under this section.

(2) The notice shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified.

(3) Subject to the following provisions of this Chapter, the notice shall take effect at the end of such period as may be specified in the notice.

(4) That period shall not be less than 28 days after the service of the notice.

Annotations:

Modifications etc. (not altering text)

C206 S. 215: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C207 S. 215 modified (19.9.2007) by London Local Authorities Act 2007 (c. ii), ss. 1(3), **32(1)**

C208 S. 215(1): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

216 Penalty for non-compliance with s. 215 notice.

(1) The provisions of this section shall have effect where a notice has been served under section 215.

(2) If any owner or occupier of the land on whom the notice was served fails to take steps required by the notice within the period specified in it for compliance with it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where proceedings have been brought under subsection (2) against a person as the owner of the land and he has, at some time before the end of the compliance period, ceased to be the owner of the land, if he—

(a) duly lays information to that effect, and

(b) gives the prosecution not less than three clear days' notice of his intention,

he shall be entitled to have the person who then became the owner of the land brought before the court in the proceedings.

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(4) Where proceedings have been brought under subsection (2) against a person as the occupier of the land and he has, at some time before the end of the compliance period, ceased to be the occupier of the land, if he—

(a) duly lays information to that effect, and

(b) gives the prosecution not less than three clear days' notice of his intention,

he shall be entitled to have brought before the court in the proceedings the person who then became the occupier of the land or, if nobody then became the occupier, the person who is the owner at the date of the notice.

(5) Where in such proceedings—

(a) it has been proved that any steps required by the notice under section 215 have not been taken within the compliance period, and

(b) the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of a person specified in a notice under subsection (3) or (4),

then—

(i) that person may be convicted of the offence; and

(ii) if the original defendant also proves that he took all reasonable steps to ensure compliance with the notice, he shall be acquitted of the offence.

(6) If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding **[**[F454]one-tenth of level 3 on the standard scale**]** for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.

(7) Any reference in this section to the compliance period, in relation to a notice, is a reference to the period specified in the notice for compliance with it or such extended period as the local planning authority who served the notice may allow for compliance.

Annotations:

Amendments (Textual)

F454 Words in s. 216(6) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.35** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C209 S. 216: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 216 restricted (E.) (13.4.2001) by S.I. 2001/1478, **reg. 3(a)**

217 Appeal to magistrates' court against s. 215 notice.

(1) A person on whom a notice under section 215 is served, or any other person having an interest in the land to which the notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal against the notice on any of the following grounds—

(a) that the condition of the land to which the notice relates does not adversely affect the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;

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(b) that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part III;

(c) that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;

(d) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.

(2) Any appeal under this section shall be made to a magistrates' court [F455]. . .

(3) Where such an appeal is brought, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.

(4) On such an appeal the magistrates' court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not material.

(5) On the determination of such an appeal the magistrates' court shall give directions for giving effect to their determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.

(6) Where any person has appealed to a magistrates' court under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

Annotations:

Amendments (Textual)

F455 Words in s. 217(2) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 343, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

Modifications etc. (not altering text)

C210 S. 217: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C211 S. 217(1)(b) restricted (19.9.2007) by London Local Authorities Act 2007 (c. ii), ss. 1(3), **32(2)**

218 Further appeal to the Crown Court.

Where an appeal has been brought under section 217, an appeal against the decision of the magistrates' court on that appeal may be brought to the Crown Court by the appellant or by the local planning authority who served the notice in question under section 215.

Annotations:

Modifications etc. (not altering text)

C212 S. 218: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

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219 Execution and cost of works required by s. 215 notice.

(1) If, within the period specified in a notice under section 215 in accordance with subsection (2) of that section, or within such extended period as the local planning authority who served the notice may allow, any steps required by the notice to be taken have not been taken, the local planning authority who served the notice may—

(a) enter the land and take those steps, and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Where a notice has been served under section 215—

(a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and

(b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice,

shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the land to come to be in the condition in which it was when the notice was served.

(3) Regulations made under this Act may provide that—

(a) section 276 of the [M98]Public Health Act 1936 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

(b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); or

(c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a notice under section 215.

(4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which a notice under section 215 relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.

(5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local authority under subsection (1).

[F456](6) . . . . . .

Annotations:

Amendments (Textual)

F456 S. 219(6) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 36, **Sch. 19 Pt.I**; S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C213 S. 219: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M98 1936 c.49.

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CHAPTER III

ADVERTISEMENTS

Advertisement regulations

220 Regulations controlling display of advertisements.

(1) Regulations under this Act shall make provision for restricting or regulating the display of advertisements so far as appears to the Secretary of State to be expedient in the interests of amenity or public safety.

(2) Without prejudice to the generality of subsection (1), any such regulations may provide —

(a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed and the manner in which they are to be affixed to the land;

(b) for requiring the consent of the local planning authority to be obtained for the display of advertisements, or of advertisements of any class specified in the regulations;

(c) for applying, in relation to any such consent and to applications for such consent, any of the provisions mentioned in subsection (3), subject to such adaptations and modifications as may be specified in the regulations;

(d) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed by the regulations, and for determining the manner in which the expenses of any such committee are to be defrayed.

[F457(2A) The regulations may also make provision as to—

(a) the form and manner in which an application for consent must be made;

(b) particulars of such matters as are to be included in the application;

(c) any documents or other materials which must accompany the application.**]**

(3) The provisions referred to in subsection (2)(c) are—

(a) the provisions of Part III relating to planning permission and to applications for planning permission, except sections 56, **[**F458**]** 62 , 65 F459. . ., 69(3) and (4), 71, F460. . ., 91 to 96, 100 and 101 and Schedule 8;

(b) sections 137 to 141, 143 and 144 (except so far as they relate to purchase notices served in consequence of such orders as are mentioned in section 137(1)(b) or (c));

(c) section 316.

(4) Without prejudice to the generality of the powers conferred by this section, regulations made for the purposes of this section may provide that any appeal from the decision of the local planning authority, on an application for their consent under the regulations, shall be to an independent tribunal constituted in accordance with the regulations, instead of being an appeal to the Secretary of State.

(5) If any tribunal is so constituted, the Secretary of State may pay to the chairman and members of the tribunal such remuneration, whether by way of salaries or by way of fees, and such reasonable allowances in respect of expenses properly incurred in the performance of their duties, as he may with the consent of the Treasury determine.

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Annotations:

Amendments (Textual)

F457 S. 220(2A) inserted (6.8.2004 for certain purposes and prosp. otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 42(4)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**

F458 Words in s. 220(3) repealed (6.8.2004 for certain purposes and prosp. otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 120, 121, **Sch. 9** (with s. 111); S.I. 2004/2097, **art. 2**

F459 Words in s. 220(3)(a) repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 37, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

F460 Words in s. 220(3)(a) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 21, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)

C214 S. 220: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C215 S. 220: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

221 Power to make different advertisement regulations for different areas.

(1) Regulations made for the purposes of section 220 may make different provision with respect to different areas, and in particular may make special provision—

(a) with respect to conservation areas;

(b) with respect to areas defined for the purposes of the regulations as experimental areas, and

(c) with respect to areas defined for the purposes of the regulations as areas of special control.

(2) An area may be defined as an experimental area for a prescribed period for the purpose of assessing the effect on amenity or public safety of advertisements of a prescribed description.

(3) An area may be defined as an area of special control if it is—

(a) a rural area, or

(b) an area which appears to the Secretary of State to require special protection on grounds of amenity.

(4) Without prejudice to the generality of subsection (1), the regulations may prohibit the display in an area of special control of all advertisements except advertisements of such classes (if any) as may be prescribed.

(5) Areas of special control for the purposes of regulations under this section may be defined by means of orders made or approved by the Secretary of State in accordance with the provisions of the regulations.

(6) Where the Secretary of State is authorised by the regulations to make or approve any such order as is mentioned in subsection (5), the regulations shall provide—

(a) for the publication of notice of the proposed order in such manner as may be prescribed,

(b) for the consideration of objections duly made to it, and

(c) for the holding of such inquiries or other hearings as may be prescribed,

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before the order is made or approved.

(7) Subject to subsection (8), regulations made under section 220 may be made so as to apply—

(a) to advertisements which are being displayed on the date on which the regulations come into force, or

(b) to the use for the display of the advertisements of any site which was being used for that purpose on that date.

(8) Any regulations made in accordance with subsection (7) shall provide for exempting from them—

(a) the continued display of any such advertisements as there mentioned; and

(b) the continued use for the display of advertisements of any such site as there mentioned,

during such period as may be prescribed.

(9) Different periods may be prescribed under subsection (8) for the purposes of different provisions of the regulations.

Annotations:

Modifications etc. (not altering text)

C216 S. 221: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

222 Planning permission not needed for advertisements complying with regulations.

Where the display of advertisements in accordance with regulations made under section 220 involves development of land—

(a) planning permission for that development shall be deemed to be granted by virtue of this section, and

(b) no application shall be necessary for that development under Part III.

Annotations:

Modifications etc. (not altering text)

C217 S. 222: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Repayment of expense of removing prohibited advertisements

223 Repayment of expense of removing prohibited advertisements.

(1) Where, for the purpose of complying with any regulations made under section 220, works are carried out by any person—

(a) for removing an advertisement which was being displayed on 1st August 1948; or

(b) for discontinuing the use for the display of advertisements of a site used for that purpose on that date,

that person shall, on a claim made to the local planning authority within such time and in such manner as may be prescribed, be entitled to recover from that authority

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compensation in respect of any expenses reasonably incurred by him in carrying out those works.

(2) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this section shall be referred to and determined by the **[**F461Upper Tribunal**]**.

(3) In relation to the determination of any such question, the provisions of **[**F462section**]** 4 of the M99Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Annotations:

Amendments (Textual)

F461 Words in s. 223(2) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 208(a)**

F462 Word in s. 223(3) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 208(b)**

Marginal Citations

M99 1961 c.33.

Enforcement of control over advertisements

224 Enforcement of control as to advertisements.

(1) Regulations under section 220 may make provision for enabling the local planning authority to require—

(a) the removal of any advertisement which is displayed in contravention of the regulations, or

(b) the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations.

(2) For that purpose the regulations may apply any of the provisions of Part VII with respect to enforcement notices or the provisions of section 186, subject to such adaptations and modifications as may be specified in the regulations.

(3) Without prejudice to any provisions included in such regulations by virtue of subsection (1) or (2), if any person displays an advertisement in contravention of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed, not exceeding **[**F463level 4**]** on the standard scale and, in the case of a continuing offence, **[**F464one-tenth of **[**F463level 4**]** on the standard scale**]** for each day during which the offence continues after conviction.

(4) Without prejudice to the generality of subsection (3), a person shall be deemed to display an advertisement for the purposes of that subsection if—

(a) he is the owner or occupier of the land on which the advertisement is displayed; or

(b) the advertisement gives publicity to his goods, trade, business or other concerns.

(5) A person shall not be guilty of an offence under subsection (3) by reason only—

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(a) of his being the owner or occupier of the land on which an advertisement is displayed, or

(b) of his goods, trade, business or other concerns being given publicity by the advertisement,

if he proves **[**F465either of the matters specified in subsection (6)**]** .

[F466(6) The matters are that—

(a) the advertisement was displayed without his knowledge; or

(b) he took all reasonable steps to prevent the display or, after the advertisement had been displayed, to secure its removal.**]**

Annotations:

Amendments (Textual)

F463 Words in s. 224(3) substituted (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), **s. 53**; S.I. 2003/3300, **art. 2(d)**

F464 Words in s. 224(3) substituted (6.4.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.38** (with s. 84(5)); S.I. 1992/665, **art. 2**

F465 Words in s. 224(5) substituted (7.6.2005) by Clean Neighbourhoods and Environment Act 2005 (c. 16), **ss. 33(2)**, 108 (with s. 33(4))

F466 S. 224(6) inserted (7.6.2005) by Clean Neighbourhoods and Environment Act 2005 (c. 16), **ss. 33(3)**, 108 (with s. 33(4))

Modifications etc. (not altering text)

C218 S. 224: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C219 S. 224 applied (with modifications) (13.7.2004) by London Local Authorities Act 2004 (c. i), ss. 1, **25**

C220 S. 224(3) restricted (19.9.2007) by London Local Authorities Act 2007 (c. ii), ss. 1(3)-(5), **8(3)**

C221 S. 224(3) applied (with modifications) (19.9.2007) by London Local Authorities Act 2007 (c. ii), ss. 1(3)-(5), 31, **Sch. 2 Pt. 1**

225 Power to remove or obliterate placards and posters.

(1) Subject to subsections (2) and (3), the local planning authority may remove or obliterate any placard or poster—

(a) which is displayed in their area; and

(b) which in their opinion is so displayed in contravention of regulations made under section 220.

(2) Subsection (1) does not authorise the removal or obliteration of a placard or poster displayed within a building to which there is no public right of access.

(3) Subject to subsection (4), where a placard or poster identifies the person who displayed it or caused it to be displayed, the local planning authority shall not exercise any power conferred by subsection (1) unless they have first given him notice in writing—

(a) that in their opinion it is displayed in contravention of regulations made under section 220; and

(b) that they intend to remove or obliterate it on the expiry of a period specified in the notice **[**F467and recover from him the costs they may reasonably incur in doing so**]** .

(4) Subsection (3) does not apply if—

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(a) the placard or poster does not give his address, and

(b) the authority do not know it and are unable to ascertain it after reasonable inquiry.

(5) The period specified in a notice under subsection (3) must be not less than two days from the date of service of the notice.

[[F468](6) Where—

(a) a local planning authority serve a notice on a person under subsection (3) in relation to a placard or poster, and

(b) the person fails to remove or obliterate it within the period specified in the notice,

the authority may recover from that person the costs they may reasonably incur in exercising their power under subsection (1).**]**

[[F469](7) This subsection applies in relation to a placard or poster where—

(a) the placard or poster does not identify the person who displayed it or caused it to be displayed, or

(b) it does do so, but subsection (3) does not apply by reason of subsection (4), and

the placard or poster publicises the goods, services or concerns of an identifiable person.

(8) Where subsection (7) applies, subsections (3) to (6) have effect as if the reference in subsection (3) to the person who displayed the placard or poster or caused it to be displayed were a reference to the person whose goods, services or concerns are publicised.**]**

[[F470](9) Where any damage is caused to land or chattels in the exercise of the power under subsection (1) in relation to a placard or poster, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power.

(10) Subsection (9) does not permit the recovery of compensation by the person who displayed the placard or poster or caused it to be displayed.

(11) The provisions of section 118 apply in relation to compensation under subsection (9) as they apply in relation to compensation under Part 4.**]**

Annotations:

Amendments (Textual)

F467 Words in s. 225(3)(b) inserted (6.4.2006 for E. and 27.10.2006 for W.) by Clean Neighbourhoods and Environment Act 2005 (c. 16), **ss. 34(2)**, 108; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 2(g)**

F468 S. 225(6) inserted (6.4.2006 for E. and 27.10.2006 for W.) by Clean Neighbourhoods and Environment Act 2005 (c. 16), **ss. 34(3)**, 108; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 2(g)**

F469 S. 225(7)(8) inserted (6.4.2006 for E. and 27.10.2006 for W.) by Clean Neighbourhoods and Environment Act 2005 (c. 16), **ss. 34(4)**, 108; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 2(g)**

F470 S. 225(9)(10)(11) inserted (6.4.2006 for E. and 27.10.2006 for W.) by Clean Neighbourhoods and Environment Act 2005 (c. 16), **ss. 34(5)**, 108; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 2(g)**

Modifications etc. (not altering text)

C222 S. 225: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 225 modified (8.1.1996) by 1995 c. x, **s. 10**

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PART IX

ACQUISITION AND APPROPRIATION OF LAND FOR PLANNING PURPOSES, ETC.

Annotations:

Modifications etc. (not altering text)

C223 Pt. IX (ss. 226-246) modified (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

Acquisition for planning and public purposes

226 Compulsory acquisition of land for development and other planning purposes.

(1) A local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area [F471]. . . —

[[F472](a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land,**]**

(b) **[**[F473]which**]** is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

[[F474](1A) But a local authority must not exercise the power under paragraph (a) of subsection (1) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects—

(a) the promotion or improvement of the economic well-being of their area;

(b) the promotion or improvement of the social well-being of their area;

(c) the promotion or improvement of the environmental well-being of their area.**]**

(2) [F475]. . . . . .

[[F476](2A) The Secretary of State must not authorise the acquisition of any interest in Crown land unless—

(a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and

(b) the appropriate authority consents to the acquisition.**]**

(3) Where a local authority exercise their power under subsection (1) in relation to any land, they shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily—

(a) any land adjoining that land which is required for the purpose of executing works for facilitating its development or use; or

(b) where that land forms part of a common or open space or fuel or field garden allotment, any land which is required for the purpose of being given in exchange for the land which is being acquired.

(4) It is immaterial by whom the local authority propose that any activity or purpose mentioned in subsection (1) or (3)(a) should be undertaken or achieved (and in particular the local authority need not propose to undertake an activity or to achieve that purpose themselves).

(5) Where under subsection (1) the Secretary of State has power to authorise a local authority to whom this section applies to acquire any land compulsorily he may, after

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the requisite consultation, authorise the land to be so acquired by another authority, being a local authority within the meaning of this Act.

(6) Before giving an authorisation under subsection (5), the Secretary of State shall—

(a) if the land is in a non-metropolitan county **[**F477in England**]**, consult with the councils of the county and the district;

(b) if the land is in a metropolitan district, consult with the council of the district;

[F478(bb) if the land is in Wales, consult with the council of the county or county borough;**]** and

(c) if the land is in a London borough, consult with the council of the borough.

(7) The M100Acquisition of Land Act 1981 shall apply to the compulsory acquisition of land under this section.

(8) The local authorities to whom this section applies are the councils of counties, **[**F479county boroughs,**]** districts and London boroughs.

[F480(9) Crown land must be construed in accordance with Part 13.**]**

Annotations:

Amendments (Textual)

F471 Word in s. 226(1) repealed (31.10.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 99(2)(a), 120, 121, **Sch. 9** (with ss. 99(5), 111); S.I. 2004/2593, **art. 2**

F472 S. 226(1)(a) substituted (31.10.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 99(2)(b)**, 121 (with ss. 99(5), 111); S.I. 2004/2593, **art. 2**

F473 Word in s. 226(1)(b) inserted (31.10.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 99(2)(c)**, 121 (with ss. 99(5), 111); S.I. 2004/2593, **art. 2**

F474 S. 226(1A) inserted (31.10.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 99(3)**, 121 (with ss. 99(5), 111); S.I. 2004/2593, **art. 2**

F475 S. 226(2) repealed (31.10.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 99(4), 120, 121, **Sch. 9** (with ss. 99(5), 111); S.I. 2004/2593, **art. 2**

F476 S. 226(2A) inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 3(2)** (with s. 111); S.I. 2006/1281, **art. 2**

F477 Words in s. 226(6)(a) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(6)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F478 S. 226(6)(bb) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(6)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)): S.I. 1996/396, art. 3, **Sch. 1**

F479 Words in s. 226(8) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(6)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F480 S. 226(9) inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 3(3)** (with s. 111); S.I. 2006/1281, **art. 2**

Marginal Citations

M100 1981 c.67.

227 Acquisition of land by agreement.

(1) The council of any county, **[**F481county borough,**]** district or London borough may acquire by agreement any land which they require for any purpose for which a local authority may be authorised to acquire land under section 226.

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(2) The provisions of Part 1 of the [M101]Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8, section 10 and section 31, shall apply in relation to the acquisition of land under this section.

Annotations:

Amendments (Textual)

F481 Words in s. 227(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(7)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M101 1965 c.56.

228 Compulsory acquisition of land by the [F482Secretary of State for Communities and Local Government].

(1) The **[**[F482]Secretary of State for Communities and Local Government**]** may acquire compulsorily—

(a) any land necessary for the public service; and

(b) any land which it is proposed to use not only for the public service but also—

(i) to meet the interests of proper planning of the area, or

(ii) to secure the best or most economic development or use of the land,

otherwise than for the public service.

[[F483](1A) But subsection (1) does not permit the acquisition of any interest in Crown land unless —

(a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and

(b) the appropriate authority consents to the acquisition.**]**

(2) Where the Secretary of State has acquired or proposes to acquire any land under subsection (1) ("the primary land") and in his opinion other land ought to be acquired together with the primary land—

(a) in the interests of the proper planning of the area concerned; or

(b) for the purpose of ensuring that the primary land can be used, or developed and used, (together with that other land) in what appears to him to be the best or most economic way; or

(c) where the primary land or any land acquired, or which he proposes to acquire, by virtue of paragraph (a) or (b) of this subsection or of section 122(1)(a) or (b) of the Local [M102] Government, Planning and Land Act 1980, forms part of a common, open space or fuel or field garden allotment, for the purpose of being given in exchange for that land,

he may compulsorily acquire that other land.

(3) Subject to subsection (4), the power of acquiring land compulsorily under this section shall include power to acquire an easement or other right over land by the grant of a new right.

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(4) Subsection (3) shall not apply to an easement or other right over any land which would for the purposes of the [M103]Acquisition of Land Act 1981 form part of a common, open space or fuel or field garden allotment.

(5) References in this section to the public service include the service in the United Kingdom—

(a) of any international organisation or institution whether or not the United Kingdom or Her Majesty's Government in the United Kingdom is or is to become a member;

(b) of any office or agency established by such an organisation or institution or for its purposes, or established in pursuance of a treaty (whether or not the United Kingdom is or is to become a party to the treaty);

(c) of a foreign sovereign Power or the Government of such a Power.

(6) For the purposes of subsection (5)(b) "treaty" includes any international agreement and any protocol or annex to a treaty or international agreement.

(7) The Acquisition of Land Act 1981 shall apply to any compulsory acquisition by the Secretary of State for the Environment under this section.

[[F484](8) Crown land must be construed in accordance with Part 13.**]**

Annotations:

Amendments (Textual)

F482 Words in s. 228 substituted (21.8.2006) by The Secretary of State for Communities and Local Government Order 2006 (S.I. 2006/1926), art. 9, **Sch. para. 3(2)**

F483 S. 228(1A) inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 4(2)** (with s. 111); S.I. 2006/1281, **art. 2**

F484 S. 228(8) inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 4(3)** (with s. 111); S.I. 2006/1281, **art. 2**

Modifications etc. (not altering text)

C224 S. 228: functions of the First Secretary of State transferred to the Secretary of State for Communities and Local Government (21.8.2006) by The Secretary of State for Communities and Local Government Order 2006 (S.I. 2006/1926), **art. 4(1)(b)**

C225 S. 228(1) extended (1.10.2009) by Constitutional Reform Act 2005 (c. 4), **ss. 50(3)**, 148; S.I. 2009/1604, **art. 2**
S. 228(1) extended (19.9.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 41(3)(b)**, 148; S.I. 2007/2709, **art. 2(a)**

Marginal Citations

M102 1980 c. 65.

M103 1981 c.67.

229 Appropriation of land forming part of common, etc.

(1) Any local authority may be authorised, by an order made by that authority and confirmed by the Secretary of State, to appropriate for any purpose for which that authority can be authorised to acquire land under any enactment any land to which this subsection applies which is for the time being held by them for other purposes.

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(2) Subsection (1) applies to land which is or forms part of a common or fuel or field garden allotment (including any such land which is specially regulated by any enactment, whether public general or local or private), other than land which is Green Belt land within the meaning of the [M104]Green Belt (London and Home Counties) Act 1938.

(3) Section 19 of the [M105]Acquisition of Land Act 1981 (special provision with respect to compulsory purchase orders under that Act relating to land forming part of a common, open space or fuel or field garden allotment) shall apply to an order under this section authorising the appropriation of land as it applies to a compulsory purchase order under that Act.

(4) Where land appropriated under this section was acquired under an enactment incorporating the Lands Clauses Acts, any works executed on the land after the appropriation has been effected shall, for the purposes of section 68 of the [M106]Lands Clauses Consolidation Act 1845 and section 10 of the [M107]Compulsory Purchase Act 1965, be deemed to have been authorised by the enactment under which the land was acquired.

(5) On an appropriation of land by a local authority under this section, where—

(a) the authority is not an authority to whom Part II of the 1959 Act applies;

(b) the land was immediately before the appropriation held by the authority for the purposes of a grant-aided function (within the meaning of that Act); or

(c) the land is appropriated by the authority for the purposes of such a function,

such adjustments shall be made in the accounts of the local authority as the Secretary of State may direct.

(6) On an appropriation under this section which does not fall within subsection (5), such adjustment of accounts shall be made as is required by section 24(1) of the 1959 Act.

Annotations:

Marginal Citations

M104 1938 c. xciii.
M105 1981 c. 67.
M106 1845 c.18.
M107 1965 c.56.

230 Acquisition of land for purposes of exchange.

(1) Without prejudice to the generality of the powers conferred by sections 226 and 227, any power of a local authority to acquire land under those sections, whether compulsorily or by agreement, shall include power to acquire land required for giving in exchange—

(a) for land appropriated under section 229; or

(b) for Green Belt land appropriated in accordance with the Green Belt (London and Home Counties) Act 1938 for any purpose specified in a development plan.

(2) In subsection (1) "Green Belt land" has the same meaning as in that Act.

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231 Power of Secretary of State to require acquisition or development of land.

(1) If the Secretary of State is satisfied after holding a local inquiry that the council of a county, **[**F485county borough,**]** district or London borough have failed to take steps for the acquisition of any land which in his opinion ought to be acquired by them under section 226 F486. . ., he may by order require the council to take such steps as may be specified in the order for acquiring the land.

(2) If the Secretary of State is satisfied after holding a local inquiry that a local authority have failed to carry out, on land acquired by them under section 226 (or section 68 of the 1962 Act or section 112 of the 1971 Act) or appropriated by them under section 229 (or section 121 of the 1971 Act), any development which in his opinion ought to be carried out, he may by order require the authority to take such steps as may be specified in the order for carrying out the development.

(3) An order under this section shall be enforceable on the application of the Secretary of State by mandamus.

Annotations:

Amendments (Textual)

F485 Words in s. 231(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(7)** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F486 Words in s. 231 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 70, 84(6), Sch. 15 Pt. II para. 29, **Sch. 19 Pt. III** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

C226 S. 231: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Appropriation, disposal and development of land held for planning purposes, etc.

232 Appropriation of land held for planning purposes.

(1) Where any land has been acquired or appropriated by a local authority for planning purposes and is for the time being held by them for the purposes for which it was so acquired or appropriated, the authority may appropriate the land for any purpose for which they are or may be authorised in any capacity to acquire land by virtue of or under any enactment not contained in this Part or in Chapter V of Part I of the M108Planning (Listed Buildings and Conservation Areas) Act 1990.

(2) Land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act shall not be appropriated under this section without the consent of the Secretary of State.

(3) Such consent may be given—

(a) either in respect of a particular appropriation or in respect of appropriations of any class, and

(b) either subject to or free from any conditions or limitations.

(4) Before appropriating under this section any land which consists of or forms part of an open space, a local authority—

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(a) shall publish a notice of their intention to do so for at least two consecutive weeks in a newspaper circulating in their area; and

(b) shall consider any objections to the proposed appropriation which may be made to them.

(5) In relation to any appropriation under this section—

(a) subsection (4) of section 122 of the [M109]Local Government Act 1972 (which relates to the operation of section 68 of the [M110]Lands Clauses Consolidation Act 1845 and section 10 of the [M111]Compulsory Purchase Act 1965) shall have effect as it has effect in relation to appropriations under section 122 of that Act of 1972; and

(b) subsections (5) and (6) of section 229 of this Act shall have effect as they have effect in relation to appropriations under that section.

(6) In relation to any such land as is mentioned in subsection (1), this section shall have effect to the exclusion of the provisions of section 122(1) of the [M112]Local Government Act 1972.

Annotations:

Modifications etc. (not altering text)

C227 Ss. 232, 233, 235(1) amended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 66(2)**

Marginal Citations

M108 1990 c. 9.
M109 1972 c. 70.
M110 1845 c.18.
M111 1965 c.56.
M112 1972 c. 70.

233 Disposal by local authorities of land held for planning purposes.

(1) Where any land has been acquired or appropriated by a local authority for planning purposes and is for the time being held by them for the purposes for which it was so acquired or appropriated, the authority may dispose of the land to such person, in such manner and subject to such conditions as appear to them to be expedient in order—

(a) to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by themselves or by any other person), or

(b) to secure the erection, construction or carrying out on it of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.

(2) Land which consists of or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act shall not be disposed of under this section without the consent of the Secretary of State.

(3) The consent of the Secretary of State is also required where the disposal is to be for a consideration less than the best that can reasonably be obtained and is not—

(a) the grant of a term of seven years or less; or

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(b) the assignment of a term of years of which seven years or less are unexpired at the date of the assignment.

(4) Before disposing under this section of any land which consists of or forms part of an open space, a local authority—

(a) shall publish a notice of their intention to do so for at least two consecutive weeks in a newspaper circulating in their area; and

(b) shall consider any objections to the proposed disposal which may be made to them.

(5) In relation to land acquired or appropriated for planning purposes for a reason mentioned in section 226(1)(a) or (3) the powers conferred by this section on a local authority, and on the Secretary of State in respect of the giving of consent to disposals under this section, shall be so exercised as to secure to relevant occupiers, so far as may be practicable, a suitable opportunity for accommodation.

(6) A person is a relevant occupier for the purposes of subsection (5) if—

(a) he was living or carrying on business or other activities on any such land as is mentioned in that subsection which the authority have acquired as mentioned in subsection (1),

(b) he desires to obtain accommodation on such land, and

(c) he is willing to comply with any requirements of the authority as to the development and use of such land;

and in this subsection "development" includes redevelopment.

(7) In subsection (5) a suitable opportunity for accommodation means, in relation to any person, an opportunity to obtain accommodation on the land in question which is suitable to his reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from him.

(8) In relation to any such land as is mentioned in subsection (1), this section shall have effect to the exclusion of section 123 of the [M113]Local Government Act 1972 (disposal of land by principal councils).

Annotations:

Modifications etc. (not altering text)

C228 Ss. 232, 233, 235(1) amended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 66(2)**

Marginal Citations

M113 1972 c. 70.

234 Disposal by Secretary of State of land acquired under s. 228.

(1) The Secretary of State may dispose of land held by him and acquired by him or any other Minister under section 228 to such person, in such manner and subject to such conditions as appear to him expedient.

(2) In particular, the Secretary of State may under subsection (1) dispose of land held by him for any purpose in order to secure its use for that purpose.

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235 Development of land held for planning purposes.

(1) A local authority may—

(a) erect, construct or carry out on any land to which this section applies any building or work other than a building or work for the erection, construction or carrying out of which, whether by that local authority or by any other person, statutory power exists by virtue of, or could be conferred under, an alternative enactment; and

(b) repair, maintain and insure any buildings or works on such land and generally deal with such land in a proper course of management.

(2) This section applies to any land which—

(a) has been acquired or appropriated by a local authority for planning purposes, and

(b) is for the time being held by the authority for the purposes for which it was so acquired or appropriated.

(3) A local authority may exercise the powers conferred by subsection (1) notwithstanding any limitation imposed by law on their capacity by virtue of their constitution.

(4) A local authority may enter into arrangements with an authorised association for the carrying out by the association of any operation which, apart from the arrangements, the local authority would have power under this section to carry out, on such terms (including terms as to the making of payments or loans by the authority to the association) as may be specified in the arrangements.

(5) Nothing in this section shall be construed—

(a) as authorising any act or omission on the part of a local authority which is actionable at the suit of any person on any grounds other than such a limitation as is mentioned in subsection (3); or

(b) as authorising an authorised association to carry out any operation which they would not have power to carry out apart from subsection (4).

(6) In this section—

"alternative enactment" means any enactment which is not contained in this Part, in section 2, 5 or 6 of the [M114]Local Authorities (Land) Act 1963, in section 14(1) or (4) or 17(3) of the [M115]Industrial Development Act 1982 or in Chapter V of Part I of the [M116]Planning (Listed Buildings and Conservation Areas) Act 1990; and

"authorised association" means any society, company or body of persons—

(a) whose objects include the promotion, formation or management of garden cities, garden suburbs or garden villages and the erection, improvement or management of buildings for the working classes and others, and

(b) which does not trade for profit or whose constitution forbids the issue of any share or loan capital with interest or dividend exceeding the rate for the time being fixed by the Treasury.

Annotations:

Modifications etc. (not altering text)

C229 Ss. 232, 233, 235(1) amended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 66(2)**

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Marginal Citations

M114 1963 c.29.
M115 1982 c.52.
M116 1990 c. 9.

Extinguishment of certain rights affecting acquired or appropriated land

236 Extinguishment of rights over land compulsorily acquired.

(1) Subject to the provisions of this section, upon the completion of a compulsory acquisition of land under section 226, 228 or 230—

(a) all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished, and

(b) any such apparatus shall vest in the acquiring authority.

(2) Subsection (1) shall not apply—

(a) to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking, or

(b) to any right conferred by or in accordance with the **[**F487electronic communications code**]** on the operator of **[**F488an electronic communications code network**]** , or

(c) to any **[**F489electronic communications apparatus**]** kept installed for the purposes of any such **[**F490network**]** .

(3) In respect of any right or apparatus not falling within subsection (2), subsection (1) shall have effect subject—

(a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) shall not apply to any right or apparatus specified in the direction; and

(b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.

(4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.

(5) Any compensation payable under this section shall be determined in accordance with the M117Land Compensation Act 1961.

Annotations:

Amendments (Textual)

F487 Words in s. 236(2) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(a)(2)(a)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F488 Words in s. 236(2) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(a)(2)(b)** (with transitional

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provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F489 Words in s. 236(2) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(a)(2)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F490 Word in s. 236(2) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(a)(2)(e)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

Marginal Citations

M117 1961 c.33.

237 Power to override easements and other rights.

(1) Subject to subsection (3), the erection, construction or carrying out or maintenance of any building or work on land which has been acquired or appropriated by a local authority for planning purposes (whether done by the local authority or by a person deriving title under them) is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves—

(a) interference with an interest or right to which this section applies, or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.

[F491(1A) Subject to subsection (3), the use of any land in England which has been acquired or appropriated by a local authority for planning purposes (whether the use is by the local authority or by a person deriving title under them) is authorised by virtue of this section if it is in accordance with planning permission even if the use involves—

(a) interference with an interest or right to which this section applies, or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.**]**

(2) Subject to subsection (3), the interests and rights to which this section applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(3) Nothing in this section shall authorise interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land which is—

(a) a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or

(b) a right conferred by or in accordance with the **[**F492electronic communications code**]** on the operator of **[**F493an electronic communications code network**]** .

(4) In respect of any interference or breach in pursuance of subsection (1) **[**F494or (1A)**]** , compensation—

(a) shall be payable under section 63 or 68 of the M118Lands Clauses Consolidation Act 1845 or under section 7 or 10 of the M119Compulsory Purchase Act 1965, and

(b) shall be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where—

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(i) the compensation is to be estimated in connection with a purchase under those Acts, or

(ii) the injury arises from the execution of works on **[**F495, or use of,**]** land acquired under those Acts.

(5) Where a person deriving title under the local authority by whom the land in question was acquired or appropriated—

(a) is liable to pay compensation by virtue of subsection (4), and

(b) fails to discharge that liability,

the liability shall be enforceable against the local authority.

(6) Nothing in subsection (5) shall be construed as affecting any agreement between the local authority and any other person for indemnifying the local authority against any liability under that subsection.

(7) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in subsection (1) **[**F496or (1A)**]** .

Annotations:

Amendments (Textual)

F491 S. 237(1A) inserted (6.4.2009) by Planning Act 2008 (c. 29), ss. 194, 241, **Sch. 9 para. 4(2)** (with s. 226); S.I. 2009/400, **art. 3**

F492 Words in s. 237(3)(b) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(b)(2)(a)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F493 Words in s. 237(3)(b) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(b)(2)(b)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F494 Words in s. 237(4) inserted (6.4.2009) by Planning Act 2008 (c. 29), ss. 194, 241, **Sch. 9 para. 4(3)(a)** (with s. 226); S.I. 2009/400, **art. 3**

F495 Words in s. 237(4)(b)(ii) inserted (6.4.2009) by Planning Act 2008 (c. 29), ss. 194, 241, **Sch. 9 para. 4(3)(b)** (with s. 226); S.I. 2009/400, **art. 3**

F496 Words in s. 237(7) inserted (6.4.2009) by Planning Act 2008 (c. 29), ss. 194, 241, **Sch. 9 para. 4(4)** (with s. 226); S.I. 2009/400, **art. 3**

Marginal Citations

M118 1845 c.18.

M119 1965 c.56.

238 Use and development of consecrated land.

(1) Notwithstanding any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land, any such land, which has been the subject of a relevant acquisition or appropriation, may subject to the following provisions of this section—

(a) if it has been acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and

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(b) in any other case, be used by any person in any manner in accordance with planning permission.

(2) Subsection (1) applies whether or not the land includes a building but it does not apply to land which consists of or forms part of a burial ground.

(3) Any use of consecrated land authorised by subsection (1) shall be subject—

(a) to compliance with the prescribed requirements with respect—

(i) to the removal and reinterment of any human remains, and

(ii) to the disposal of monuments and fixtures and furnishings; and

(b) to such provisions as may be prescribed for prohibiting or restricting the use of the land, either absolutely or until the prescribed consent has been obtained, so long as any church or other building used or formerly used for religious worship, or any part of it, remains on the land.

(4) Any use of land other than consecrated land which—

(a) has been the subject of a relevant acquisition or appropriation, and

(b) at the time of acquisition or appropriation included a church or other building used or formerly used for religious worship or the site of such a church or building,

shall be subject to compliance with such requirements as are mentioned in subsection (3)(a).

(5) Any regulations made for the purposes of subsection (3) or (4)—

(a) shall contain such provisions as appear to the Secretary of State to be requisite for securing that any use of land which is subject to compliance with the regulations shall, as nearly as may be, be subject to the same control as is imposed by law in the case of a similar use authorised by an enactment not contained in this Act or by a Measure, or as it would be proper to impose on a disposal of the land in question otherwise than in pursuance of an enactment or Measure;

(b) shall contain such requirements relating to the disposal of any such land as is mentioned in subsection (3) or (4) as appear to the Secretary of State requisite for securing that the provisions of those subsections are complied with in relation to the use of the land; and

(c) may contain such incidental and consequential provisions (including provision as to the closing of registers) as appear to the Secretary of State to be expedient for the purposes of the regulations.

(6) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such obligation, restriction or enactment as is mentioned in subsection (1).

Annotations:

Modifications etc. (not altering text)

C230 Ss. 238, 239 modified by National Health Service Act 1977 (c. 49, SIF 113:2), **s. 87(6)** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 40**

C231 Ss. 238, 239 excluded (with modifications) by S.I. 2000/90, **art. 4** (with art. 2(5))

C232 Ss. 238-240 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(a)** (with transitional provisions

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in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 238-240 applied (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 86**; S.I. 2004/759 {art. 2}
S. 238 applied (1.3.2007) by National Health Service Act 2006 (c. 41), **ss. 211(7)**, 277
S. 238 applied (1.3.2007) by National Health Service (Wales) Act 2006 (c. 42), **ss. 159(7)**, 208 (with s. 19(3))

239 Use and development of burial grounds.

(1) Notwithstanding anything in any enactment relating to burial grounds or any obligation or restriction imposed under ecclesiastical law or otherwise in respect of them, any land consisting of a burial ground or part of a burial ground, which has been the subject of a relevant acquisition or appropriation, may—

(a) if it has been acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and

(b) in any other case, be used by any person in any manner in accordance with planning permission.

(2) This section does not apply to land which has been used for the burial of the dead until the prescribed requirements with respect to the removal and reinterment of human remains, and the disposal of monuments, in or upon the land have been complied with.

(3) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such enactment, obligation or restriction as is mentioned in subsection (1).

Annotations:

Modifications etc. (not altering text)

C233 Ss. 238, 239 modified by National Health Service Act 1977 (c. 49, SIF 113:2), **s. 87(6)** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 40**

C234 Ss. 238, 239 extended (with modifications) (8.2.2000) by S.I. 2000/90, **art. 4** (with art. 2(5))

C235 Ss. 238-240 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(a)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 238-240 applied (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 86**; S.I. 2004/759, **art. 2**
S. 239 applied (1.3.2007) by National Health Service Act 2006 (c. 41), **ss. 211(7)**, 277
S. 239 applied (1.3.2007) by National Health Service (Wales) Act 2006 (c. 42), **ss. 159(7)**, 208 (with s. 19(3))

240 Provisions supplemental to ss. 238 and 239.

(1) Provision shall be made by any regulations made for the purposes of sections 238(3) and (4) and 239(2)—

(a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments;

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(b) for enabling the personal representatives or relatives of any deceased person themselves to undertake—

(i) the removal and reinterment of the remains of the deceased, and

(ii) the disposal of any monument commemorating the deceased,

and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal (not exceeding such amount as may be prescribed);

(c) for requiring compliance—

(i) with such reasonable conditions (if any) as may be imposed in the case of consecrated land, by the bishop of the diocese, with respect to the manner of removal and the place and manner of reinterment of any human remains and the disposal of any monuments, and

(ii) with any directions given in any case by the Secretary of State with respect to the removal and reinterment of any human remains.

(2) Subject to the provisions of any such regulations, no faculty is required—

(a) for the removal and reinterment in accordance with the regulations of any human remains, or

(b) for the removal or disposal of any monuments,

and section 25 of the [M120]Burial Act 1857 (prohibition of removal of human remains without the licence of the Secretary of State except in certain cases) does not apply to a removal carried out in accordance with the regulations.

(3) In sections 238 and 239 and this section—

"burial ground" includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment,

"monument" includes a tombstone or other memorial, and

"relevant acquisition or appropriation" means an acquisition made by a Minister, a local authority or statutory undertakers under this Part or Chapter V of Part I of the [M121]Planning (Listed Buildings and Conservation Areas) Act 1990 or compulsorily under any other enactment, or an appropriation by a local authority for planning purposes.

Annotations:

Modifications etc. (not altering text)

C236 Ss. 238-240 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(a)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 238-240 applied (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 86**; S.I. 2004/759, **art. 2**

Marginal Citations

M120 1857 c. 81.

M121 1990 c. 9.

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241 Use and development of open spaces.

(1) Notwithstanding anything in any enactment relating to land which is or forms part of a common, open space or fuel or field garden allotment or in any enactment by which the land is specially regulated, such land which has been acquired by a Minister, a local authority or statutory undertakers under this Part or under Chapter V of Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990 or compulsorily under any other enactment, or which has been appropriated by a local authority for planning purposes—

(a) if it has been acquired by a Minister, may be used in any manner by him or on his behalf for any purpose for which he acquired the land; and

(b) in any other case, may be used by any person in any manner in accordance with planning permission.

(2) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such enactment as is mentioned in subsection (1).

Annotations:

Modifications etc. (not altering text)

C237 S. 241 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(b)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

242 Overriding of rights of possession.

If the Secretary of State certifies that possession of a house which—

(a) has been acquired or appropriated by a local authority for planning purposes, and

(b) is for the time being held by the authority for the purposes for which it was acquired or appropriated,

is immediately required for those purposes, nothing in the [M122]Rent Act 1977 or Part I of the [M123]Housing Act 1988 shall prevent the acquiring or appropriating authority from obtaining possession of the house.

Annotations:

Marginal Citations

M122 1977 c.42.

M123 1988 c. 50.

Constitution of joint body to hold land for planning purposes

243 Constitution of joint body to hold land for planning purposes.

(1) If it appears to the Secretary of State, after consultation with the local authorities concerned, to be expedient that any land acquired by a local authority for planning purposes should be held by a joint body, consisting of representatives of that authority

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and of any other local authority, he may by order provide for the establishment of such a joint body and for the transfer to that body of the land so acquired.

(2) Any order under this section providing for the establishment of a joint body may make such provision as the Secretary of State considers expedient with respect to the constitution and functions of that body.

(3) The provisions which may be included under subsection (2) include provisions—

(a) for incorporating the joint body;

(b) for conferring on them, in relation to land transferred to them as mentioned in subsection (1), any of the powers conferred on local authorities by this Part or Chapter V of Part I of the [M124]Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to land acquired and held by such authorities for the purposes of this Part or that Chapter;

(c) for determining the manner in which their expenses are to be defrayed.

(4) Regulations under this Act may make such provision consequential upon or supplementary to the provisions of this section as appears to the Secretary of State to be necessary or expedient.

Annotations:

Marginal Citations
M124 1990 c. 9.

General and supplementary provisions

244 Powers of joint planning boards under Part IX.

(1) A joint planning board [F497]. . . shall, on being authorised to do so by the Secretary of State, have the same power to acquire land compulsorily as the local authorities to whom section 226 applies have under that section.

(2) Such a board shall have the same power to acquire land by agreement as the local authorities mentioned in subsection (1) of section 227 have under that subsection.

(3) Sections 226(1) and (7), 227, 229, 230, 232, 233 and 235 to 242 apply with the necessary modifications as if any such board were a local authority to which those sections applied.

(4) On being authorised to do so by the Secretary of State such a board shall have, for any purpose for which by virtue of this section they may acquire land compulsorily, the power which section 13 of the [M125]Local Government (Miscellaneous Provisions) Act 1976 confers on the local authorities to whom subsection (1) of that section applies to purchase compulsorily rights over land not in existence when their compulsory purchase is authorised, and subsections (2) to (5) of that section shall accordingly apply to the purchase of rights under this subsection as they apply to the purchase of rights under subsection (1) of that section.

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Annotations:

Amendments (Textual)

F497 Words in s. 244(1) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

Marginal Citations

M125 1976 c.57.

[F498 244A Powers of National Park authorities under Part IX.

(1) A National Park authority shall, on being authorised to do so by the Secretary of State, have the same power to acquire land compulsorily as the local authorities to whom section 226 applies have under that section.

(2) A National Park authority shall have the same power to acquire land by agreement as the local authorities mentioned in subsection (1) of section 227 have under that subsection.

(3) Sections 226(1) and (7), 227, 229, 230, 232, 233 and 235 to 242 shall apply with the necessary modifications as if a National Park authority were a local authority to which those sections applied and as if the Park in relation to which it carries out functions were the authority's area.**]**

Annotations:

Amendments (Textual)

F498 S. 244A inserted (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

245 Modification of incorporated enactments for purposes of this Part.

(1) Where—

(a) it is proposed that land should be acquired compulsorily under section 226 or 228, and

(b) a compulsory purchase order relating to that land is submitted to the confirming authority in accordance with Part II of the M126 Acquisition of Land Act 1981 or, as the case may be, is made in draft by **[**F499 the Secretary of State for Communities and Local Government**]** in accordance with Schedule 1 to that Act,

the confirming authority or, as the case may be, that Secretary of State may disregard for the purposes of that Part or, as the case may be, that Schedule any objection to the order or draft which, in the opinion of that authority or Secretary of State, amounts in substance to an objection to the provisions of the development plan defining the proposed use of that or any other land.

(2) F500 . . . . . .

(3) . . . . . .

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(4) In construing the [M127]Compulsory Purchase Act 1965 in relation to any of the provisions of this Part—

(a) references to the execution of the works shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by section 237;

(b) in relation to the erection, construction or carrying out of any buildings or works so authorised, references in section 10 of that Act to the acquiring authority shall be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out; and

(c) references to the execution of the works shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of a Minister or statutory undertakers on land acquired by that Minister or those undertakers, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

Annotations:

Amendments (Textual)

F499 Words in s. 245 substituted (21.8.2006) by The Secretary of State for Communities and Local Government Order 2006 (S.I. 2006/1926), art. 9, **Sch. para. 3(3)**

F500 S. 245(2)(3) repealed (31.10.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 7, **Sch. 9** (with s. 111, Sch. 6 para. 7(2)); S.I. 2004/2593, **art. 2**

Modifications etc. (not altering text)

C238 S. 245(1)(b): functions of the First Secretary of State transferred to the Secretary of State for Communities and Local Government (21.8.2006) by The Secretary of State for Communities and Local Government Order 2006 (S.I. 2006/1926), **art. 4(1)(b)**

Marginal Citations

M126 1981 c.67.

M127 1965 c.56.

246 Interpretation of Part IX.

(1) In this Part—

(a) any reference to the acquisition of land for planning purposes is a reference to the acquisition of it under section 226 or 227 of this Act or section 52 of the [M128]Planning (Listed Buildings and Conservation Areas) Act 1990 (or, as the case may be, under section 112 or 119 of the 1971 Act or section 68 or 71 of the 1962 Act); and

(b) any reference to the appropriation of land for planning purposes is a reference to the appropriation of it for purposes for which land can be (or, as the case may be, could have been) acquired under those sections.

(2) Nothing in sections 237 to 241 shall be construed as authorising any act or omission on the part of a local authority or body corporate in contravention of any limitation imposed by law on their capacity by virtue of their constitution.

(3) Any power conferred by section 238, 239 or 241 to use land in a manner mentioned in those sections shall be construed as a power so to use the land, whether or not

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it involves the erection, construction or carrying out of any building or work or the maintenance of any building or work.

Annotations:

Marginal Citations
M128 1990 c. 9.

PART X

HIGHWAYS

Orders made by Secretary of State

247 Highways affected by development: orders by Secretary of State.

(1) The Secretary of State may by order authorise the stopping up or diversion of any highway **[**F501outside Greater London**]** if he is satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III **[**F502or section 293A**]** , or

(b) by a government department.

(2) Such an order may make such provision as appears to the Secretary of State to be necessary or expedient for the provision or improvement of any other highway **[**F503outside Greater London**]**.

[F504(2A) The council of a London borough may by order authorise the stopping up or diversion of any highway within the borough, or within another London borough if the council of that borough consents, if it is satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III **[**F502or section 293A**]** , or

(b) by a government department.

(2B) Such an order may make such provision as appears to the council to be necessary or expedient for the provision or improvement of any other highway within the borough.**]**

(3) **[**F505An order under subsection (1) or (2A)**]** may direct—

(a) that any highway provided or improved by virtue of it shall for the purposes of the M129Highways Act 1980 be a highway maintainable at the public expense;

(b) that the Secretary of State, or any county council, **[**F506county borough council,**]** metropolitan district council or London borough council specified in the order or, if it is so specified, the Common Council of the City of London, shall be the highway authority for that highway;

(c) in the case of a highway for which the Secretary of State is to be the highway authority, that the highway shall, on such date as may be specified in the order, become a trunk road within the meaning of the Highways Act 1980.

[F507(3A) An order under subsection (2A) may not provide that—

(a) the Secretary of State,

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(b) Transport for London, or

(c) a London borough other than the one whose council is making the order,

shall be the highway authority for a highway unless the Secretary of State, Transport for London or the council, as the case may be, so consents.**]**

(4) An order made under this section may contain such incidental and consequential provisions as appear to the Secretary of State **[**F508or the council of the London borough**]** to be necessary or expedient, including in particular—

(a) provision for authorising the Secretary of State **[**F508or the council of the London borough**]**, or requiring any other authority or person specified in the order—

(i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is attributable to the doing of any such work; or

(ii) to repay, or to make contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section 1 or 2 of the M130Restriction of Ribbon Development Act 1935 in relation to any highway stopped up or diverted under the order;

(b) provision for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the highway to which the order relates.

(5) An order may be made under this section authorising the stopping up or diversion of any highway which is temporarily stopped up or diverted under any other enactment.

(6) The provisions of this section shall have effect without prejudice to—

(a) any power conferred on the Secretary of State **[**F509or a London borough**]** by any other enactment to authorise the stopping up or diversion of a highway;

(b) the provisions of Part VI of the M131Acquisition of Land Act 1981; or

(c) the provisions of section 251(1).

Annotations:

Amendments (Textual)

F501 Words in s. 247(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 3(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. 1**

F502 Words in s. 247(1)(a)(2A)(a) inserted (7.6.2006) by The Planning and Compulsory Purchase Act 2004 (Commencement No. 9 and Consequential Provisions) Order 2006 (S.I. 2006/1281), **art. 5(b)**

F503 Words in s. 247(2) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 3(3)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch**

F504 S. 247(2A)(2B) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 3(4)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F505 Words in s. 247(3) substituted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 3(5)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F506 Words in s. 247(3)(b) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(9)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F507 S. 247(3A) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 3(6)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F508 Words in s. 247(4) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 3(7)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F509 Words in s. 247(6)(a) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 3(8)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

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Marginal Citations

M129 1980 c. 66.
M130 1935 c. 67.
M131 1981 c. 67.

248 Highways crossing or entering route of proposed new highway, etc.

(1) This section applies where—

(a) planning permission is granted under Part III for constructing or improving, or the Secretary of State proposes to construct or improve, a highway ("the main highway"); and

(b) another highway crosses or enters the route of the main highway or is, or will be, otherwise affected by the construction or improvement of the main highway.

(2) Where this section applies **[**F510and the place where the other highway crosses or enters the route of the main highway or is otherwise affected is outside Greater London**]**, if it appears to the Secretary of State expedient to do so—

(a) in the interests of the safety of users of the main highway; or

(b) to facilitate the movement of traffic on the main highway,

he may by order authorise the stopping up or diversion of the other highway.

[F511(2A) Where this section applies and the place where the other highway crosses or enters the route of the main highway or is otherwise affected is within a London borough, if it appears to the council of that borough expedient to do so—

(a) in the interests of the safety of users of the main highway; or

(b) to facilitate the movement of traffic on the main highway,

it may by order authorise the stopping up or diversion of the other highway.**]**

(3) Subsections (2) **[**F512and (2B)**]** to (6) of section 247 shall apply to an order under this section as they apply to an order under that section, taking the reference in **[**F513subsections (2) and (2B)**]** of that section to any other highway as a reference to any highway other than that which is stopped up or diverted under this section and the references in subsection (3) to a highway provided or improved by virtue of an order under that section as including a reference to the main highway.

Annotations:

Amendments (Textual)

F510 Words in s. 248(2) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 4(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F511 S. 248(2A) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 4(3)** (with Sch. 12 para. 9(1));S.I.2000/801, art. 2(2)(c), **Sch.**

F512 Words in s. 248(3) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 4(4)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F513 Words in s. 248(3) substituted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 4(4)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

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249 Order extinguishing right to use vehicles on highway.

(1) This section applies where—

(a) a local planning authority by resolution adopt a proposal for improving the amenity of part of their area, and

(b) the proposal involves the public ceasing to have any right of way with vehicles over a highway in that area, being a highway which is neither a trunk road **[**F514, a GLA road**]** nor a road classified as a principal road.

(2) **[**F515Where the public is to cease to have such a right of way at a place outside Greater London,**]** the Secretary of State may, on an application by a local planning authority who have so resolved, by order provide for the extinguishment of any right which persons may have to use vehicles on that highway.

[F516(2A) Where—

(a) the public is to cease to have such a right of way at a place within a London borough, and

(b) the conditions mentioned in subsection (2B)(a) or (b) are satisfied,

the council of that borough may by order provide for the extinguishment of any right which persons may have to use vehicles on that highway.

(2B) The conditions are that—

(a) the council is a local planning authority for the place where the right of way is to cease and it resolves that the right should be extinguished, or

(b) another authority is a local planning authority for that place and, having resolved to do so, it applies to the council of the borough for the right to be extinguished.**]**

(3) An order under subsection (2) **[**F517or (2A)**]** may include such provision as the Secretary of State **[**F518or, as the case may be, the council of the London borough**]** (after consultation with every authority who are a local planning authority for the area in question and the highway authority) thinks fit for permitting the use on the highway of vehicles (whether mechanically propelled or not) in such cases as may be specified in the order, notwithstanding the extinguishment of any such right as is mentioned in that subsection.

(4) Such provision as is mentioned in subsection (3) may be framed by reference to—

(a) particular descriptions of vehicles, or

(b) particular persons by whom, or on whose authority, vehicles may be used, or

(c) the circumstances in which, or the times at which, vehicles may be used for particular purposes.

(5) No provision contained in, or having effect under, any enactment, being a provision prohibiting or restricting the use of footpaths, footways or bridleways shall affect any use of a vehicle on a highway in relation to which an order under subsection (2) **[**F519or (2A)**]** has effect, where the use is permitted in accordance with provisions of the order included by virtue of subsection (3).

(6) If any authority who are a local planning authority for the area in which a highway to which an order under subsection (2) **[**F520or (2A)**]** relates is situated apply to the Secretary of State **[**F521or, as the case may be, the council of the borough**]** in that behalf, **[**F522the Secretary of State or council**]** may by order revoke that order, and, if **[**F523the order is revoked**]**, any right to use vehicles on the highway in relation to which the

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order was made which was extinguished by virtue of the order under that subsection shall be reinstated.

(7) Such an order as is mentioned in subsection (6) may make provision requiring the removal of any obstruction of a highway resulting from the exercise of powers under Part VIIA of the [M132]Highways Act 1980.

(8) Before making an application under subsection (2) **[**[F524], (2A)**]** or (6) the local planning authority shall consult with the highway authority (if different) and any other authority who are a local planning authority for the area in question.

(9) Subsections (2) **[**[F525], (2B)**]**, (3), (4) and (6) of section 247 shall apply to an order under this section as they apply to an order under that section.

Annotations:

Amendments (Textual)

F514 Words in s. 249(1)(b) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F515 Words in s. 249(2) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(3)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F516 S. 249(2A)(2B) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(4)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F517 Words in s. 249(3) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(5)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F518 Words in s. 249(3) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(5)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F519 Words in s. 249(5) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(6)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F520 Words in s. 249(6) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(7)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F521 Words in s. 249(6) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(7)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F522 Words in s. 249(6) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(7)(c)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F523 Words in s. 249(6) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(7)(d)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F524 Words in s. 249(8) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 5(8)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F525 Words in s. 249(9) inserted (3.7.2000) by virtue of 1999 c. 29, s. 270, **Sch. 22 para. 5(9)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

Modifications etc. (not altering text)

C239 S. 249: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3)(b), **Sch. 29 Pt. II para. 6** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C240 S. 249: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**

C241 S. 249 applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 6** (with arts. 6, 7)
S. 249 applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 249 applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**

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S. 249 applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 249 applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

Marginal Citations
M132 1980 c. 66.

250 Compensation for orders under s. 249.

(1) Any person who, at the time of an order under section 249(2) **[**F526, (2B)**]** coming into force, has an interest in land having lawful access to a highway to which the order relates shall be entitled to be compensated by the local planning authority on whose application the order was made in respect of—

(a) any depreciation in the value of his interest which is directly attributable to the order; and

(b) any other loss or damage which is so attributable.

F527(2) . . . . . .

(3) A claim for compensation under this section shall be made to the local planning authority on whose application the order was made within the prescribed time and in the prescribed manner.

(4) For the purpose of assessing any such compensation the rules set out in section 5 of the M133Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(5) Where an interest in land is subject to a mortgage—

(a) any compensation to which this section applies which is payable in respect of depreciation of the value of that interest shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee (or, if there is more than one mortgagee, to the first mortgagee) and shall in either case be applied by him as if it were proceeds of sale.

(6) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this section shall be referred to and determined by the **[**F528Upper Tribunal**]**.

(7) In relation to the determination of any such question, the provisions of **[**F529section**]** 4 of the Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

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Annotations:

Amendments (Textual)

F526 Words in s. 250(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 6(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F527 S. 250(2) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 39, **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F528 Words in s. 250(6) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 209(a)**

F529 Word in s. 250(7) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 208(b)**

Modifications etc. (not altering text)

C242 S. 250: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M133 1961 c. 33.

251 Extinguishment of public rights of way over land held for planning purposes.

(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, the Secretary of State may by order extinguish any public right of way over the land if he is satisfied—

(a) that an alternative right of way has been or will be provided; or

(b) that the provision of an alternative right of way is not required.

(2) In this section any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with section 246(1) as if this section were in Part IX.

(3) Subsection (1) shall also apply (with the substitution of a reference to the Broads Authority for the reference to the local authority) in relation to any land within the Broads which is held by the Broads Authority and which was acquired by, or vested in, the Authority for any purpose connected with the discharge of any of its functions.

Annotations:

Modifications etc. (not altering text)

C243 S. 251: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3)(b), **Sch. 29 Pt. II para. 7** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C244 S. 251 restricted (17.7.1992) by S.I. 1992/1492, **reg. 15(5)**
S. 251: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**

C245 S. 251 applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 7** (with arts. 6, 7)
S. 251 applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 251 applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**

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S. 251 applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**
S. 251 applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

C246 S. 251(1) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

252 Procedure for making of orders.

(1) Before making an order under section 247, 248, 249 or 251 the Secretary of State **[**[F530]or, as the case may be, the council of a London borough**]** shall publish in at least one local newspaper circulating in the relevant area, and in the London Gazette, a notice—

(a) stating the general effect of the order;

(b) specifying a place in the relevant area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the publication of the notice ("the publication date"); and

(c) stating that any person may within that period by notice to the Secretary of State **[**[F531]or, as the case may be, the council of the London borough**]** object to the making of the order.

(2) Not later than the publication date, the Secretary of State **[**[F532]or, as the case may be, the council of the London borough**]** shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan—

(a) on every local authority in whose area any highway or, as the case may be, any land to which the order relates is situated, and

[[F533](aa) on any National Park authority which is the local planning authority for the area in which any highway or, as the case may be, any land to which the order relates is situated, and**]**

(b) on any water, sewerage, hydraulic power or electricity undertakers or **[**[F534]public gas transporter**]** having any cables, mains, sewers, pipes or wires laid along, across, under or over any highway to be stopped up or diverted, or, as the case may be, any land over which a right of way is proposed to be extinguished, under the order.

(3) Not later than the publication date, the Secretary of State **[**[F535]or, as the case may be, the council of the London borough**]** shall also cause a copy of the notice to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted or, as the case may be, of the right of way proposed to be extinguished under the order.

(4) If before the end of the period of 28 days mentioned in subsection (1)(b) an objection is received by the Secretary of State **[**[F536]or, as the case may be, the council of the London borough,**]** from any local authority **[**[F537]National Park authority**]** or undertakers or **[**[F534]public gas transporter**]** on whom a notice is required to be served under subsection (2), or from any other person appearing to **[**[F538]to the Secretary of State or, as the case may be, the council**]** to be affected by the order, and the objection is not withdrawn, then

[[F539](a) in a case where the Secretary of State is proposing to make an order, he shall cause a local inquiry to be held unless subsection (5) applies, or

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(b) in a case where the council of a London borough is proposing to make an order, it shall notify the Mayor of London of the objections and shall cause a local inquiry to be held unless subsection (5A) applies.**]**

(5) If, in a case where **[**F540the Secretary of State is proposing to make an order and**]** the objection is made by a person other than such a local authority or undertakers or **[**F534transporter**]**, the Secretary of State is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary he may dispense with the inquiry.

[F541(5A) In a case where—

(a) the council of a London borough is proposing to make the order,

(b) the council has under subsection (4)(b) notified the Mayor of London of the objections, and

(c) none of the objections notified is made by such a local authority or undertakers or transporter as are mentioned in that subsection,

the Mayor of London shall decide whether, in the special circumstances of the case, the holding of such an inquiry is unnecessary, and if he decides that it is unnecessary he shall so notify the council which may dispense with the inquiry.**]**

(6) Subsections (2) to (5) of section 250 of the M134Local Government Act 1972 (local inquiries: evidence and costs) shall apply in relation to an inquiry caused to be held by the Secretary of State **[**F542or the council of a London borough**]** under subsection (4).

[F543(6A) In their application to an inquiry caused to be held by the council of a London borough —

(a) subsection (4) of section 250 of the Local Government Act 1972 shall be treated as if—

(i) for the reference to a Minister there were substituted a reference to the council of a London borough,

(ii) for the reference to him there were substituted a reference to the council,

(iii) for the reference to he there were substituted a reference to the council acting with the consent of the Mayor of London, and

(iv) for the references to the Minister there were substituted references to the council of the London borough, and

(b) subsection (5) of that section shall be treated as if—

(i) for the reference to the Minister there were substituted a reference to the council of a London borough, and

(ii) the power to make an order as to the costs of parties were subject to a requirement to act with the consent of the Mayor of London.**]**

(7) Where publication of the notice mentioned in subsection (1) takes place on more than one day, the references in this section to the publication date are references to the latest date on which it is published.

(8) **[**F544Where the Secretary of State is proposing to make an order,**]** after considering any objections to the order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may, subject to subsection (9), make the order either without modification or subject to such modifications as he thinks fit.

[F545(8A) Where the council of a London borough is proposing to make an order, after—

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(a) considering any objections to the order which are not withdrawn, and

(b) where a local inquiry is held—

(i) considering the report of the person who held the inquiry, and

(ii) obtaining the consent of the Mayor of London to the making of the order,

the council may, subject to subsection (9), make the order either without modification or subject to such modification as it thinks fit.**]**

(9) Where—

(a) the order contains a provision requiring any such payment, repayment or contribution as is mentioned in section 247(4)(a); and

(b) objection to that provision is duly made by an authority or person who would be required by it to make such a payment, repayment or contribution; and

(c) the objection is not withdrawn,

the order shall be subject to special parliamentary procedure.

(10) Immediately after the order has been made, the Secretary of State **[**F546or, as the case may be, the council of the London borough**]** shall publish, in the manner specified in subsection (1), a notice stating that the order has been made and naming a place where a copy of the order may be seen at all reasonable hours.

[F547(10A) Nothing in subsection (2) shall require the council of a London borough to serve anything on itself.**]**

(11) Subsections (2), (3) and (7) shall have effect in relation to a notice under subsection (10) as they have effect in relation to a notice under subsection (1).

(12) In this section—

"the relevant area", in relation to an order, means the area in which any highway or land to which the order relates is situated;

"local authority" means the council of a county, **[**F548 county borough,**]**district, parish **[**F549, community**]** or London borough, **[**F550a police authority established under **[**F551section 3 of the Police Act 1996**][**F552the Metropolitan Police Authority**]**. . . **]** a joint authority established by Part IV of the M135Local Government Act 1985, **[**F553an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, a combined authority established under section 103 of that Act,**][**F554the London Fire and Emergency Planning Authority**]** a housing action trust established under Part III of the M136Housing Act 1988 **[**F555, the Residuary Body for Wales (Corff Gweddilliol Cymru)**]** and the parish meeting of a F556. . . parish not having a separate parish council;

and in subsection (2)—

(i) the reference to water undertakers shall be construed as including a reference to the National Rivers Authority, and

(ii) the reference to electricity undertakers shall be construed as a reference to holders of licences under section 6 of the M137Electricity Act 1989 who are entitled to exercise any power conferred by paragraph 1 of Schedule 4 to that Act.

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Annotations:

Amendments (Textual)

F530 Words in s. 252(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(2)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F531 Words in s. 252(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(2)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F532 Words in s. 252(2) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(3)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F533 S. 252(2)(aa) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(7)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F534 Words in s. 252(2)(b)(4)(5) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 18(1)(a)(b)(c)**; S.I. 1996/218, **art. 2**

F535 Words in s. 252(3) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(4)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F536 Words in s. 252(4) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(5)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F537 Words in s. 252(4) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(7)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F538 Words in s. 252(4) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(5)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F539 S. 252(4)(a)(b) substituted (3.7.2000) for words in s. 252(5) by 1999 c. 29, s. 270, **Sch. 22 para. 7(5)(c)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F540 Words in s. 252(5) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(6)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F541 S. 252(5A) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(7)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F542 Words in s. 252(6) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(8)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F543 S. 252(6A) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(9)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F544 Words in s. 252(8) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(10)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F545 S. 252(8A) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(11)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F546 Words in s. 252(10) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(12)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F547 S. 252(10A) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(13)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F548 Words in the definition of "local authority" in s. 252(12) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(10)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F549 Words in the definition of "local authority" in s. 252(12) inserted (1.10.1995) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(10)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/2490, art. 4(1), **Sch. 2**

F550 Words in the definition of "local authority" in s. 252(12) inserted (1.10.1994 for specified purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. II para. 63**; S.I. 1994/2025, **art. 6(1)(2)(g)** (with art. 6(6)); S.I. 1994/3262, art. 4(1), **Sch.**

F551 Words in the definition of "local authority" in s. 252(12) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(2)(ze)**

F552 Words in the definition of "local authority" in s. 252(12) inserted (3.7.2000) by 1999 c. 29, s. 325, **Sch. 27 para. 65** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**

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F553 S. 252(12): words in definition of "local authority" inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 119, 148, 149, **Sch. 6 para. 82(2)**; S.I. 2009/3318, **art. 2**

F554 Words in the definition of "local authority" in s. 252(12) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 para. 57** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(h)**

F555 Words in the definition of "local authority" in s. 252(12) inserted (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 32** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2))

F556 Word in the definition of "local authority" in s. 252(12) repealed (8.11.1995) by 1995 c. 44, s. 1(1), **Sch. 1 Pt. VI**

Modifications etc. (not altering text)

C247 S. 252 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 2(b)**

Marginal Citations

M134 1972 c. 70.
M135 1985 c. 51.
M136 1988 c. 50.
M137 1989 c. 29.

253 Procedure in anticipation of planning permission.

(1) Where—

(a) the Secretary of State **[**F557or the council of a London borough**]** would, if planning permission for any development had been granted under Part III, have power to make an order under section 247 or 248 authorising the stopping up or diversion of a highway in order to enable that development to be carried out, and

(b) subsection (2), (3) or (4) applies,

then, notwithstanding that such permission has not been granted, the Secretary of State **[**F558or, as the case may be, the council of the London borough**]** may publish notice of the draft of such an order in accordance with section 252.

(2) This subsection applies where the relevant development is the subject of an application for planning permission and either—

(a) that application is made by a local authority **[**F559National Park authority**]** or statutory undertakers F560. . .; or

(b) that application stands referred to the Secretary of State in pursuance of a direction under section 77; or

(c) the applicant has appealed to the Secretary of State under section 78 against a refusal of planning permission or of approval required under a development order **[**F561or a local development order**]** or against a condition of any such permission or approval.

(3) This subsection applies where—

(a) the relevant development is to be carried out by a local authority **[**F559National Park authority**]** or statutory undertakers and requires, by virtue of an enactment, the authorisation of a government department; and

(b) the developers have made an application to the department for that authorisation and also requested a direction under section 90(1) that planning permission be deemed to be granted for that development.

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(4) This subsection applies where the council of a county, **[**[F562]county borough,**]** metropolitan district or London borough **[**[F563]a National Park authority**]** or a joint planning board certify that they have begun to take such steps, in accordance with regulations made by virtue of section 316, as are required to enable them to obtain planning permission for the relevant development.

(5) Section 252(8) shall not be construed as authorising the Secretary of State **[**[F564]or the council of a London borough**]** to make an order under section 247 or 248 of which notice has been published by virtue of subsection (1) until planning permission is granted for the development which occasions the making of the order.

Annotations:

Amendments (Textual)

F557 Words in s. 253(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 8(2)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F558 Words in s. 253(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 8(2)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F559 Words in s. 253(2)(a)(3)(a) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(8)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F560 Words in s. 253(2)(a) repealed (31.10.1994) by 1994 c. 21, s. 67, Sch. 9 para. 39(1), **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**

F561 Words in s. 253(2)(c) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(j)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

F562 Words in s. 253(4) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(11)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F563 Words in s. 253(4) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(8)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F564 Words in s. 253(5) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 8(3)** (with Sch. 12 para. 9(1)); S.I. 2000/801, **art. 2(2)(c)**

254 Compulsory acquisition of land in connection with highways.

(1) The Secretary of State, or a local highway authority on being authorised by the Secretary of State to do so, may acquire land compulsorily—

(a) for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under section 247, 248 or 249 or for any other purpose for which land is required in connection with the order; or

(b) for the purpose of providing any public right of way which is to be provided as an alternative to a right of way extinguished under an order under section 251.

(2) The [M138]Acquisition of Land Act 1981 shall apply to the acquisition of land under this section.

Annotations:

Marginal Citations

M138 1981 c. 67.

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255 Concurrent proceedings in connection with highways.

(1) In relation to orders under sections 247, 248 and 249, regulations made under this Act may make provision for securing that any proceedings required to be taken for the purposes of the acquisition of land under section 254 (as mentioned in subsection (1)(a) of that section) may be taken concurrently with any proceedings required to be taken for the purposes of the order.

(2) In relation to orders under section 251, regulations made under this Act may make provision for securing—

(a) that any proceedings required to be taken for the purposes of such an order may be taken concurrently with any proceedings required to be taken for the purposes of the acquisition of the land over which the right of way is to be extinguished; or

(b) that any proceedings required to be taken for the purposes of the acquisition of any other land under section 254 (as mentioned in subsection (1)(b) of that section) may be taken concurrently with either or both of the proceedings referred to in paragraph (a).

256 Telecommunication apparatus: orders by Secretary of State.

(1) Where—

(a) in pursuance of an order under section 247, 248 or 249 a highway is stopped up or diverted or, as the case may be, any right to use vehicles on that highway is extinguished; and

(b) immediately before the date on which the order came into force there was under, in, on, over, along or across the highway any **[**F565electronic communications apparatus**]** kept installed for the purposes of **[**F566an electronic communications code network**]** ,

the operator of that **[**F567network**]** shall have the same powers in respect of the apparatus as if the order had not come into force.

(2) Notwithstanding subsection (1), any person entitled to land over which the highway subsisted shall be entitled to require the alteration of the apparatus.

(3) Where—

(a) any such order provides for the improvement of a **[**F568highway for which the Secretary of State is not the highway authority**]**, and

(b) immediately before the date on which the order came into force there was under, in, on, over, along or across the highway any **[**F565electronic communications apparatus**]** kept installed for the purposes of **[**F566an electronic communications code network**]** ,the local highway authority shall be entitled to require the alteration of the apparatus.

(4) Subsection (3) does not have effect so far as it relates to the alteration of any apparatus for the purpose of **[**F569major highway works, major bridge works or major transport works within the meaning of Part III of the New Roads and Street Works Act 1991**]**.

(5) Paragraph 1(2) of the **[**F570electronic communications code**]**(alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of this section as it applies for the purposes of that code.

(6) Paragraph 21 of the **[**F570electronic communications code**]**(restriction on removal of **[**F565electronic communications apparatus**]**) shall apply in relation to any entitlement

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conferred by this section to require the alteration, moving or replacement of any **[**F565electronic communications apparatus**]** as it applies in relation to an entitlement to require the removal of any such apparatus.

Annotations:

Amendments (Textual)

F565 Words in s. 256 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(c)(2)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F566 Words in s. 256 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(c)(2)(b)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F567 Word in s. 256 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(c)(2)(e)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F568 Words in s. 256(3) substituted (1.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 126(1)(2)**; S.I. 1991/2288, art. 3, **Sch.**

F569 Words in s. 256(4) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 126(1)(3)**; S.I. 1992/2984, art. 2(2), **Sch. 2**

F570 Words in s. 256 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(c)(2)(a)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

Orders by other authorities

257 Footpaths [F571, bridleways and restricted byways] affected by development: orders by other authorities.

(1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath **[**F572, bridleway or restricted byway**]** if they are satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III **[**F573or section 293A**]** , or

(b) by a government department.

(2) An order under this section may, if the competent authority are satisfied that it should do so, provide—

(a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;

(b) for authorising or requiring works to be carried out in relation to any footpath **[**F572, bridleway or restricted byway**]** for whose stopping up or diversion, creation or improvement provision is made by the order;

(c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under,

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in, on, over, along or across any such footpath **[**F572, bridleway or restricted byway**]**;

(d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

(3) An order may be made under this section authorising the stopping up or diversion of a footpath **[**F572, bridleway or restricted byway**]** which is temporarily stopped up or diverted under any other enactment.

(4) In this section "competent authority" means—

(a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it; and

(b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.

Annotations:

Amendments (Textual)

F571 Words in s. 257 sidenote substituted (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

F572 Words in s. 257(1)(2)(b)(c)(3) substituted (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

F573 Words in s. 257(1)(a) inserted (7.6.2006) by The Planning and Compulsory Purchase Act 2004 (Commencement No. 9 and Consequential Provisions) Order 2006 (S.I. 2006/1281), **art. 5(c)**

Modifications etc. (not altering text)

C248 S. 257 modified by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 5, **Sch. 3 para. 8(1)**

C249 Ss. 257-261 applied (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), reg. 2(1), **Sch. Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

258 Extinguishment of public rights of way over land held for planning purposes.

(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, then, subject to section 259, the local authority may by order extinguish any public right of way over the land, being a footpath **[**F574, bridleway or restricted byway**]** , if they are satisfied—

(a) that an alternative right of way has been or will be provided; or

(b) that the provision of an alternative right of way is not required.

(2) In this section any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with section 246(1) as if this section were in Part IX.

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(3) Subsection (1) shall also apply (with the substitution of a reference to the Broads Authority for the reference to the local authority) in relation to any land within the Broads which is held by the Broads Authority and which was acquired by, or vested in, the Authority for any purpose connected with the discharge of any of its functions.

Annotations:

Amendments (Textual)

F574 Words in s. 258(1) substituted (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

Modifications etc. (not altering text)

C250 S. 258: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3)(b), **Sch. 29 Pt. II para. 8** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

C251 S. 258: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**

C252 S. 258 applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 8** (with arts. 6, 7)
S. 258 applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 258 applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 258 applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), **art. 6**

C253 Ss. 257-261 applied (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), reg. 2(1), **Sch. Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))
S. 258 applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

C254 S. 258(1) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)** (with ss. 7(6), 115, 118, Sch. 8 para. 7)

259 Confirmation of orders made by other authorities.

(1) An order made under section 257 or 258 shall not take effect unless confirmed by the Secretary of State or unless confirmed, as an unopposed order, by the authority who made it.

(2) The Secretary of State shall not confirm any such order unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.

(3) The time specified—

(a) in an order under section 257 as the time from which a footpath **[**[F575], bridleway or restricted byway**]** is to be stopped up or diverted; or

(b) in an order under section 258 as the time from which a right of way is to be extinguished,

shall not be earlier than confirmation of the order.

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(4) Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.

Annotations:

Amendments (Textual)

F575 Words in s. 259(3)(a) substituted (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

Modifications etc. (not altering text)

C255 Ss. 257-261 applied (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), reg. 2(1), **Sch. Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

260 Telecommunication apparatus: orders by or on application of other authorities.

(1) This section applies where—

(a) any order is made by a local authority under section 258(1), or on the application of a local authority under section 251(1), which extinguishes a public right of way; or

(b) any order is made by a competent authority under section 257 which authorises the stopping up or diversion of a footpath **[**F576, bridleway or restricted byway**]**,

and at the time of the publication of the notice required by section 252(1) or, as the case may be, paragraph 1 of Schedule 14 any **[**F577electronic communications apparatus**]** was kept installed for the purposes of **[**F578an electronic communications code network**]** under, in, on, over, along or across the land over which the right of way subsisted.

(2) In subsection (1) "competent authority" has the same meaning as in section 257 and in the following provisions of this section references to the authority are to the authority who made the order or, as the case may be, to the authority on whose application it was made.

(3) The power of the operator of **[**F579the electronic communications code network**]** to remove the apparatus—

(a) shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished or authorised to be stopped up or diverted; and

(b) if before the end of that period the operator of the **[**F580network**]** has given notice to the authority of his intention to remove the apparatus or a part of it, shall be exercisable in respect of the whole or, as the case may be, that part of the apparatus after the end of that period.

(4) The operator of the **[**F580network**]** may by notice given in that behalf to the authority not later than the end of that period abandon the **[**F577electronic communications apparatus**]** or any part of it.

(5) Subject to subsection (4), the operator of the **[**F580network**]** shall be deemed at the end of that period to have abandoned any part of the apparatus which the operator has then neither removed nor given notice of his intention to remove.

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(6) The operator of the **[**[F580]network**]** shall be entitled to recover from the authority the expense of providing, in substitution for the apparatus and any other **[**[F577]electronic communications apparatus**]** connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any **[**[F581]electronic communications apparatus**]** in such other place as the operator may require.

(7) Where under the previous provisions of this section the operator of the **[**[F580]network**]** has abandoned the whole or any part of any **[**[F577]electronic communications apparatus**]** , that apparatus or that part of it shall vest in the authority and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of **[**[F578]an electronic communications code network**]** .

(8) As soon as reasonably practicable after the making of any such order as is mentioned in paragraph (a) or (b) of subsection (1) in circumstances in which that subsection applies in relation to the operator of **[**[F578]an electronic communications code network**]** , the person by whom the order was made shall give notice to the operator of the making of the order.

(9) Subsections (5) and (6) of section 256 apply for the purposes of this section as they apply for the purposes of that section.

Annotations:

Amendments (Textual)

F576 Words in s. 260(1)(b) substituted (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

F577 Words in s. 260 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(d)(2)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F578 Words in s. 260 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(d)(2)(b)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F579 Words in s. 260 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(d)(2)(d)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F580 Words in s. 260 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(d)(2)(e)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F581 Words in s. 260 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(c)(2)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

Modifications etc. (not altering text)

C256 S. 260 applied (25.11.1998 for specified purposes otherwise 3.7.2000) by 1998 c. 45, s. 23, **Sch. 6**, para. 16(2); S.I. 1998/2952, **art. 2(1)**; S.I. 2000/1173, **art. 2(2)(c)**

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C257 Ss. 257-261 applied (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), reg. 2(1), **Sch. Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

C258 S. 260(1) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(1), **Sch. 8 para. 2(3)(a)**

Temporary highway orders: mineral workings

261 Temporary stopping up of highways for mineral workings.

(1) Where the Secretary of State **[**F582or the council of a London borough**]** is satisfied—

(a) that an order made by him **[**F583or, as the case may be, the council**]** under section 247 for the stopping up or diversion of a highway is required for the purpose of enabling minerals to be worked by surface working; and

(b) that the highway can be restored, after the minerals have been worked, to a condition not substantially less convenient to the public,

the order may provide for the stopping up or diversion of the highway during such period as may be prescribed by or under the order and for its restoration at the expiration of that period.

(2) Where a competent authority within the meaning of section 257 are satisfied—

(a) that an order made by them under that section for the stopping up or diversion of a footpath **[**F584, bridleway or restricted byway**]** is required for the purpose of enabling minerals to be worked by surface working; and

(b) that the footpath **[**F584, bridleway or restricted byway**]** can be restored, after the minerals have been worked, to a condition not substantially less convenient to the public,

the order may provide for the stopping up or diversion of the footpath **[**F584, bridleway or restricted byway**]** during such period as may be prescribed by or under the order and for its restoration at the expiration of that period.

(3) Without prejudice to the provisions of section 247 or 257, any such order as is authorised by subsection (1) or (2) may contain such provisions as appear to the Secretary of State **[**F585, the council of the London borough or**]** the competent authority **[**F586(as the case may be)**]** to be expedient—

(a) for imposing upon persons who, apart from the order, would be subject to any liability with respect to the repair of the original highway during the period prescribed by or under the order a corresponding liability in respect of any highway provided in pursuance of the order;

(b) for the stopping up at the expiry of that period of any highway so provided and for the reconstruction and maintenance of the original highway;

and any provision included in the order in accordance with subsection (4) of section 247 or subsection (2) of section 257 requiring payment to be made in respect of any cost or expenditure under the order may provide for the payment of a capital sum in respect of the estimated amount of that cost or expenditure.

(4) In relation to any highway which is stopped up or diverted by virtue of an order under section 247 or 248, sections 271 and 272 shall have effect—

(a) as if for references to land which has been acquired as there mentioned and to the acquiring or appropriating authority there were substituted respectively references to land over which the highway subsisted and to the person entitled to possession of that land; and

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(b) as if references in subsection (5) of each of those sections to a local authority or statutory undertakers included references to any person (other than a Minister) who is entitled to possession of that land,

and sections 275 to 278 shall have effect accordingly.

(5) Subsection (4) shall not apply to land constituting the site of a highway in respect of which opencast planning permission (within the meaning of section 51 of the [M139]Opencast Coal Act 1958) has been granted.

Annotations:

Amendments (Textual)

F582 Words in s. 261(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 9(2)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F583 Words in s. 261(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 9(2)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F584 Words in s. 261(2) substituted (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

F585 Words in s. 261(3) substituted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 9(3)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

F586 Words in s. 261(3) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 9(3)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

Modifications etc. (not altering text)

C259 S. 261 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)**

C260 Ss. 257-261 applied (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), reg. 2(1), **Sch. Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

Marginal Citations

M139 1958 c. 69.

PART XI

STATUTORY UNDERTAKERS

Annotations:

Modifications etc. (not altering text)

C261 Pt XI (ss. 262-283) applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 19(3)**; S.I. 1993/2762, **art. 3**
Pt. XI (ss. 262-283) modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 15(4)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Pt. XI (ss. 262-283) applied (25.11.1998 for specified purposes otherwise 3.7.2000) by 1998 c. 45, s. 23, **Sch. 6 para. 16(2)(3)**; S.I. 1998/2952, **art. 2(1)**; S.I. 2000/1173, **art. 2(2)(c)**
Pt. XI (ss. 262-283) modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 13(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

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Preliminary

262 Meaning of "statutory undertakers".

(1) Subject to the following provisions of this section, in this Act "statutory undertakers" means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power and a relevant airport operator (within the meaning of Part V of the [M140]Airports Act 1986).

(2) Subject to the following provisions of this section, in this Act "statutory undertaking" shall be construed in accordance with subsection (1) and, in relation to a relevant airport operator (within the meaning of that Part), means an airport to which that Part of that Act applies.

(3) Subject to **[**[F587]subsections (5) to (5B)**]**, for the purposes of the provisions mentioned in subsection (4) any **[**[F588]public gas transporter**]**, water or sewerage undertaker, the National Rivers Authority, **[**[F589]any universal postal service provider in connection with the provision of a universal postal service**][**[F590], the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services)**]** shall be deemed to be statutory undertakers and their undertakings statutory undertakings.

(4) The provisions referred to in subsection (3) are sections 55, 90, 101, 108(3), [F591]. . ., 139 to 141, 143, 148, 170(12)(b), 236(2)(a), 237 to 241, 245, 247(4)(b), 253, 257(2), 263(1) and (2), 264, 266 to 283, 288(10)(a), 306, 325(9), 336(2) and (3), paragraph 18 of Schedule 1 and Schedules 8, 13 and 14.

(5) Subsection (4) shall apply—

(a) as respects **[**[F592]a universal postal service provider in connection with the provision of a universal postal service**]**, as if the reference to sections 55, 247(4)(b), 253 and 257(2) were omitted; and

(b) as respects **[**[F593]a universal postal service provider in connection with the provision of a universal postal service**][**[F594], the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services)**]** as if—

(i) the references to sections 245, 263(1) and (2) and 336(2) and (3) were omitted; and

(ii) after the words " 266 to 283" there were inserted the words " (except section 271 as applied by section 13 of the Opencast Coal Act 1958) ".

[[F595](5A) For the purposes of this Act

(a) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaker unless the person is carrying out activities authorised by the licence;

(b) the person's undertaking shall not be considered to be a statutory undertaking except to the extent that it is the person's undertaking as licence holder.**]**

[[F596](5B) The undertaking of a universal postal service provider so far as relating to the provision of a universal postal service shall be taken to be his statutory undertaking for the purposes of this Act; and references in this Act to his undertaking shall be construed accordingly.**]**

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(6) Any holder of a licence under section 6 of the [M141]Electricity Act 1989 shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking—

(a) for the purposes of the provisions mentioned in subsection (7)(a), if he holds a licence under subsection (1) of that section;

(b) for the purposes of the provisions mentioned in subsection (7)(b), if he is entitled to exercise any power conferred by Schedule 3 to that Act; and

(c) for the purposes of the provisions mentioned in subsection (7)(c), if he is entitled to exercise any power conferred by paragraph 1 of Schedule 4 to that Act.

(7) The provisions referred to in subsection (6) are—

(a) sections 55, 108(3), . . ., 139 to 141, 143, 148, 236(2)(a), 237, 245, 253, 263(1) and (2), 264, 266 to 283, 288(10)(a), 306, 325(9) and 336(2) and (3), paragraph 18 of Schedule 1 and Schedule 13;

(b) sections 170(12)(b) and 238 to 241; and

(c) sections 247(4) and 257(2) and Schedule 14.

Annotations:

Amendments (Textual)

F587 Words in s. 262(3) substituted (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(1), **Sch. 1**, para. 80(2)(a)

F588 Words in s. 262(3) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 18(2)**; S.I. 1996/218, **art. 2**

F589 Words in s. 262(3) substituted (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(1), **Sch. 1 para. 80(2)(b)**

F590 Words in s. 262(3) substituted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 6(2)**; S.I. 2001/869, **art. 2**

F591 Word in s. 262(4)(7)(a) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 22, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F592 Words in s. 262(5)(a) substituted (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(1), **Sch. 1 para. 80(3)**

F593 Words in s. 262(5)(b) substituted (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(1), **Sch. 1 para. 80(3)**

F594 Words in s. 262(5)(b) substituted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 6(3)**; S.I. 2001/869, **art. 2**

F595 S. 262(5A) inserted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 6(4)**; S.I. 2001/869, **art. 2**

F596 S. 262(5B) inserted (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(1), **Sch. 1 para. 80(4)**

Modifications etc. (not altering text)

C262 S. 262 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 19(2)**; S.I. 1993/2762, **art. 3**

C263 S. 262(1) extended (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), **art. 34** (with art. 38)
S. 262(1) modified (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), arts. {18(4)}, {49(1)} (with art. 52)
S. 262(1) modified (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), **art. 18(4)**

Marginal Citations

M140 1986 c. 31.

M141 1989 c. 29.

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263 Meaning of "operational land".

(1) Subject to the following provisions of this section and to section 264, in this Act "operational land" means, in relation to statutory undertakers—

(a) land which is used for the purpose of carrying on their undertaking; and

(b) land in which an interest is held for that purpose.

(2) Paragraphs (a) and (b) of subsection (1) do not include land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.

[F597(2A) Subsection (1) does not apply in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000.

(2B) Subject to section 264, in this Act "operational land" means, in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000, land—

(a) which is used by the licence holder, or by a company associated with it, for the purpose of carrying out activities authorised by the licence, or

(b) in which the licence holder, or a company associated with it, holds an interest for that purpose.

(2C) If for the purposes of this Act a question arises whether land is operational land in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000 the question must be decided by the Secretary of State.**]**

[F598(2D) Subsection (1) does not apply in relation to a universal postal service provider.

(2E) Subject to subsections (3) and (4) and section 264, in this Act "operational land" means, in relation to a universal postal service provider, land—

(a) which is used by the provider, or by a company associated with him, for any purpose in connection with the provision of a universal postal service, or

(b) in which the provider, or a company associated with him, holds an interest for any such purpose.**]**

(3) In sections 108(3), F599. . ., 266 to 283 and Part II of Schedule 8 "operational land", in relation to **[**F600a universal postal service provider**]** and the Civil Aviation Authority, means land of the **[**F601provider's**]** or, as the case may be, of the Authority's of any such class as may be prescribed by regulations.

(4) Such regulations—

(a) shall be made—

(i) in the case of **[**F602a universal postal service provider**]**, by the appropriate Minister and the Secretary of State acting jointly; and

(ii) in the case of the Civil Aviation Authority, by the appropriate Minister;

(b) may define a class of land by reference to any circumstances whatsoever, and

(c) in the case of the Civil Aviation Authority, may make provision for different circumstances, including prescribing different classes of land for the purposes of different provisions.

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Annotations:

Amendments (Textual)

F597 S. 263(2A)(2B)(2C) inserted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 7** (with s. 106); S.I. 2001/869, **art. 2**

F598 S. 263(2D)(2E) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 81(2)**

F599 Words in s. 263(3) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 23, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F600 Words in s. 263(3) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 81(3)(a)**

F601 Words in s. 263(3) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 81(3)(b)**

F602 Words in s. 263(4)(a)(i) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 81(4)**

264 Cases in which land is to be treated as not being operational land.

(1) This section applies where an interest in land is held by statutory undertakers for the purpose of carrying on their undertaking and—

(a) the interest was acquired by them on or after 6th December 1968; or

(b) it was held by them immediately before that date but the circumstances were then such that the land did not fall to be treated as operational land for the purposes of the 1962 Act.

(2) Where this section applies in respect of any land then, notwithstanding the provisions of section 263, the land shall not be treated as operational land for the purposes of this Act unless it falls within subsection (3) or (4).

(3) Land falls within this subsection if—

(a) there is, or at some time has been, in force with respect to it a specific planning permission for its development; and

(b) that development, if carried out, would involve or have involved its use for the purpose of the carrying on of the statutory undertakers' undertaking.

(4) Land falls within this subsection if—

(a) the undertakers' interest in the land was acquired by them as the result of a transfer under the provisions of the [M142]Transport Act 1968, the [M143]Transport (London) Act 1969, the [M144]Gas Act 1986, the [M145]Airports Act 1986 **[**[F603]the Water Act 1989 or the Water Industry Act 1991**]** from other statutory undertakers; and

(b) immediately before transfer the land was operational land of those other undertakers.

[[F604](4A) For the purposes of this section an interest in land acquired by Transport for London or any of its subsidiaries (within the meaning of the Greater London Authority Act 1999) under or by virtue of that Act shall be taken to have been acquired by Transport for London or that subsidiary at the time and in the manner in which it was acquired by the relevant predecessor.

(4B) In subsection (4A) "relevant predecessor" means London Regional Transport or such other predecessor in title of Transport for London or the subsidiary of Transport for London as last acquired the interest in question—

(a) as the result of such a transfer as is mentioned in paragraph (a) of subsection (4); and

(b) in such circumstances as are mentioned in paragraph (b) of that subsection.**]**

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(5) A specific planning permission for the purpose of subsection (3)(a) is a planning permission—

(a) granted on an application in that behalf made under Part III; or

(b) granted by provisions of a development order **[**F605or a local development order**]** granting planning permission generally for development which has received specific parliamentary approval; or

(c) granted by a special development order in respect of development specifically described in the order; or

(d) deemed to be granted by virtue of a direction of a government department under section 90(1).

(6) In subsection (5)—

(a) the reference in paragraph (a) to Part III includes a reference to Part III of the 1971 Act and the enactments in force before the commencement of that Act and replaced by Part III of it; and

(b) the reference in paragraph (b) to development which has received specific parliamentary approval is a reference to development authorised—

(i) by a local or private Act of Parliament,

(ii) by an order approved by both Houses of Parliament; or

(iii) by an order which has been brought into operation in accordance with the provisions of the M146Statutory Orders (Special Procedure) Act 1945,

being an Act or order which designates specifically both the nature of the development authorised by it and the land upon which it may be carried out;

(c) the reference in paragraph (d) to section 90(1) includes a reference to section 40 of the 1971 Act, section 41 of the 1962 Act and section 35 of the 1947 Act.

(7) This section shall not apply to land in the case of which an interest of the Postmaster General's vested in the Post Office by virtue of section 16 of the M147Post Office Act 1969.

(8) Where an interest in land is held by

[F606—

(a) the Civil Aviation Authority, or

(b) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 or a company associated with that person,**]**

this section shall not apply for the purpose of determining whether the land is operational land in relation to the Authority **[**F607or the licence holder**]**for the purposes of this act.

Annotations:

Amendments (Textual)

F603 Words in s. 264(4)(a) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 54**

F604 S. 264(4A)(4B) inserted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 2, **Sch. 1 para. 14**

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F605 Words in s. 264(5)(b) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(2)(k)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

F606 S. 264(8)(a)(b) substituted for the words "the Civil Aviation Authority" (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. III para. 13(a)(i)**

F607 Words in s. 264(8) inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. III para. 13(a)(ii)**

Modifications etc. (not altering text)

C264 S. 264(3)(a) modified (18.12.1996) by 1996 c. 61, **s. 9(9)**
S. 264(3)(a) modified (22.3.2001) by S.I. 2001/1451, **art. 7(1)**
S. 264(3)(a) modified (29.3.2001) by S.I. 2001/1347, **art. 20(3)**
S. 264(3)(a) modified (24.7.2001) by S.I. 2001/3627, **art. 31**
S. 264(3)(a) modified (9.11.2001) by S.I. 2001/3682, **art. 17(3)**
S. 264(3)(a) modified (18.7.2001) by S.I. 2001/2870, **art. 23(1)**
S. 264(3)(a) modified (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), **art. 14(3)** (with art. 38)
S. 264(3)(a) modified (31.5.2002) by The Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002
(S.I. 2002/1327), {art. 14(3)}
S. 264(3)(a) modified (12.8.2002) by The Channel Tunnel Rail Link (Thames Tunnel Approach) Order 2002 (S.I. 2002/1943), **art. 12**
S. 264(3)(a) modified (28.4.2003) by The Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), **art. 36** (with art. 40)
S. 264(3)(a) modified (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), **art. 34** (with art. 38)
S. 264(3)(a) modified (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), **art. 20(3)**
S. 264(3)(a) modified (19.11.2004) by The Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), **art. 29** (with art. 38)
S. 264(3)(a) modified (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), **art. 24(1)** (with arts. 65, 66)
S. 264(3)(a) modified (22.3.2005) by The Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), **art. 48(1)** (with art. 51)
S. 264(3)(a) modified (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), **art. 25(1)** (with art. 30)
S. 264(3)(a) modified (22.7.2005) by The Midland Metro (Birmingham City Centre Extension, etc.) Order 2005
(S.I. 2005/1794), {art. 44(1)} (with art. 47)
S. 264(3)(a) modified (26.8.2005) by The River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), **art. 15** (with arts. 45(1), 48, Sch. 10 paras. 21, 29)
S. 264(3)(a) modified (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), **art. 21(3)** (with arts. 3(5), 15(3))
S. 264(3)(a) modified (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), **art. 18(3)** (with art. 52)
S. 264(3)(a) modified (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), **art. 49(2)** (with art. 52)
S. 264(3)(a) modified (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), **art. 17(3)** (with art. 43)
S. 264(3)(a) modified (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), **art. 44** (with arts. 34, 35(2))
S. 264(3)(a) modified (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), **art. 18(3)**

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S. 264(3)(a) modified (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), **art. 17(3)** (with arts. 3(6), 12(3))
S. 264(3)(a) modified (28.9.2007) by The London Gateway Logistics and Commercial Centre Order 2007 (S.I. 2007/2657), **art. 27(3)** (with art. 19, Sch. 3 para. 13(2))

C265 S. 264(3)(a) modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 10(8)**

C266 S. 264(3)(a) modified (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), **art. 34(3)** (with art. 36(3))

C267 S. 264(3)(a) modified (18.9.2009) by The London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), **art. 15**

C268 S. 264(3)(a) modified (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), **art. 28(3)**

C269 S. 264(3)(a) modified (27.8.2010) by The Llangollen and Corwen Railway Order 2010 (S.I. 2010/2136), **art. 11(3)**

Marginal Citations

M142 1968 c. 73.
M143 1969 c. 35.
M144 1986 c. 44.
M145 1986 c. 31.
M146 1945 c. 18.
M147 1969 c. 49.

265 Meaning of "the appropriate Minister".

(1) Subject to the following provisions of this section, in this Act "the appropriate Minister" means—

F608(a) . . . . . .

[F609(a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour, pier or lighthouse undertaking, the Civil Aviation Authority, a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000, or a relevant airport operator (within the meaning of Part 5 of the Airports Act 1986), the Secretary of State for Transport;**]**

(b) in relation to statutory undertakers carrying on an undertaking for the supply of hydraulic power, the **[**F610Secretary of State for Trade and Industry**]**;

(c) in relation to **[**F611a universal postal service provider**]**, the Secretary of State for Trade and Industry; and

[F612(d) in relation to any other statutory undertakers, the Secretary of State for Communities and Local Government.**]**

(2) For the purposes of sections 170(12), 266 to 280, 325(9) and 336(2) and (3) and Part II of Schedule 8, "the appropriate Minister", in relation to a **[**F613public gas transporter**]** or a holder of a licence under section 6 of the M148Electricity Act 1989, means the **[**F610Secretary of State for Trade and Industry**]**.

(3) For the purposes of sections 170(12), 266 to 280, 325(9) and 336(2) and (3) and Part II of Schedule 8 and Schedule 14 "the appropriate Minister"—

(a) in relation to the National Rivers Authority, means the Secretary of State or the Minister of Agriculture, Fisheries and Food; and

(b) in relation to a water or sewerage undertaker, means the Secretary of State.

(4) References in this Act to the Secretary of State and the appropriate Minister—

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(a) if the appropriate Minister is not the one concerned as the Secretary of State, shall be construed as references to the Secretary of State and the appropriate Minister; and

(b) if the one concerned as the Secretary of State is also the appropriate Minister, shall be construed as references to him alone,

and similarly with references to a Minister and the appropriate Minister and with any provision requiring the Secretary of State to act jointly with the appropriate Minister.

Annotations:

Amendments (Textual)

F608 S. 265(1)(a) repealed (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 11, **14(a)**

F609 S. 265(1)(a) inserted (25.11.2002) by The Transfer of Functions (Transport, Local Government and the Regions) Order 2002 (S.I. 2002/2626), art. 20, **Sch. 2 para. 15(4)(a)**

F610 Words in s. 265(1)(2) substituted (5.7.1992) by S.I. 1992/1314, art. 3(3), **Sch. para. 1(f)**

F611 Words in s. 265(1)(c) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 82**

F612 S. 265(1)(d) substituted (21.8.2006) by The Secretary of State for Communities and Local Government Order 2006 (S.I. 2006/1926), art. 9, **Sch. para. 3(4)**

F613 Words in s. 265(2) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 18(3)**; S.I. 1996/218, **art. 2**

Modifications etc. (not altering text)

C270 S. 265(1)(b)(2): functions transferred to the Secretary of State for Energy and Climate Change (5.3.2009) by The Secretary of State for Energy and Climate Change Order 2009 (S.I. 2009/229), art. 4, **Sch. 1(d)**

C271 S. 265(1)(d) functions transferred to the Secretary of State for Transport (25.11.2002) by The Transfer of Functions (Transport, Local Government and the Regions) Order 2002 (S.I. 2002/2626), **art. 6** (with arts. 7, 8)
S. 265(1)(d): functions of the First Secretary of State transferred to the Secretary of State for Communities and Local Government (21.8.2006) by The Secretary of State for Communities and Local Government Order 2006 (S.I. 2006/1926), **art. 4(1)(c)**

C272 S. 265(3)(a)(4): functions transferred to the Secretary of State for Environment, Food and Rural Affairs (27.3.2002) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), **art. 3(1)(g)(2)** (with art. 6)

Marginal Citations

M148 1989 c. 29.

Application of Part III to statutory undertakers

266 Applications for planning permission by statutory undertakers.

(1) Where—

(a) an application for planning permission to develop land to which this subsection applies is made by statutory undertakers and is referred to the Secretary of State under Part III; or

(b) an appeal is made to the Secretary of State under that Part from the decision on such an application; or

(c) such an application is deemed to be made under subsection (5) of section 177 on an appeal under section 174 by statutory undertakers,

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the application or appeal shall be dealt with by the Secretary of State and the appropriate Minister.

[F614(1A) Subsection (1) has effect in relation to an application or appeal relating to land in England only if the Secretary of State or the appropriate Minister has given a direction for it to have effect in relation to the application or appeal (and the direction has not been revoked).**]**

(2) Subsection (1) applies—

(a) to operational land; and

(b) to land in which the statutory undertakers hold or propose to acquire an interest with a view to its being used for the purpose of carrying on their undertaking, where the planning permission, if granted on the application or appeal, would be for development involving the use of the land for that purpose.

F615(3) . . . . . .

(4) Subject to the provisions of this Part as to compensation, the provisions of this Act shall apply to an application which is dealt with under this section by the Secretary of State and the appropriate Minister as if it had been dealt with by the Secretary of State.

(5) Subsection (2)(b) shall have effect in relation to the Civil Aviation Authority as if for the reference to development involving the use of land for the purpose of carrying on the Civil Aviation Authority's undertaking there were substituted a reference to development involving the use of land for such of the purposes of carrying on that undertaking as may be prescribed by the appropriate Minister.

Annotations:

Amendments (Textual)

F614 S. 266(1A) inserted (6.4.2009) by Planning Act 2008 (c. 29), **ss. 195**, 241 (with s. 226); S.I. 2009/400, **art. 3**

F615 S. 266(3) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 40, **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

267 Conditional grants of planning permission.

Notwithstanding anything in Part III, planning permission to develop operational land of statutory undertakers shall not, except with their consent, be granted subject to conditions requiring—

(a) that any buildings or works authorised by the permission shall be removed, or

(b) that any use of the land so authorised shall be discontinued,

at the end of a specified period.

268 Development requiring authorisation of government department.

(1) The Secretary of State and the appropriate Minister shall not be required under section 266(1) to deal with an application for planning permission for the development of operational land if the authorisation of a government department is required in respect of that development.

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(2) Subsection (1) does not apply where the relevant authorisation has been granted without any direction as to the grant of planning permission.

(3) For the purposes of this section development shall be taken to be authorised by a government department if—

(a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment;

(b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;

(c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose;

(d) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable; or

(e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants,

and references in this section to the authorisation of a government department shall be construed accordingly.

269 Revocation or modification of permission to develop operational land.

In relation to any planning permission granted on the application of statutory undertakers for the development of operational land, the provisions of Part III with respect to the revocation and modification of planning permission shall have effect as if for any reference in them to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.

270 Order requiring discontinuance of use etc. of operational land.

The provisions of Part III with respect to the making of orders—

(a) requiring the discontinuance of any use of land;

(b) imposing conditions on the continuance of it; or

(c) requiring buildings or works on land to be altered or removed,

and the provisions of Schedule 9 with respect to the making of orders under that Schedule shall have effect in relation to operational land of statutory undertakers as if for any reference in them to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.

Extinguishment of rights of statutory undertakers, etc.

271 Extinguishment of rights of statutory undertakers: preliminary notices.

(1) This section applies where any land has been acquired by a Minister, a local authority or statutory undertakers under Part IX of this Act or Chapter V of Part I of the [M149]Planning (Listed Buildings and Conservation Areas) Act 1990 or compulsorily under any other enactment or has been appropriated by a local authority for planning purposes, and—

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(a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land; or

(b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking.

(2) If the acquiring or appropriating authority is satisfied that the extinguishment of the right or, as the case may be, the removal of the apparatus, is necessary for the purpose of carrying out any development with a view to which the land was acquired or appropriated, they may serve on the statutory undertakers a notice—

(a) stating that at the end of the relevant period the right will be extinguished; or

(b) requiring that before the end of that period the apparatus shall be removed.

(3) The statutory undertakers on whom a notice is served under subsection (2) may, before the end of the period of 28 days from the date of service of the notice, serve a counter-notice on the acquiring or appropriating authority—

(a) stating that they object to all or any of the provisions of the notice; and

(b) specifying the grounds of their objection.

(4) If no counter-notice is served under subsection (3)—

(a) any right to which the notice relates shall be extinguished at the end of the relevant period; and

(b) if at the end of that period any requirement of the notice as to the removal of any apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

(5) If a counter-notice is served under subsection (3) on a local authority or on statutory undertakers, the authority or undertakers may either—

(a) withdraw the notice (without prejudice to the service of a further notice); or

(b) apply to the Secretary of State and the appropriate Minister for an order under this section embodying the provisions of the notice, with or without modification.

(6) If a counter-notice is served under subsection (3) on a Minister—

(a) he may withdraw the notice (without prejudice to the service of a further notice); or

(b) he and the appropriate Minister may make an order under this section embodying the provisions of the notice, with or without modification.

(7) In this section any reference to the appropriation of land for planning purposes shall be construed in accordance with section 246(1) as if this section were in Part IX.

(8) For the purposes of this section the relevant period, in relation to a notice served in respect of any right or apparatus, is the period of 28 days from the date of service of the notice or such longer period as may be specified in it in relation to that right or apparatus.

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Annotations:

Modifications etc. (not altering text)

C273 Ss. 271-274 applied (with modifications) (19.12.2007) by The Felixstowe Dock and Railway Company (Land Acquisition) Order 2007 (S.I. 2007/3345), art. 10, **Sch. 2 Pt. 1**

C274 Ss. 271-274 applied (with modifications) (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), art. 33, **Sch. 8 para. 1** (with arts. 3(6), 12(3))

C275 Ss. 271-274 applied (19.3.2007) by The Ouseburn Barrage Order (S.I. 2007/608), art. 45, {Sch. 5 para. 1}

C276 S. 271 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Ss. 271-274 applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 28(5), **Sch. 5**
Ss. 271-273 applied (with modifications) (18.12.1996) by 1996 c. 61, **s. 8(1)-(3)**
Ss. 271-274 applied (with modifications) (11.11.1996) by S.I. 1996/2714, art. 48, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (10.2.1997) by S.I. 1997/264, art. 28, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (21.5.1997) by S.I. 1997/1266, art. 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (27.8.1998) by S.I. 1998/1936, art. 41, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 paras. 1-5**
Ss. 271-274 applied (with modifications) (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 paras. 1-5**
Ss. 271-274 applied (with modifications) (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 271-274 applied (with modifications) (23.8.1999) by S.I. 1999/2981, arts. 28(2), 29, Sch. 10 Pt. I para. 2(6), **Sch. 11 para. 1**
Ss. 271-274 applied (24.12.1999) by S.I. 2000/428, art. 26, **Sch. 4** (with art. 27, Sch. 5)
Ss. 271-274 applied (with modifications) (29.3.2001) by S.I. 2001/1347, art. 35, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 271-274 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**
Ss. 271-274 applied (with modifications) (9.11.2001) by S.I. 2001/3682, art. 33, **Sch. 9 para. 1**

C277 Ss. 271-274 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 35, **Sch. 5 para. 1**, Sch. 6 Pt. II para. 2(4) (with art. 38)
Ss. 271-274 applied (with modifications) (30.4.2002) by The Heathrow Express Railway Extension Order 2002
(S.I. 2002/1064), art. 28, {Sch. 3 para. 1}
Ss. 271-274 applied (with modifications) (30.4.2002) by The Piccadilly Line (Heathrow T5 Extension) Order 2002
(S.I. 2002/1065), art. 24, {Sch. 6 para. 1-6}
Ss. 271-274 applied (with modifications) (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), arts. 9, 10, 31, 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (31.5.2002) by The Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002 (S.I. 2002/1327), arts. 9, 10, 26, 29, **Sch. 5 para. 1**
Ss. 271-274 applied (with modifications) (28.4.2003) by The Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), art. 41, **Sch. 12 para. 1** (with art. 40)
Ss. 271-274 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 271-274 applied (12.1.2004) by The Alconbury Airfield (Rail Facilities and Connection to East Coast Main Line) Order 2003 (S.I. 2003/3364), arts. 7, 8, 25, **Sch. 6 para. 1**
S. 271 applied (with modifications) (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), art. 39, **Sch. 12 para. 1**, Sch. 13 para. 42 (with art. 38)
Ss. 271-274 applied (with modifications) (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 10, 35, 41, **Sch. 12 para. 1**

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Ss. 271-274 applied (with modifications) (19.11.2004) by The Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), art. 30, **Sch. 4 para. 1** (with art. 38)

C278 Ss. 271-274 applied (with modifications) (28.1.2005) by The East Midlands Parkway Station (Land Acquisition) Order 2005 (S.I. 2005/8), art. 13, **Sch. 2**
Ss. 271-274 applied (with modifications) (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 11, 40, 64, **Sch. 11 para. 1** (with arts. 65, 66, Sch. 12 para. 2)
Ss. 271-274 applied (with modifications) (22.3.2005) by The Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), art. 49, **Sch. 10 para. 1** (with art. 51)
Ss. 271-274 applied (with modifications) (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005
(S.I. 2005/1163), art. 26, {Sch. 7 para. 1(1)} (with art. 30)
Ss. 271-274 applied (with modifications) (22.7.2005) by The Midland Metro (Birmingham City Centre Extension, etc.) Order (S.I. 2005/1794), art. 45, {Sch. 7 para. 1(1)} (with art. 47)
Ss. 271-274 applied (with modifications) (3.8.2005) by The Greater Manchester (Leigh Busway) Order 2005 (S.I. 2005/1918), arts. 8, 9, 30, 48, **Sch. 10 para. 1** (with art. 50)
Ss. 271-274 applied (with modifications) (26.8.2005) by The River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), arts. 5, 7, 47, **Sch. 11 para. 1** (with arts. 45(1), 48, Sch. 10 para. 21, 29)
Ss. 271-274 applied (with modifications) (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 39, 40, 44, **Sch. 9 para. 1**, Sch. 10 para. 3(2), Sch. 14 para. 3(5) (with arts. 3(5), 15(3))
Ss. 271-274 applied (with modifications) (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), arts. 8, 10, 32, 50, 51, **Sch. 10 para. 1**, Sch. 11 para. 20 (with art. 52)
Ss. 271-274 applied (with modifications) (14.9.2006) by The Borough of Poole (Poole Harbour Opening Bridges) Order 2006 (S.I. 2006/2310), arts. 7, 8, 44, **Sch. 8 para. 1** (with art. 40, Sch. 7 para. 12)
Ss. 271-274 applied (with modifications) (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 10, 31, 36, 40, **Sch. 11 para. 1**, Sch. 15 para. 2 (with art. 43)
Ss. 271-274 applied (with modifications) (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), art. 46, **Sch. 9 para. 1(1)** (with arts. 34, 35(2))
Ss. 271-274 applied (with modifications) (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), art. 46, **Sch. 10 para. 1(1)**

C279 S. 271 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 36, **Sch. 6 Pt. II para. 2(4)** (with art. 38)

C280 Ss. 271-273 applied (with modifications) (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(1)-(3)**

C281 Ss. 271-274 applied (with modifications) (21.5.2008) by The Teesport (Land Acquisition) Order 2008 (S.I. 2008/1238), art. 10, **Sch. 2**

C282 Ss. 271-274 applied (16.5.2008) by The London Gateway Port Harbour Empowerment Order 2008 (S.I. 2008/1261), art. 64, **Sch. 11 para. 1**

C283 Ss. 271-274 applied (with modifications) (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), art. 45, **Sch. 9 para. 1** (with art. 36(3))

C284 Ss. 271-274 applied (with modifications) (9.6.2009) by The Nottingham Express Transit System Order 2009 (S.I. 2009/1300), arts. 11, 41, 67, **Sch. 11 para. 1** (with Sch. 12 para. 2)

C285 Ss. 271-274 applied (with modifications) (18.9.2009) by The London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), arts. 8, 29, 31, **Sch. 8 para. 1**

C286 Ss. 271-274 applied (with modifications) (28.10.2009) by The Network Rail (Reading)(Land Acquisition) Order 2009 (S.I. 2009/2728), art. 18, {Sch. 6}

C287 Ss. 271-274 applied (with modifications) (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), art. 30, **Sch. 8 para. 1**

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Marginal Citations
M149 1990 c. 9.

272 Extinguishment of rights of telecommunications code system operators: preliminary notices.

(1) This section applies where any land has been acquired by a Minister, a local authority or statutory undertakers under Part IX of this Act or under Chapter V of Part I of the [M150]Planning (Listed Buildings and Conservation Areas) Act 1990 or compulsorily under any other enactment or has been appropriated by a local authority for planning purposes, and—

(a) there subsists over that land a right conferred by or in accordance with the **[**[F616]electronic communications code**]** on the operator of **[**[F617]an electronic communications code network**]** , being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land; or

(b) there is on, under or over the land **[**[F618]electronic communications apparatus**]** kept installed for the purposes of any such **[**[F619]network**]** .

(2) If the acquiring or appropriating authority is satisfied that the extinguishment of the right or, as the case may be, the removal of the apparatus is necessary for the purpose of carrying out any development with a view to which the land was acquired or appropriated, they may serve on the operator of **[**[F620]the electronic communications code network**]** a notice—

(a) stating that at the end of the relevant period the right will be extinguished; or

(b) requiring that before the end of that period the apparatus shall be removed.

(3) The operator of **[**[F620]the electronic communications code network**]** on whom a notice is served under subsection (2) may, before the end of the period of 28 days from the date of service of the notice, serve a counter-notice on the acquiring or appropriating authority—

(a) stating that he objects to all or any of the provisions of the notice; and

(b) specifying the grounds of his objection.

(4) If no counter-notice is served under subsection (3)—

(a) any right to which the notice relates shall be extinguished at the end of the relevant period; and

(b) if at the end of that period any requirement of the notice as to the removal of any apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

(5) If a counter-notice is served under subsection (3) on a local authority or on statutory undertakers, the authority or undertakers may either—

(a) withdraw the notice (without prejudice to the service of a further notice); or

(b) apply to the Secretary of State and the Secretary of State for Trade and Industry for an order under this section embodying the provisions of the notice, with or without modification.

(6) If a counter-notice is served under subsection (3) on a Minister—

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(a) he may withdraw the notice (without prejudice to the service of a further notice); or

(b) he and the Secretary of State for Trade and Industry may make an order under this section embodying the provisions of the notice, with or without modification.

(7) In this section any reference to the appropriation of land for planning purposes shall be construed in accordance with section 246(1) as if this section were in Part IX.

(8) For the purposes of this section the relevant period, in relation to a notice served in respect of any right or apparatus, is the period of 28 days from the date of service of the notice or such longer period as may be specified in it in relation to that right or apparatus.

Annotations:

Amendments (Textual)

F616 Words in s. 272 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(e)(2)(a)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F617 Words in s. 272 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(e)(2)(b)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F618 Words in s. 272 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(e)(2)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F619 Word in s. 272 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(e)(2)(e)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F620 Words in s. 272 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(e)(2)(d)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

Modifications etc. (not altering text)

C288 Ss. 271-274 applied (with modifications) (19.12.2007) by The Felixstowe Dock and Railway Company (Land Acquisition) Order 2007 (S.I. 2007/3345), art. 10, **Sch. 2 Pt. 1**

C289 Ss. 271-274 applied (with modifications) (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), art. 33, **Sch. 8 para. 1** (with arts. 3(6), 12(3))

C290 Ss. 271-274 applied (19.3.2007) by The Ouseburn Barrage Order (S.I. 2007/608), art. 45, {Sch. 5 para. 1}

C291 Ss. 271-274 applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 28(5), **Sch. 5**
Ss. 271-273 applied (with modifications) (18.12.1996) by 1996 c. 61, **s. 8(1)-(3)**
Ss. 271-274 applied (with modifications) (11.11.1996) by S.I. 1996/2714, art. 48, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (10.2.1997) by S.I. 1997/264, art. 28, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (21.5.1997) by S.I. 1997/1266, art. 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (27.8.1998) by S.I. 1998/1936, art. 41, **Sch. 10 para. 1**

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Ss. 271-274 applied (with modifications) (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 paras. 1-5**
Ss. 271-274 applied (with modifications) (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 paras. 1-5**
Ss. 271-274 applied (with modifications) (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 271-274 applied (with modifications) (23.8.1999) by S.I. 1999/2981, arts. 28(2), 29, Sch. 10 Pt. I para. 2(6), **Sch. 11 para. 1**
Ss. 271-274 applied (24.12.1999) by S.I. 2000/428, art. 26, **Sch. 4** (with art. 27, Sch. 5)
Ss. 271-274 applied (with modifications) (29.3.2001) by S.I. 2001/1347, art. 35, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 271-274 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**
Ss. 271-274 applied (with modifications) (9.11.2001) by S.I. 2001/3682, art. 33, **Sch. 9 para. 1**
C292 Ss. 271-274 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 35, **Sch. 5 para. 1**, Sch. 6 Pt. II para. 2(4) (with art. 38)
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Ss. 271-274 applied (with modifications) (30.4.2002) by The Piccadilly Line (Heathrow T5 Extension) Order 2002 (S.I. 2002/1065), art. 24, **Sch. 6 para. 1-6**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), arts. 9, 10, 31, 36, **Sch. 10 para. 1**
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Ss. 271-274 applied (12.1.2004) by The Alconbury Airfield (Rail Facilities and Connection to East Coast Main Line) Order 2003 (S.I. 2003/3364), arts. 7, 8, 25, **Sch. 6 para. 1**
S. 272 applied (with modifications) (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), art. 39, **Sch. 12 para. 1**, Sch. 13 para. 42 (with art. 38)
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Ss. 271-274 applied (with modifications) (19.11.2004) by The Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), art. 30, **Sch. 4 para. 1** (with art. 38)
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Ss. 271-274 applied (with modifications) (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 11, 40, 64, **Sch. 11 para. 1** (with arts. 65, 66)
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Ss. 271-274 applied (with modifications) (22.7.2005) by The Midland Metro (Birmingham City Centre Extension, etc.) Order 2005 (S.I. 2005/1794), art. 45, **Sch. 7 para. 1** (with art. 47)
Ss. 271-274 applied (with modifications) (3.8.2005) by The Greater Manchester (Leigh Busway) Order 2005
(S.I. 2005/1918), arts. 8, 9, 30, 48, {Sch. 10 para. 1} (with art. 50)
Ss. 271-274 applied (with modifications) (26.8.2005) by The River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), arts. 5, 7, 47, **Sch. 11 para. 1** (with arts. 45(1), 48, Sch. 10 paras. 21, 29)

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Ss. 271-274 applied (with modifications) (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 39, 40, 44, **Sch. 9 para. 1**, Sch. 10 para. 3(2), Sch. 14 para. 3(5) (with arts. 3(5), 15(3))

Ss. 271-274 applied (with modifications) (11.1.2006) by The Cambridgeshire Guided Busway Order 2005
(S.I. 2005/3523), arts. 8, 10, 32, 50, 51, {Sch. 10 para. 1}, Sch. 11 para. 20(4) (with art. 52)

Ss. 271-274 applied (with modifications) (14.9.2006) by The Borough of Poole (Poole Harbour Opening Bridges) Order 2006 (S.I. 2006/2310), arts. 7, 8, 44, **Sch. 8 para. 1** (with art. 40, Sch. 7 para. 12)

Ss. 271-274 applied (with modifications) (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 10, 31, 36, 40, **Sch. 11 para. 1**, Sch. 15 para. 2, (with art. 43)

Ss. 271-274 applied (with modifications) (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), art. 46, **Sch. 9 para. 1(1)** (with arts. 34, 35(2))

Ss. 271-274 applied (with modifications) (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), art. 46, **Sch. 10 para. 1(1)**

C293 Ss. 271-273 applied (with modifications) (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(1)-(3)**

C294 Ss. 271-274 applied (with modifications) (21.5.2008) by The Teesport (Land Acquisition) Order 2008 (S.I. 2008/1238), art. 10, **Sch. 2**

C295 Ss. 271-274 applied (16.5.2008) by The London Gateway Port Harbour Empowerment Order 2008 (S.I. 2008/1261), art. 64, **Sch. 11 para. 1**

C296 Ss. 271-274 applied (with modifications) (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), art. 45, **Sch. 9 para. 1** (with art. 36(3))

C297 Ss. 271-274 applied (with modifications) (9.6.2009) by The Nottingham Express Transit System Order 2009 (S.I. 2009/1300), arts. 11, 41, 67, **Sch. 11 para. 1** (with Sch. 12 para. 2)

C298 Ss. 271-274 applied (with modifications) (18.9.2009) by The London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), arts. 8, 29, 31, **Sch. 8 para. 1**

C299 Ss. 271-274 applied (with modifications) (28.10.2009) by The Network Rail (Reading)(Land Acquisition) Order 2009 (S.I. 2009/2728), art. 18, {Sch. 6}

C300 Ss. 271-274 applied (with modifications) (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), art. 30, **Sch. 8 para. 1**

Marginal Citations

M150 1990 c. 9.

273 Notice for same purposes as ss. 271 and 272 but given by undertakers to developing authority.

(1) Subject to the provisions of this section, where land has been acquired or appropriated as mentioned in section 271(1), and—

(a) there is on, under or over the land any apparatus vested in or belonging to statutory undertakers; and

(b) the undertakers claim that development to be carried out on the land is such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of the apparatus affected by the development,

the undertakers may serve on the acquiring or appropriating authority a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.

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(2) No notice under this section shall be served later than 21 days after the beginning of the development of land which has been acquired or appropriated as mentioned in section 271(1).

(3) Where a notice is served under this section, the authority on whom it is served may, before the end of the period of 28 days from the date of service, serve on the statutory undertakers a counter-notice—

(b) specifying the grounds of their objection.

(4) If no counter-notice is served under subsection (3), the statutory undertakers shall, after the end of that period, have the rights claimed in their notice.

(5) If a counter-notice is served under subsection (3), the statutory undertakers who served the notice under this section may either withdraw it or may apply to the Secretary of State and the appropriate Minister for an order under this section conferring on the undertakers the rights claimed in the notice or such modified rights as the Secretary of State and the appropriate Minister think it expedient to confer on them.

(6) Where, by virtue of this section or of an order of Ministers under it, statutory undertakers have the right to execute works for the removal or re-siting of apparatus, they may arrange with the acquiring or appropriating authority for the works to be carried out by that authority, under the superintendence of the undertakers, instead of by the undertakers themselves.

(7) In subsection (1)(a), the reference to apparatus vested in or belonging to statutory undertakers shall include a reference to **[**F621electronic communications apparatus**]** kept installed for the purposes of **[**F622an electronic communications code network**]** .

(8) For the purposes of subsection (7), in this section—

(a) references (except in subsection (1)(a)) to statutory undertakers shall have effect as references to the operator of any such **[**F623network**]** ; and

(b) references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.

Annotations:

Amendments (Textual)

F621 Words in s. 273(7) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(f)(2)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F622 Words in s. 273(7) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(f)(2)(b)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F623 Word in s. 273(8) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(f)(2)(e)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

Modifications etc. (not altering text)

C301 Ss. 271-274 applied (with modifications) (19.12.2007) by The Felixstowe Dock and Railway Company (Land Acquisition) Order 2007 (S.I. 2007/3345), art. 10, **Sch. 2 Pt. 1**

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C302 Ss. 271-274 applied (with modifications) (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), art. 33, **Sch. 8 para. 1** (with arts. 3(6), 12(3))

C303 Ss. 271-274 applied (19.3.2007) by The Ouseburn Barrage Order (S.I. 2007/608), art. 45, {Sch. 5 para. 1}

C304 Ss. 271-274 applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 28(5), **Sch. 5**
Ss. 271-273 applied (with modifications) (18.12.1996) by 1996 c. 61, **s. 8(1)-(3)**
Ss. 271-274 applied (with modifications) (11.11.1996) by S.I. 1996/2714, art. 48, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (10.2.1997) by S.I. 1997/264, art. 28, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (21.5.1997) by S.I. 1997/1266, art. 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (27.8.1998) by S.I. 1998/1936, art. 41, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 paras. 1-5**
Ss. 271-274 applied (with modifications) (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 paras. 1-5**
Ss. 271-274 applied (with modifications) (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 271-274 applied (with modifications) (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 271-274 applied (24.12.1999) by S.I. 2000/428, art. 26, **Sch. 4** (with art. 27, Sch. 5)
Ss. 271-274 applied (with modifications) (29.3.2001) by S.I. 2001/1347, art. 35, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 271-274 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**
Ss. 271-274 applied (with modifications) (9.11.2001) by S.I. 2001/3682, art. 33, **Sch. 9 para. 1**

C305 Ss. 271-274 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 35, **Sch. 5 para. 1** (with art. 38)
Ss. 271-274 applied (with modifications) (30.4.2002) by The Heathrow Express Railway Extension Order 2002 (S.I. 2002/1064), art. 28, **Sch. 3 para. 1**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Piccadilly Line (Heathrow T5 Extension) Order 2002 (S.I. 2002/1065), art. 24, **Sch. 6 para. 1-6**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), arts. 9, 10, 31, 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (31.5.2002) by The Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002 (S.I. 2002/1327), arts. 9, 10, 26, 29, **Sch. 5 para. 1**
Ss. 271-274 applied (with modifications) (28.4.2003) by The Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), art. 41, **Sch. 12 para. 1** (with art. 40)
Ss. 271-274 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 271-274 applied (12.1.2004) by The Alconbury Airfield (Rail Facilities and Connection to East Coast Main Line) Order 2003 (S.I. 2003/3364), arts. 7, 8, 25, **Sch. 6 para. 1**
S. 273 applied (with modifications) (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), art. 39, **Sch. 12 para. 1**, Sch. 13 para. 42 (with art. 38)
Ss. 271-274 applied (with modifications) (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 10, 35, 41, **Sch. 12 para. 1**, Sch. 16 para. 2
Ss. 271-274 applied (with modifications) (19.11.2004) by The Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), art. 30, **Sch. 4 para. 1** (with art. 38)

C306 Ss. 271-274 applied (with modifications) (28.1.2005) by The East Midlands Parkway Station (Land Acquisition) Order 2005 (S.I. 2005/8), art. 13, **Sch. 2**
Ss. 271-274 applied (with modifications) (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 11, 40, 64, **Sch. 11 para. 1** (with arts. 65, 66, Sch. 12 para. 2)
Ss. 271-274 applied (with modifications) (22.3.2005) by The Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), art. 49, **Sch. 10 para. 1** (with art. 51)

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Ss. 271-274 applied (with modifications) (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), art. 26, **Sch. 7 para. 1(1)** (with art. 30)
Ss. 271-274 applied (with modifications) (22.7.2005) by The Midland Metro (Birmingham City Centre Extension, etc.) Order 2005 (S.I. 2005/1794), art. 45, **Sch. 7 para. 1(1)** (with art. 47)
Ss. 271-274 applied (with modifications) (3.8.2005) by The Greater Manchester (Leigh Busway) Order 2005
(S.I. 2005/1918), arts. 8, 9, 30, 48, {Sch. 10 para. 1} (with art. 50)
S. 273 applied (with modifications) (26.8.2005) by The River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), arts. 5, 7, 47, **Sch. 11 para. 1** (with arts. 45(1), 48, Sch. 10 paras. 21, 29)
Ss. 271-274 applied (with modifications) (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 39, 40, 44, **Sch. 9 para. 1**, Sch. 10 para. 3(2), Sch. 14 para. 3(5) (with arts. 3(5), 15(3))
Ss. 271-274 applied (with modifications) (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), arts. 8, 10, 32, 50, 51, **Sch. 10 para. 1**, Sch. 11 para. 20 (with art. 52)
Ss. 271-274 applied (with modifications) (14.9.2006) by The Borough of Poole (Poole Harbour Opening Bridges) Order 2006 (S.I. 2006/2310), arts. 7, 8, 44, **Sch. 8 para. 1** (with art. 40, Sch. 7 para. 12)
Ss. 271-274 applied (with modifications) (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 10, 31, 36, 40, **Sch. 11 para. 1**, Sch. 15 para. 2 (with art. 43)
Ss. 271-274 applied (with modifications) (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), art. 46, **Sch. 9 para. 1(1)** (with arts. 34, 35(2))
Ss. 271-274 applied (with modifications) (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), art. 46, **Sch. 10 para. 1**

C307 Ss. 271-273 applied (with modifications) (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(1)-(3)**

C308 Ss. 271-274 applied (with modifications) (21.5.2008) by The Teesport (Land Acquisition) Order 2008 (S.I. 2008/1238), art. 10, **Sch. 2**

C309 Ss. 271-274 applied (16.5.2008) by The London Gateway Port Harbour Empowerment Order 2008 (S.I. 2008/1261), art. 64, **Sch. 11 para. 1**

C310 Ss. 271-274 applied (with modifications) (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), art. 45, **Sch. 9 para. 1** (with art. 36(3))

C311 Ss. 271-274 applied (with modifications) (9.6.2009) by The Nottingham Express Transit System Order 2009 (S.I. 2009/1300), arts. 11, 41, 67, **Sch. 11 para. 1** (with Sch. 12 para. 2)

C312 Ss. 271-274 applied (with modifications) (18.9.2009) by The London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), arts. 8, 29, 31, **Sch. 8 para. 1**

C313 Ss. 271-274 applied (with modifications) (28.10.2009) by The Network Rail (Reading)(Land Acquisition) Order 2009 (S.I. 2009/2728), art. 18, {Sch. 6}

C314 Ss. 271-274 applied (with modifications) (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), art. 30, **Sch. 8 para. 1**

274 Orders under ss. 271 and 272.

(1) Where a Minister and the appropriate Minister propose to make an order under section 271(6) or 272(6), they shall prepare a draft of the order.

(2) Before making an order under subsection (5) or (6) of section 271, or under subsection (5) or (6) of section 272, the Ministers proposing to make the order shall give the statutory undertakers or, as the case may be, the operator of the **[**[F624]the electronic communications code network**]** on whom notice was served under subsection (2) of section 271 or, as the case may be, under subsection (2) of section 272 an opportunity of objecting to the application for, or proposal to make, the order.

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(3) If any such objection is made, before making the order the Ministers shall consider the objection and give those statutory undertakers or, as the case may be, that operator (and, in a case falling within subsection (5) of either of those sections, the local authority or statutory undertakers on whom the counter-notice was served) an opportunity of appearing before, and being heard by, a person appointed for the purpose by the Secretary of State and the appropriate Minister.

(4) After complying with subsections (2) and (3) the Ministers may, if they think fit, make the order in accordance with the application or, as the case may be, in accordance with the draft order, either with or without modification.

(5) Where an order is made under section 271 or 272—

(a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order; and

(b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

(6) In this section references to the appropriate Minister shall in the case of an order under section 272 be taken as references to the Secretary of State for Trade and Industry.

Annotations:

Amendments (Textual)

F624 Words in s. 274(2) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(g)(2)(d)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

Modifications etc. (not altering text)

C315 Ss. 271-274 applied (with modifications) (19.12.2007) by The Felixstowe Dock and Railway Company (Land Acquisition) Order 2007 (S.I. 2007/3345), art. 10, **Sch. 2 Pt. 1**

C316 Ss. 271-274 applied (with modifications) (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), art. 33, **Sch. 8 para. 1** (with arts. 3(6), 12(3))

C317 Ss. 271-274 applied (19.3.2007) by The Ouseburn Barrage Order (S.I. 2007/608), art. 45, {Sch. 5 para. 1}

C318 Ss. 271-274 applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 28(5), **Sch. 5**
Ss. 271-274 applied (with modifications) (11.11.1996) by S.I. 1996/2714, art. 48, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (10.2.1997) by S.I. 1997/264, art. 28, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (21.5.1997) by S.I. 1997/1266, art. 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (27.8.1998) by S.I. 1998/1936, art. 41, **Sch. 10 para. 1**
S. 274 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Ss. 271-274 applied (with modifications) (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 paras. 1-5**
Ss. 271-274 applied (with modifications) (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 paras. 1-5**
Ss. 271-274 applied (with modifications) (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 271-274 applied (with modifications) (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
S. 271-274 applied (24.12.1999) by S.I. 2000/428, art. 26, **Sch. 4** (with art. 27, Sch. 5)
Ss. 271-274 applied (with modifications) (29.3.2001) by S.I. 2001/1347, art. 35, **Sch. 9 para. 1**
Ss. 271-274 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**

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Ss. 271-274 applied (with modifications) (9.11.2001) by S.I. 2001/3682, art. 33, **Sch. 9 para. 1**

C319 Ss. 271-274 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 35, **Sch. 5 para. 1** (with art. 38)
Ss. 271-274 applied (with modifications) (30.4.2002) by The Heathrow Express Railway Extension Order 2002 (S.I. 2002/1064), art. 28, **Sch. 3 para. 1**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Piccadilly Line (Heathrow T5 Extension) Order 2002 (S.I. 2002/1065), art. 24, **Sch. 6 para. 1-6**
Ss. 271-274 applied (with modifications) (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), arts. 9, 10, 31, 36, **Sch. 10 para. 1**
Ss. 271-274 applied (with modifications) (31.5.2002) by The Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002 (S.I. 2002/1327), arts. 9, 10, 26, 29, **Sch. 5 para. 1**
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Ss. 271-274 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 3(5)(6)(c)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
Ss. 271-274 applied (12.1.2004) by The Alconbury Airfield (Rail Facilities and Connection to East Coast Main Line) Order 2003 (S.I. 2003/3364), arts. 7, 8, 25, **Sch. 6 para. 1**
S. 274 applied (with modifications) (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), art. 39, **Sch. 12 para. 1**, Sch. 13 para. 42 (with art. 38)
Ss. 271-274 applied (with modifications) (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 10, 35, 41, **Sch. 12 para. 1**, Sch. 16 para. 2
Ss. 271-274 applied (with modifications) (19.11.2004) by The Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), art. 30, **Sch. 4 para. 1** (with art. 38)

C320 Ss. 271-274 applied (with modifications) (28.1.2005) by The East Midlands Parkway Station (Land Acquisition) Order 2005 (S.I. 2005/8), art. 13, **Sch. 2**
Ss. 271-274 applied (with modifications) (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005
(S.I. 2005/120), arts. 11, 40, 64, {Sch. 11 para. 1} (with arts. 65, 66, Sch. 12 para. 2)
Ss. 271-274 applied (with modifications) (22.3.2005) by The Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), art. 49, **Sch. 10 para. 1** (with art. 51)
Ss. 271-274 applied (with modifications) (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), art. 26, **Sch. 7 para. 1(1)** (with art. 30)
Ss. 271-274 applied (with modifications) (22.7.2005) by The Midland Metro (Birmingham City Centre Extension, etc.) Order 2005 (S.I. 2005/1794), art. 45, **Sch. 7 para. 1(1)** (with art. 47)
Ss. 271-274 applied (with modifications) (3.8.2005) by The Greater Manchester (Leigh Busway) Order 2005 (S.I. 2005/1918), arts. 8, 9, 30, 48, **Sch. 10 para. 1** (with art. 50)
Ss. 271-274 applied (with modifications) (26.8.2005) by The River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), arts. 5, 7, 47, **Sch. 11 para. 1** (with arts. 45(1), 48, Sch. 10 para. 21, 29)
Ss. 271-274 applied (with modifications) (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 39, 40, 44, **Sch. 9 para. 1**, Sch. 10 para. 3(2), Sch. 14 para. 3(5) (with arts. 3(5), 15(3))
Ss. 271-274 applied (with modifications) (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), arts. 8, 10, 32, 50, 51, **Sch. 10 para. 1**, Sch. 11 para. 20(4) (with art. 52)
Ss. 271-274 applied (with modifications) (14.9.2006) by The Borough of Poole (Poole Harbour Opening Bridges) Order 2006 (S.I. 2006/2310), arts. 7, 8, 44, **Sch. 8 para. 1** (with art. 40, Sch. 7 para. 12)
Ss. 271-274 applied (with modifications) (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 10, 31, 36, 40, **Sch. 11 para. 1**, **Sch. 15 para. 2** (with art. 43)

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Ss. 271-274 applied (with modifications) (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), art. 46, **Sch. 9 para. 1(1)** (with arts. 34, 35(2))
Ss. 271-274 applied (with modifications) (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), art. 46, **Sch. 10 para. 1**

C321 Ss. 271-274 applied (with modifications) (21.5.2008) by The Teesport (Land Acquisition) Order 2008 (S.I. 2008/1238), art. 10, **Sch. 2**

C322 Ss. 271-274 applied (16.5.2008) by The London Gateway Port Harbour Empowerment Order 2008 (S.I. 2008/1261), art. 64, **Sch. 11 para. 1**

C323 Ss. 271-274 applied (with modifications) (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), art. 45, **Sch. 9 para. 1** (with art. 36(3))

C324 Ss. 271-274 applied (with modifications) (9.6.2009) by The Nottingham Express Transit System Order 2009 (S.I. 2009/1300), arts. 11, 41, 67, **Sch. 11 para. 1** (with Sch. 12 para. 2)

C325 Ss. 271-274 applied (with modifications) (18.9.2009) by The London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), arts. 8, 29, 31, **Sch. 8 para. 1**

C326 Ss. 271-274 applied (with modifications) (28.10.2009) by The Network Rail (Reading)(Land Acquisition) Order 2009 (S.I. 2009/2728), art. 18, {Sch. 6}

C327 Ss. 271-274 applied (with modifications) (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), art. 30, **Sch. 8 para. 1**

C328 S. 274(3) modified (18.12.1996) by 1996 c. 61, **s. 8(5)(a)**

C329 S. 274(3) modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(4)(5)(a)**

C330 S. 274(5) modified (18.12.1996) by 1996 c. 61, **s. 8(5)(b)**

C331 S. 274(5) modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(4)(5)(b)**

Extension or modification of statutory undertakers' functions

275 Extension or modification of functions of statutory undertakers.

(1) The powers conferred by this section shall be exercisable where, on a representation made by statutory undertakers, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—

(a) to secure the provision of services which would not otherwise be provided, or satisfactorily provided, for any purpose in connection with which a local authority or Minister may be authorised under Part IX of this Act or under Chapter V of Part I of the [M151]Planning (Listed Buildings and Conservation Areas) Act 1990 to acquire land or in connection with which any such person may compulsorily acquire land under any other enactment; or

(b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in subsection (2).

(2) The said acts and events are—

(a) the acquisition under Part IX of this Act or that Chapter or compulsorily under any other enactment of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers in question;

(b) the extinguishment of a right or the imposition of any requirement by virtue of section 271 or 272;

(c) a decision on an application made by the statutory undertakers for planning permission to develop any such land as is mentioned in paragraph (a);

(d) the revocation or modification of planning permission granted on any such application;

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(e) the making of an order under section 102 or paragraph 1 of Schedule 9 in relation to any such land.

(3) The powers conferred by this section shall also be exercisable where, on a representation made by a local authority or Minister, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified in order to secure the provision of new services, or the extension of existing services, for any purpose in connection with which the local authority or Minister making the representation may be authorised under Part IX of this Act or under Chapter V of Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990 to acquire land or in connection with which the local authority or Minister may compulsorily acquire land under any other enactment.

(4) Where the powers conferred by this section are exercisable, the Secretary of State and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order—

(a) to secure the services in question, as mentioned in subsection (1)(a) or (3), or

(b) to secure the adjustment in question, as mentioned in subsection (1)(b),

as the case may be.

(5) Without prejudice to the generality of subsection (4), an order under this section may make provision—

(a) for empowering the statutory undertakers—

(i) to acquire (whether compulsorily or by agreement) any land specified in the order, and

(ii) to erect or construct any buildings or works so specified;

(b) for applying in relation to the acquisition of any such land or the construction of any such works enactments relating to the acquisition of land and the construction of works;

(c) where it has been represented that the making of the order is expedient for the purposes mentioned in subsection (1)(a) or (3), for giving effect to such financial arrangements between the local authority or Minister and the statutory undertakers as they may agree, or as, in default of agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order;

(d) for such incidental and supplemental matters as appear to the Secretary of State and the appropriate Minister to be expedient for the purposes of the order.

Annotations:

Modifications etc. (not altering text)

C332 S. 275 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 275-278 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 275-278 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**.

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Marginal Citations

M151 1990 c.9.

276 Procedure in relation to orders under s. 275.

(1) As soon as possible after making such a representation as is mentioned in subsection (1) or subsection (3) of section 275 the statutory undertakers, the local authority or Minister making the representation shall—

(a) publish notice of the representation; and

(b) if the Secretary of State and the appropriate Minister so direct, serve a similar notice on such persons, or persons of such classes, as they may direct.

(2) A notice under subsection (1)—

(a) shall be published in such form and manner as the Secretary of State and the appropriate Minister may direct;

(b) shall give such particulars as they may direct of the matters to which the representation relates; and

(c) shall specify the time within which, and the manner in which, objections to the making of an order on the representation may be made.

(3) Orders under section 275 shall be subject to special parliamentary procedure.

Annotations:

Modifications etc. (not altering text)

C333 S. 276 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 275-278 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 275-278 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

277 Relief of statutory undertakers from obligations rendered impracticable.

(1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligation incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this subsection applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfilment of that obligation, either absolutely or to such extent as may be specified in the order.

(2) Subsection (1) applies to the following acts and events—

(a) the compulsory acquisition under Part IX of this Act or under Chapter V of Part I of the [M152]Planning (Listed Buildings and Conservation Areas) Act 1990 or under any other enactment of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers; and

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(b) the acts and events specified in section 275(2)(b) to (e).

(3) The appropriate Minister may direct statutory undertakers who have made a representation to him under subsection (1) to publicise it in either or both of the following ways—

(a) by publishing in such form and manner as he may direct a notice, giving such particulars as he may direct of the matters to which the representation relates and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made;

(b) by serving such a notice on such persons, or persons of such classes, as he may direct.

(4) The statutory undertakers shall comply with any direction given to them under subsection (3) as soon as possible after the making of the representation under subsection (1).

(5) If any objection to the making of an order under this section is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.

(6) Immediately after an order is made under this section by the appropriate Minister, he shall—

(a) publish a notice stating that the order has been made and naming a place where a copy of it may be seen at all reasonable hours; and

(b) serve a similar notice—

(i) on any person who duly made an objection to the order and has sent to the appropriate Minister a request in writing to serve him with the notice required by this subsection, specifying an address for service; and

(ii) on such other persons (if any) as the appropriate Minister thinks fit.

(7) Subject to subsection (8), and to the provisions of Part XII, an order under this section shall become operative on the date on which the notice required by subsection (6) is first published.

(8) Where in accordance with subsection (5) the order is subject to special parliamentary procedure, subsection (7) shall not apply.

Annotations:

Modifications etc. (not altering text)

C334 Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282, modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282, modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 275-278 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 275-278 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

Marginal Citations

M152 1990 c. 9.

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278 Objections to orders under ss. 275 and 277.

(1) For the purposes of sections 275 to 277, an objection to the making of an order shall not be treated as duly made unless—

(a) the objection is made within the time and in the manner specified in the notice required by section 276 or, as the case may be, section 277; and

(b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

(2) Where an objection to the making of such an order is duly made in accordance with subsection (1) and is not withdrawn, the following provisions of this section shall have effect in relation to it.

(3) Unless the appropriate Minister decides without regard to the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, before he makes a final decision he—

(a) shall consider the grounds of the objection as set out in the statement; and

(b) may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.

(4) In so far as the appropriate Minister, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision.

(5) If—

(a) after considering the grounds of the objection as so set out, the appropriate Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates; or

(b) in a case where a further statement has been required, it is not submitted within the specified period,

the appropriate Minister may make a final decision without further investigation as to those matters.

(6) Subject to subsections (4) and (5), before making a final decision the appropriate Minister shall give the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the appropriate Minister.

(7) If the objector takes that opportunity, the appropriate Minister shall give an opportunity of appearing and being heard on the same occasion to the statutory undertakers, local authority or Minister on whose representation the order is proposed to be made, and to any other persons to whom it appears to him to be expedient to give such an opportunity.

(8) Notwithstanding anything in the previous provisions of this section, if it appears to the appropriate Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held.

(9) Where the appropriate Minister determines to cause such an inquiry to be held, any of the requirements of subsections (3) to (7) to which effect has not been given at the time of that determination shall be dispensed with.

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(10) In this section any reference to making a final decision in relation to an order is a reference to deciding whether to make the order or what modification (if any) ought to be made.

(11) In the application of this section to an order under section 275, any reference to the appropriate Minister shall be construed as a reference to the Secretary of State and the appropriate Minister.

Annotations:

Modifications etc. (not altering text)

C335 Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 275-278 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 275-278 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

Compensation

279 Right to compensation in respect of certain decisions and orders.

(1) Statutory undertakers shall, subject to the following provisions of this Part, be entitled to compensation from the local planning authority—

(a) in respect of any decision made in accordance with section 266 by which planning permission to develop operational land of those undertakers is refused or is granted subject to conditions where—

(i) planning permission for that development would have been granted by a development order **[**F625or a local development order**]** but for a direction given under such an order that planning permission so granted should not apply to the development; and

(ii) it is not development which has received specific parliamentary approval (within the meaning of section 264(6));

(b) in respect of any order under section 97, as modified by section 269, by which planning permission which was granted on the application of those undertakers for the development of any such land is revoked or modified.

(2) Where by virtue of section 271—

(a) any right vested in or belonging to statutory undertakers is extinguished; or

(b) any requirement is imposed on statutory undertakers,

those undertakers shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.

(3) Where by virtue of section 272—

(a) any right vested in or belonging to an operator of **[**F626an electronic communications code network**]** is extinguished; or

(b) any requirement is imposed on such an operator,

the operator shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.

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(4) Where—

(a) works are carried out for the removal or re-siting of statutory undertakers' apparatus; and

(b) the undertakers have the right to carry out those works by virtue of section 273 or an order of Ministers under that section,

the undertakers shall be entitled to compensation from the acquiring or appropriating authority.

(5) Subsection (1) shall not apply in respect of a decision or order if—

(a) it relates to land acquired by the statutory undertakers after 7th January 1947; and

(b) the Secretary of State and the appropriate Minister include in the decision or order a direction that subsection (1) shall not apply to it.

(6) The Secretary of State and the appropriate Minister may only give a direction under subsection (5) if they are satisfied, having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other material considerations, that it is unreasonable that compensation should be recovered in respect of the decision or order in question.

(7) For the purposes of this section the conditions referred to in sections 91 and 92 shall be disregarded.

Annotations:

Amendments (Textual)

F625 Words in s. 279(1)(a)(i) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **s. 40(2)(l)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

F626 Words in s. 279(3) substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(h)(2)(b)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

Modifications etc. (not altering text)

C336 S. 279(2)-(4) modified (18.12.1996) by 1996 c. 61, **s. 8(5)(b)**
Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**

C337 Ss. 279(2)-(4), 280, 282 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 279(2)-(4), 280, 282 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

C338 S. 279(2)-(4) applied (with modifications) (14.3.2002) by S.I. 2002/412, art. 35, **Sch. 5 para. 1** (with art. 38)

C339 S. 279(2)-(4) modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(4)(5)(b)**

C340 S. 279(2)-(4) modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(4)(5)(b)**

C341 S. 279(2)-(4) modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(4)(5)(b)**

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280 Measure of compensation to statutory undertakers, etc.

(1) Where statutory undertakers are entitled to compensation—

(a) as mentioned in subsection (1), (2) or (4) of section 279;

(b) under the provisions of section 115 in respect of an order made under section 102 or paragraph 1, 3, 5 or 6 of Schedule 9, as modified by section 270; or

(c) in respect of a compulsory acquisition of land which has been acquired by those undertakers for the purposes of their undertaking, where the first-mentioned acquisition is effected under a compulsory purchase order confirmed or made without the appropriate Minister's certificate,

or the operator of **[**F627an electronic communications code network**]** is entitled to compensation as mentioned in section 279(3), the amount of the compensation shall (subject to section 281) be an amount calculated in accordance with this section.

(2) Subject to subsections (4) to (6), that amount shall be the aggregate of—

(a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking or, as the case may be, **[**F628the provision of the electronic communications code network**]** rendered necessary by the proceeding giving rise to compensation (a "business adjustment");

(b) the appropriate amount for loss of profits; and

(c) where the compensation is under section 279(2) or (3), and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers or, as the case may be, the operator in complying with the requirement, reduced by the value after removal of the apparatus removed.

(3) In subsection (2) "the appropriate amount for loss of profits" means—

(a) where a business adjustment is made, the aggregate of—

(i) the estimated amount of any decrease in net receipts from the carrying on of the undertaking or, as the case may be, **[**F628the provision of the electronic communications code network**]** pending the adjustment, in so far as the decrease is directly attributable to the proceeding giving rise to compensation; and

(ii) such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking or, as the case may be, **[**F628the provision of the electronic communications code network**]** in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment;

(b) where no business adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking or, as the case may be, **[**F628the provision of the electronic communications code network**]** which is directly attributable to the proceeding giving rise to compensation.

(4) Where a business adjustment is made, the aggregate amount mentioned in subsection (2) shall be reduced by such amount (if any) as appears to the **[**F629Upper Tribunal**]** to be appropriate to offset—

(a) the estimated value of any property (whether moveable or immoveable) belonging to the statutory undertakers or the operator and used for the carrying on of their undertaking or, as the case may be, **[**F628the provision of

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the electronic communications code network**]** which in consequence of the adjustment ceases to be so used, in so far as the value of the property has not been taken into account under paragraph (c) of that subsection; and

(b) the estimated amount of any increase in net receipts from the carrying on of the undertaking or **[**F628the provision of the electronic communications code network**]** in the period after the adjustment has been completed, in so far as that amount has not been taken into account in determining the amount mentioned in paragraph (b) of that subsection and is directly attributable to the adjustment.

(5) Where a business adjustment is made the aggregate amount mentioned in subsection (2) shall be further reduced by any amount which appears to the **[**F629Upper Tribunal**]** to be appropriate, having regard to any increase in the capital value of immoveable property belonging to the statutory undertakers or the operator which is directly attributable to the adjustment, allowance being made for any reduction made under subsection (4)(b).

(6) Where—

(a) the compensation is under section 279(4); and

(b) the acquiring or appropriating authority carry out the works,

then, in addition to any reduction falling to be made under subsection (4) or (5), the aggregate amount mentioned in subsection (2) shall be reduced by the actual cost to the authority of carrying out the works.

(7) References in this section to a decrease in net receipts shall be construed as references —

(a) to the amount by which a balance of receipts over expenditure is decreased;

(b) to the amount by which a balance of expenditure over receipts is increased; or

(c) where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, to the aggregate of the two balances;

and references to an increase in net receipts shall be construed accordingly.

(8) In this section—

"proceeding giving rise to compensation" means—

(a) except in relation to compensation under section 279(4), the particular action (that is to say, the decision, order, extinguishment of a right, imposition of a requirement or acquisition) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken;

(b) in relation to compensation under section 279(4), the circumstances making it necessary for the apparatus in question to be removed or re-sited;

"the appropriate Minister's certificate" means such a certificate as is mentioned in section 16 of or paragraph 3 of Schedule 3 to the M153Acquisition of Land Act 1981.

Annotations:

Amendments (Textual)

F627 Words in s. 280 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 104(a)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

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F628 Words in s. 280 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 104(b)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

F629 Words in s. 280(4)(5) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 210**

Modifications etc. (not altering text)

C342 S. 280 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 12(6)**; S.I. 1993/2762, **art. 3**
S. 280 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 14(8)**; S.I. 1993/2762, **art. 3**
S. 280 applied (1.10.1998) by 1975 c. 70, Sch. 4 Pt. III para. 11(7), **13(9)** (as inserted (1.10.1998) by 1998 c. 38, s. 127, **Sch. 13 para. 3** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**)
S. 280 applied (25.11.1998 for specified purposes and otherwise 3.7.2000) by 1998 c. 45, s. 23, Sch. 6 paras. 9(6), **11(8)**; S.I. 1998/2952, **art. 2(2)**; S.I. 2000/1173, 2(2)(c)
Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 279(2)-(4), 280, 282 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 279(2)-(4), 280, 282 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

C343 S. 280 applied (with modifications) (14.3.2002) by S.I. 2002/412, art. 35, **Sch. 5 para. 1** (with art. 38)

C344 S. 280 applied (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 12, 325, **Sch. 4 para. 7(2)**; S.I. 2008/3068, **art. 2(g)** (with savings and transitional provisions in arts. 6-13)

C345 S. 280 applied (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 12, 325, **Sch. 4 para. 14(2)**; S.I. 2008/3068, **art. 2(g)** (with savings and transitional provisions in arts. 6-13)

C346 S. 280(6) modified (18.12.1996) by 1996 c. 61, **s. 8(5)**

C347 S. 280(6) modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 9(4)(5)(b)**

Marginal Citations

M153 1981 c. 67.

281 Exclusion of s. 280 at option of statutory undertakers.

(1) Where statutory undertakers are entitled to compensation in respect of such a compulsory acquisition as is mentioned in section 280(1)(c), the statutory undertakers may by notice in writing under this section elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section 5 of the [M154]Land Compensation Act 1961) which would be applicable apart from section 280.

(2) If the statutory undertakers so elect the compensation shall be ascertained accordingly.

(3) An election under this section may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of part of that land.

(4) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

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Annotations:

Marginal Citations

M154 1961 c. 33.

282 Procedure for assessing compensation.

(1) Where the amount of any such compensation as is mentioned in subsection (1) of section 280 falls to be ascertained in accordance with the provisions of that section, the compensation shall, in default of agreement, be assessed by the **[**F630Upper Tribunal**]**, if apart from this section it would not fall to be so assessed.

(2) For the purposes of any proceedings arising before the **[**F630Upper Tribunal**]** in respect of compensation falling to be ascertained as mentioned in subsection (1), the provisions of **[**F631section**]** 4 of the M155Land Compensation Act 1961 shall apply as they apply to proceedings on a question referred to the Tribunal under section 1 of that Act, but with the substitution in **[**F632section 4**]**, for references to the acquiring authority, of references to the person from whom the compensation is claimed.

Annotations:

Amendments (Textual)

F630 Words in s. 282(1)(2) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 211(a)**

F631 Word in s. 282(2) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 211(b)**

F632 Words in s. 282(2) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 211(b)**

Modifications etc. (not altering text)

C348 S. 282 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 12(6)**; S.I. 1993/2762, **art. 3**
S. 282 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 14(8)**; S.I. 1993/2762, **art. 3**
S. 282 applied (1.10.1998) by 1975 c. 70, Sch. 4 Pt. III para. 11(7), **13(9)** (as inserted (1.10.1998) by 1998 c. 38, s. 127, **Sch. 13 para. 3** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**)
S. 282 applied (25.11.1998 for specified purposes and otherwise 3.7.2000) by 1998 c. 45, s. 23, Sch. 6 paras. 9(9), **11(8)**; S.I. 1998/2952, **art. 2(2)**; S.I. 2000/1173, **art. 2(2)(c)**
Ss. 275-278, 279(2)-(4), 280, 282 modified (3.6.1999) by S.I. 1999/1555, art. 11, **Sch. 2 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (21.7.1999) by S.I. 1999/2129, art. 20, **Sch. 3 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (20.8.1999) by S.I. 1999/2336, art. 25, **Sch. 6 para. 1**
Ss. 275-278, 279(2)-(4), 280, 282 modified (23.8.1999) by S.I. 1999/2981, art. 29, **Sch. 11 para. 1**
Ss. 279(2)-(4), 280, 282 applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 25, **Sch. 4**
Ss. 279(2)-(4), 280, 282 applied (24.7.2001) by S.I. 2001/3627, arts. 63, 64, Sch. 11 paras. 1, 2, **Sch. 12 para. 5(3)**

C349 S. 282 applied (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 12, 325, **Sch. 4 para. 7(2)**; S.I. 2008/3068, **art. 2(g)** (with savings and transitional provisions in arts. 6-13)

C350 S. 282 applied (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 12, 325, **Sch. 4 para. 14(2)**; S.I. 2008/3068, **art. 2(g)** (with savings and transitional provisions in arts. 6-13)

Marginal Citations

M155 1961 c.33.

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Advertisements

283 Display of advertisements on operational land.

Sections 266 to 270 and 279(1), (5) and (6) do not apply in relation to the display of advertisements on operational land of statutory undertakers.

PART XII

VALIDITY

284 Validity of development plans and certain orders, decisions and directions.

(1) Except in so far as may be provided by this Part, the validity of—

(a) F633 . . . . . .

(b) a simplified planning zone scheme or an alteration of such a scheme, whether before or after the adoption or approval of the scheme or alteration; or

(c) an order under any provision of Part X except section 251(1), whether before or after the order has been made; or

(d) an order under section 277, whether before or after the order has been made; or

(e) any such order as is mentioned in subsection (2), whether before or after it has been confirmed; or

(f) any such action on the part of the Secretary of State as is mentioned in subsection (3),

shall not be questioned in any legal proceedings whatsoever.

(2) The orders referred to in subsection (1)(e) are—

(a) any order under section 97 or under the provisions of that section as applied by or under any other provision of this Act;

(b) any order under section 102;

(c) any tree preservation order;

(d) any order made in pursuance of section 221(5);

(e) any order under paragraph 1, 3, 5 or 6 of Schedule 9.

(3) The action referred to in subsection (1)(f) is action on the part of the Secretary of State of any of the following descriptions—

[F634(za) any decision on an application referred to the Secretary of State under section 76A;**]**

(a) any decision on an application **[**F635for planning permission**]** referred to him under section 77;

(b) any decision on an appeal under section 78;

F636(c) . . . . . .

(d) any decision to confirm a completion notice under section 95;

(e) any decision to grant planning permission under paragraph (a) of section 177(1) or to discharge a condition or limitation under paragraph (b) of that section;

(f) any decision to confirm or not to confirm a purchase notice including—

(i) any decision not to confirm such a notice in respect of part of the land to which it relates, or

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(ii) any decision to grant any permission, or give any direction, instead of confirming such a notice, either wholly or in part;

(g) any decision [F637]. . . on an appeal under section 195(1);

(h) any decision relating—

(i) to an application for consent under a tree preservation order ,

(ii) to an application for consent under any regulations made in accordance with section 220 or 221, or

(iii) to any certificate or direction under any such order or regulations,

whether it is a decision on appeal or a decision on an application referred to the Secretary of State for determination in the first instance.

[[F638](i) any decision on an application for planning permission under section 293A.**]**

(4) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any such action as is mentioned in subsection (3).

Annotations:

Amendments (Textual)

F633 S. 284(1)(a) repealed (28.9.2004 (E.), 15.10.2005 (W.)) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 8, **Sch. 9** (with s. 111); S.I. 2004/2202, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 3)

F634 S. 284(3)(za) inserted (6.4.2009) by Planning Act 2008 (c. 29), **ss. 191(2)**, 241 (with s. 226); S.I. 2009/400, **art. 3** (with art. 6)

F635 Words in s. 284(3)(a) repealed (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 191(3), 238, 241, **Sch. 13** (with s. 226); S.I. 2009/400, **art. 5**, Sch. Pt. 2

F636 S. 284(3)(c) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 24, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F637 Words in s. 284(3)(g) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 41, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F638 S. 284(3)(i) inserted (6.8.2004 for certain purposes, 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 82(2)**, 121 (with s. 111); S.I. 2004/ 2097, {art. 2}; S.I. 2006/1281, **art. 2**

Modifications etc. (not altering text)

C351 S. 284 extended (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 22, **Sch. 2 para. 9** (3) (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

C352 Ss. 284, 288 modified (W.) (8.1.2010) by The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009 (S.I. 2009/3342), **reg. 54(2)**

285 Validity of enforcement notices and similar notices.

(1) [F639]. . . The validity of an enforcement notice shall not, except by way of an appeal under Part VII, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

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(2) Subsection (1) shall not apply to proceedings brought under section 179 . . . against a person who—

(a) has held an interest in the land since before the enforcement notice was issued under that Part;

(b) did not have a copy of the enforcement notice served on him under that Part; and

(c) satisfies the court—

(i) that he did not know and could not reasonably have been expected to know that the enforcement notice had been issued; and

(ii) that his interests have been substantially prejudiced by the failure to serve him with a copy of it.

(3) Subject to subsection (4), the validity of a notice which has been served under section 215 on the owner and occupier of the land shall not, except by way of an appeal under Chapter II of Part VIII, be questioned in any proceedings whatsoever on either of the grounds specified in section 217(1)(a) or (b).

(4) Subsection (3) shall not prevent the validity of such a notice being questioned on either of those grounds in proceedings brought under section 216 against a person on whom the notice was not served, but who has held an interest in the land since before the notice was served on the owner and occupier of the land, if he did not appeal against the notice under that Chapter.

F640(5) . . . . . .

(6) . . . . . .

Annotations:

Amendments (Textual)

F639 Words in s. 285(1)(2) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 42(a)(b), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

F640 S. 285(5)(6) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 42(c), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

Modifications etc. (not altering text)

C353 S. 285: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

C354 S. 285 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 22(1), **Sch. 4 Pt. 4**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

C355 S. 285(1)(2) applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

C356 S. 285(2) modified by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 5, **Sch. 3 para. 10(1)**; amended by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 5, **Sch. 3 para. 10(5)**

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286 Challenges to validity on ground of authority's powers.

(1) The validity of any permission, determination or certificate granted, made or issued or purporting to have been granted, made or issued by a local planning authority in respect of—

(a) an application for planning permission;

[F641(aa) an application for non-material changes to planning permission under section 96A;**]**

F642(b) . . . . . .

(c) an application for **[**F643F644 a certificate under section 191 or 192**]**;

(d) an application for consent to the display of advertisements under section 220; or

(e) a determination under section 302 or Schedule 15,

shall not be called in question in any legal proceedings, or in any proceedings under this Act which are not legal proceedings, on the ground that the permission, determination or certificate should have been granted, made or given by some other local planning authority.

(2) The validity of any order under section 97 revoking or modifying planning permission, any order under section 102 or paragraph 1 of Schedule 9 requiring discontinuance of use, or imposing conditions on continuance of use, or requiring the alteration or removal of buildings or works, or any enforcement notice under section 172 or stop notice under section 183 **[**or a breach of condition notice under section 187A**]**, being an order or notice purporting to have been made, issued or served by a local planning authority, shall not be called in question in any such proceedings on the ground—

(a) in the case of an order or notice purporting to have been made, issued or served by a district planning authority, that they failed to comply with paragraph 11(2) of Schedule 1;

(b) in the case of an order or notice purporting to have been made, issued or served by a county planning authority, that they had no power to make, issue or serve it because it did not relate to a county matter within the meaning of that Schedule.

Annotations:

Amendments (Textual)

F641 S. 286(1)(aa) inserted (1.10.2009) by Planning Act 2008 (c. 29), **ss. 190(5)**, 241 (with s. 226); S.I. 2009/2260, **art. 3**

F642 S. 286(1)(b) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 43(a), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F643 Words in s. 286(2) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 43(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F644 Words in s. 286(1)(c) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 43(a)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Modifications etc. (not altering text)

C357 Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

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287 Proceedings for questioning validity of development plans and certain schemes and orders.

[[F645](1) This section applies to—

(a) a simplified planning zone scheme or an alteration of such a scheme;

(b) an order under section 247, 248, 249, 251, 257, 258 or 277,

and anything falling within paragraphs (a) and (b) is referred to in this section as a relevant document.

(2) A person aggrieved by a relevant document may make an application to the High Court on the ground that—

(a) it is not within the appropriate power, or

(b) a procedural requirement has not been complied with.

(3) The High Court may make an interim order suspending the operation of the relevant document—

(a) wholly or in part;

(b) generally or as it affects the property of the applicant.

(3A) Subsection (3B) applies if the High Court is satisfied—

(a) that a relevant document is to any extent outside the appropriate power;

(b) that the interests of the applicant have been substantially prejudiced by a failure to comply with a procedural requirement.

(3B) The High Court may quash the relevant document—

(a) wholly or in part;

(b) generally or as it affects the property of the applicant.

(3C) An interim order has effect until the proceedings are finally determined.

(3D) The appropriate power is—

(a) in the case of a simplified planning zone scheme or an alteration of the scheme, Part III;

(b) in the case of an order under section 247, 248, 249, 251, 257, 258 or 277, the section under which the order is made.**]**

(4) An application under this section must be made within six weeks from the relevant date.

(5) For the purposes of subsection (4) the relevant date is—

(a) [F646]. . . . . .

(b) in the case of an application [F647]. . . in respect of a simplified planning zone scheme or an alteration of such a scheme, the date of the publication of the first notice of the approval or adoption of the scheme or alteration required by regulations under paragraph 13 of Schedule 7,

(c) in the case of an application . . . in respect of an order under section 247, 248, 249, or 251, the date on which the notice required by section 252(10) is first published,

(d) in the case of an application . . . in respect of an order under section 257 or 258, the date on which the notice required by paragraph 7 of Schedule 14 is first published in accordance with that paragraph,

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(e) in the case of an application . . . in respect of an order under section 277, the date on which the notice required by subsection (6) of that section is first published;

but subject, in the case of those orders mentioned in paragraphs (c) and (e) to which section 292 applies, to that section.

(6) F648 . . . . . .

Annotations:

Amendments (Textual)

F645 S. 287(1)-(3D) substituted for s. 287(1)-(3) (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 9(2)** (with s. 111); S.I. 2004/2202, **art. 2(h)** (subject to transitional provisions and savings in art.4); S.I. 2005/2847, **art. 2** (subject to transitional provisions and savings in art. 3)

F646 S. 287(5)(a) repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 9(3)(a), **Sch. 9** (with s. 111); S.I. 2004/2202, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 3)

F647 Words in s. 287(5)(b)-(e) repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 9(3)(b), **Sch. 9** (with s. 111); S.I. 2004/2202, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 3)

F648 Words in s. 287(6) repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), s. 118, 120, 121, Sch. 6 para. 9(4), **Sch. 9** (with s. 111); S.I. 2004/2202, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 3)

Modifications etc. (not altering text)

C358 Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 287 applied (with modifications) (1.4.1996) by 1994 c. 19, **s. 66**)7), Sch. 17 Pt. II para. 16(2)(5) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

C359 S. 287, as it continues to have effect by virtue of S.I. 2005/2847 art. 3(3), amended (prosp.) by Planning Act 2008 (c. 29), **ss. 186**, 241

288 Proceedings for questioning the validity of other orders, decisions and directions.

(1) If any person—

(a) is aggrieved by any order to which this section applies and wishes to question the validity of that order on the grounds—

(i) that the order is not within the powers of this Act, or

(ii) that any of the relevant requirements have not been complied with in relation to that order; or

(b) is aggrieved by any action on the part of the Secretary of State to which this section applies and wishes to question the validity of that action on the grounds —

(i) that the action is not within the powers of this Act, or

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(ii) that any of the relevant requirements have not been complied with in relation to that action,

he may make an application to the High Court under this section.

(2) Without prejudice to subsection (1), if the authority directly concerned with any order to which this section applies, or with any action on the part of the Secretary of State to which this section applies, wish to question the validity of that order or action on any of the grounds mentioned in subsection (1), the authority may make an application to the High Court under this section.

(3) An application under this section must be made within six weeks from the date on which the order is confirmed (or, in the case of an order under section 97 which takes effect under section 99 without confirmation, the date on which it takes effect) or, as the case may be, the date on which the action is taken.

(4) This section applies to any such order as is mentioned in subsection (2) of section 284 and to any such action on the part of the Secretary of State as is mentioned in subsection (3) of that section.

(5) On any application under this section the High Court—

(a) may, subject to subsection (6), by interim order suspend the operation of the order or action, the validity of which is questioned by the application, until the final determination of the proceedings;

(b) if satisfied that the order or action in question is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to it, may quash that order or action.

(6) Paragraph (a) of subsection (5) shall not apply to applications questioning the validity of tree preservation orders.

(7) In relation to a tree preservation order, or to an order made in pursuance of section 221(5), the powers conferred on the High Court by subsection (5) shall be exercisable by way of quashing or (where applicable) suspending the operation of the order either in whole or in part, as the court may determine.

(8) References in this section to the confirmation of an order include the confirmation of an order subject to modifications as well as the confirmation of an order in the form in which it was made.

(9) In this section "the relevant requirements", in relation to any order or action to which this section applies, means any requirements of this Act or of the [M156]Tribunals and Inquiries Act [F649]1992, or of any order, regulations or rules made under this Act or under that Act which are applicable to that order or action.

(10) Any reference in this section to the authority directly concerned with any order or action to which this section applies—

(a) in relation to any such decision as is mentioned in section 284(3)(f), is a reference to the council on whom the notice in question was served and, in a case where the Secretary of State has modified such a notice, wholly or in part, by substituting another local authority or statutory undertakers for that council, includes a reference to that local authority or those statutory undertakers;

(b) in any other case, is a reference to the authority who made the order in question or made the decision or served the notice to which the proceedings in question

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relate, or who referred the matter to the Secretary of State, or, where the order or notice in question was made or served by him, the authority named in the order or notice.

Annotations:

Amendments (Textual)

F649 Word in s. 288(9) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 25**

Modifications etc. (not altering text)

C360 S. 288 extended (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 22, **Sch. 2 para. 9** (3) (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
S. 288 modified (2.10.1995) by S.I. 1995/2558, **reg. 13**

C361 S. 288 applied (28.9.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 58(3)**, 121 (with s. 111); S.I. 2004/2202, **art. 3** (subject to transitional provisions and savings in art. 4)

C362 S. 288 modified (W.) (8.1.2010) by The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009 (S.I. 2009/3342), **reg. 54**

Marginal Citations

M156 1992 c. 53.

289 Appeals to High Court relating to enforcement notices and notices under s. 207.

(1) Where the Secretary of State gives a decision in proceedings on an appeal under Part VII against an enforcement notice the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.

(2) Where the Secretary of State gives a decision in proceedings on an appeal under Part VIII against a notice under section 207, the appellant or the local planning authority or any person (other than the appellant) on whom the notice was served may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.

(3) At any stage of the proceedings on any such appeal as is mentioned in subsection (1), the Secretary of State may state any question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court.

(4) A decision of the High Court on a case stated by virtue of subsection (3) shall be deemed to be a judgment of the court within the meaning of section 16 of the [M157]Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).

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[F650(4A) In proceedings brought by virtue of this section in respect of an enforcement notice, the High Court or, as the case may be, the Court of Appeal may, on such terms if any as the Court thinks fit (which may include terms requiring the local planning authority to give an undertaking as to damages or any other matter), order that the notice shall have effect, or have effect to such extent as may be specified in the order, pending the final determination of those proceedings and any re-hearing and determination by the Secretary of State.

(4B) Where proceedings are brought by virtue of this section in respect of any notice under section 207, the notice shall be of no effect pending the final determination of those proceedings and any re-hearing and determination by the Secretary of State.**]**

(5) In relation to any proceedings in the High Court or the Court of Appeal brought by virtue of this section the power to make rules of court shall include power to make rules—

(a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the Secretary of State; and

(b) providing for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.

[F651(5A) Rules of court may also provide for the High Court or, as the case may be, the Court of Appeal to give directions as to the exercise, until such proceedings in respect of an enforcement notice are finally concluded and any re-hearing and determination by the Secretary of State has taken place, of any other powers in respect of the matters to which such a notice relates.

(6) No proceedings in the High Court shall be brought by virtue of this section except with the leave of that Court and no appeal to the Court of Appeal shall be so brought except with the leave of the Court of Appeal or of the High Court.**]**

(7) In this section "decision" includes a direction or order, and references to the giving of a decision shall be construed accordingly.

Annotations:

Amendments (Textual)

F650 S. 289(4A)(4B) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(4)** (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 4)

F651 S. 289(5A)(6) substituted for s. 289(6) (25.11.1991 for certain purposes and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 6(5)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C363 S. 289: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2**, 3

C364 S. 289 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 22(1), **Sch. 4 Pt. 4**
S. 289 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**

C365 S. 289 applied (28.9.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 58(4)**, 121 (with s. 111); S.I. 2004/2202, **art. 3** (subject to transitional provisions and savings in art. 4)

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Marginal Citations
M157 1981 c. 54.

F652290 . . . . . .

Annotations:

Amendments (Textual)
F652 S. 290 repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 44, **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

291 Special provisions as to decisions relating to statutory undertakers.

In relation to any action which—

(a) apart from the provisions of Part XI would fall to be taken by the Secretary of State and, if so taken, would be action falling within section 284(3); but

(b) by virtue of that Part, is required to be taken by the Secretary of State and the appropriate Minister,

the provisions of sections 284 and 288 shall have effect (subject to section 292) as if any reference in those provisions to the Secretary of State were a reference to the Secretary of State and the appropriate Minister.

292 Special provisions as to orders subject to special parliamentary procedure.

(1) Where an order under section 247, 248, 249 or 277 is subject to special parliamentary procedure, then—

(a) if the order is confirmed by Act of Parliament under section 6 of the [M158]Statutory Orders (Special Procedure) Act 1945, sections 284 and 287 shall not apply to the order;

(b) in any other case, section 287 shall have effect in relation to the order as if, in subsection (4) of that section, for the reference to the date there mentioned there were substituted a reference to the date on which the order becomes operative under section 6 of that Act ("the operative date").

(2) Where by virtue of Part XI any such action as is mentioned in section 291 is required to be embodied in an order, and that order is subject to special parliamentary procedure, then—

(a) if the order in which the action is embodied is confirmed by Act of Parliament under section 6 of that Act, sections 284 and 288 shall not apply;

(b) in any other case, section 288 shall apply with the substitution for any reference to the date on which the action is taken of a reference to the operative date.

Annotations:

Marginal Citations
M158 1945 c. 18.

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PART XIII

APPLICATION OF ACT TO CROWN LAND

Annotations:

Modifications etc. (not altering text)
C366 Pt. XIII (ss. 293-302) modified (17.7.1992) by S.I. 1992/1732, **art. 2(1)(2)**
Pt. XIII (ss. 293-302) extended (17.7.1992) by S.I. 1992/1732, **art. 2(1)(a)**

Preliminary

[F653 292A Application to the Crown

(1) This Act binds the Crown.

(2) But subsection (1) is subject to express provision made by this Part.]

Annotations:

Amendments (Textual)
F653 S. 292A inserted (6.8.2004 for certain purposes and otherwise 7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 79(1)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2(a)**

293 Preliminary definitions.

(1) In this Part—

"Crown land" means land in which there is a Crown interest or a Duchy interest;

[F654"Crown interest" means any of the following—

(a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates;

(b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

(c) such other interest as the Secretary of State specifies by order;]

"Duchy interest" means an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall;

"private interest" means an interest which is neither a Crown interest nor a Duchy interest.

(2) For the purposes of this Part "the appropriate authority", in relation to any land—

(a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners;

(b) in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;

[F655(ba) in relation to land belonging to Her Majesty in right of Her private estates means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Secretary of State;]

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(c) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;

(d) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;

(e) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.

[[F656](f) in relation to Westminster Hall and the Chapel of St Mary Undercroft, means the Lord Great Chamberlain and the Speakers of the House of Lords and the House of Commons acting jointly;

(g) in relation to Her Majesty's Robing Room in the Palace of Westminster, the adjoining staircase and ante-room and the Royal Gallery, means the Lord Great Chamberlain.**]**

[[F657](2A) For the purposes of an application for planning permission made by or on behalf of the Crown in respect of land which does not belong to the Crown or in respect of which it has no interest a reference to the appropriate authority must be construed as a reference to the person who makes the application.**]**

(3) If any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

[[F658](3A) References to Her Majesty's private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862.

(3B) In subsection (2A) the Crown includes—

(a) the Duchy of Lancaster;

(b) the Duchy of Cornwall;

(c) a person who is an appropriate authority by virtue of subsection (2)(f) and (g).**]**

(4) [F659] . . . . . .

[[F660](5) An order made for the purposes of paragraph (c) of the definition of Crown interest in subsection (1) must be made by statutory instrument.

(6) But no such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.**]**

Annotations:

Amendments (Textual)

F654 Definition in s. 293(1) substituted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 6(2)** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

F655 S. 293(2)(ba) inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 6(3)** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

F656 S. 293(2)(f)(g) inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 6(4)** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

F657 S. 293(2A) inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 6(5)** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

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F658 S. 293(3A)(3B) inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 6(6)** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

F659 S. 293(4) repealed (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 120, 121, Sch. 3 para. 22, **Sch. 9** (with s. 111); S.I. 2006/1281, **art. 2**

F660 S. 293(5)(6) inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 6(7)** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

Modifications etc. (not altering text)

C367 S. 293(2)(b) modified (17.7.1992) by S.I. 1992/1732, **art. 2(4)(a)**

C368 S. 293(3) applied (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), **ss. 221(5)**, 223(2) (with ss. 82(3), 186(1), 188, 222(1), Sch. 14 para. 6) and (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 222(8)(9)**, 225(2) (with ss. 16(6), 178, 179, 222(3), 224(1), Sch. 22 para. 1)
S. 293(3) applied (1.12.2000) by 1991 c. 56, **s. 221(8)** (as substituted (1.12.2000) by 1995 c. 25, s. 116, **Sch. 21 Pt. I para. 1(1)** (with ss. 7(6), 115, 117)); S.I. 2000/3033, **art. 2**
S. 293(3) applied (1.7.1997 for certain purposes and otherwise prosp.) by 1991 c. 57, **s. 222(10)** (as substituted by 1995 c. 25, ss. 116, 125(3), **Sch. 21 Pt. I para. 2(4)** (with ss. 7(6), 115, 117); S.I. 1997/1626, **art. 2**)

C369 S. 293(3) applied (1.10.2004 for E. and 11.11.2004 for W.) by Reservoirs Act 1975 (c. 23), s. 27A(8) (as inserted by 2003 c. 37, **s. 80**; S.I. 2004/2528, **art. 2(p)**; S.I. 2004/2916, **art. 2(c)**)

Application of Act as respects Crown land

[F661 293A Urgent Crown development: application

(1) This section applies to a development if the appropriate authority certifies—

(a) that the development is of national importance, and

(b) that it is necessary that the development is carried out as a matter of urgency.

(2) The appropriate authority may, instead of making an application for planning permission to the local planning authority in accordance with Part 3, make an application for planning permission to the Secretary of State under this section.

(3) If the appropriate authority proposes to make the application to the Secretary of State it must publish in one or more newspapers circulating in the locality of the proposed development a notice—

(a) describing the proposed development, and

(b) stating that the authority proposes to make the application to the Secretary of State.

(4) For the purposes of an application under this section the appropriate authority must provide to the Secretary of State—

(a) any matter required to be provided by an applicant for planning permission in pursuance of regulations made under section 71A;

(b) a statement of the authority's grounds for making the application.

(5) If the appropriate authority makes an application under this section subsections (6) to (9) below apply.

(6) The Secretary of State may require the authority to provide him with such further information as he thinks necessary to enable him to determine the application.

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(7) As soon as practicable after he is provided with any document or other matter in pursuance of subsection (4) or (6) the Secretary of State must make a copy of the document or other matter available for inspection by the public in the locality of the proposed development.

(8) The Secretary of State must in accordance with such requirements as are contained in a development order publish notice of the application and of the fact that such documents and other material are available for inspection.

(9) The Secretary of State must consult—

(a) the local planning authority for the area to which the proposed development relates, and

(b) such other persons as are specified or described in a development order,

about the application.

(10) Subsection (7) does not apply to the extent that the document or other matter is subject to a direction under section 321(3)(matters related to national security).

(11) Subsections (4) to (7) of section 77 apply to an application under this section as they apply to an application in respect of which a direction under section 77 has effect.**]**

Annotations:

Amendments (Textual)

F661 S. 293A inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 82**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

294 Control of development on Crown land: special enforcement notices.

F662 . . . . . .

Annotations:

Amendments (Textual)

F662 S. 294 repealed (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 120, 121, Sch. 3 para. 9(1), **Sch. 9** (with s. 111, Sch. 3 para. 9(2)); S.I. 2006/1281, **art. 2**

295 Supplementary provisions as to special enforcement notices.

F663 . . . . . .

Annotations:

Amendments (Textual)

F663 S. 295 repealed (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 120, 121, Sch. 3 para. 9, **Sch. 9** (with s. 111, Sch. 3 para. 9(2)); S.I. 2006/1281, **art. 2**

296 Exercise of powers in relation to Crown land.

F664 . . . . . .

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Annotations:

Amendments (Textual)

F664 S. 296 repealed (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 84(1), 120, 121, **Sch. 9** (with s. 111); S.I. 2006/1281, **art. 2**

[F665 296A Enforcement in relation to the Crown

(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act.

(2) A local planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.

(3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.

(4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.

(5) A step taken for the purposes of enforcement includes—

(a) entering land;

(b) bringing proceedings;

(c) the making of an application.

(6) A step taken for the purposes of enforcement does not include—

(a) service of a notice;

(b) the making of an order (other than by a court).

Annotations:

Amendments (Textual)

F665 Ss. 296A, 296B inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 84(2)**, 121 (with s. 111); S.I. 2006/1281, **art. 2**

296B References to an interest in land

(1) Subsection (2) applies to the extent that an interest in land is a Crown interest or a Duchy interest.

(2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.

(3) An interest in land includes an interest only as occupier of the land.**]**

Annotations:

Amendments (Textual)

F665 Ss. 296A, 296B inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 84(2)**, 121 (with s. 111); S.I. 2006/1281, **art. 2**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

297 Agreements relating to Crown land.

F666 . . . . . .

Annotations:

Amendments (Textual)

F666 S. 297 repealed (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 120, 121, Sch. 3 para. 23, **Sch. 9** (with s. 111); S.I. 2006/1281, **art. 2**

298 Supplementary provisions as to Crown and Duchy interests.

(1) F667 . . . . . .

(2) . . . . . .

(3) Where, in accordance with an agreement under section 297, the approval of a local planning authority is required in respect of any development of land in which there is **[**F668a Crown interest or**]** a Duchy interest, **[**F669sections 109 to 112**]** shall have effect in relation to the withholding of that approval, or the giving of it subject to conditions, as if it were a refusal of planning permission or, as the case may be, a grant of planning permission subject to conditions.

Annotations:

Amendments (Textual)

F667 S. 298(1)(2) repealed (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 120, 121, Sch. 3 para. 24(2), **Sch. 9** (with s. 111); S.I. 2006/1281, **art. 2**

F668 Words in s. 298(3) inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 120, 121, **Sch. 3 para. 24(3)** (with s. 111); S.I. 2006/1281, **art. 2**

F669 Words in s. 298(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 25** (2) (with saving in Sch. 6 para. 25(3) and with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F670298A Applications for planning permission by Crown

(1) This section applies to an application for planning permission or for a certificate under section 192 made by or on behalf of the Crown.

(2) The Secretary of State may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.

(3) A statutory provision is a provision contained in or having effect under any enactment.**]**

Annotations:

Amendments (Textual)

F670 S. 298A inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 10(1)** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

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Provisions relating to anticipated disposal of Crown land

299 Application for planning permission etc. in anticipation of disposal of Crown land.

F671 . . . . . .

Annotations:

Amendments (Textual)

F671 S. 299 repealed (6.8.2004 for certain purposes and prosp. otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 120, 121, Sch. 3 para. 10(2), **Sch. 9** (with s. 111); S.I. 2004/2097, **art. 2**

299A Crown planning obligations.

F672 . . . . . .

Annotations:

Amendments (Textual)

F672 S. 299A repealed (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 120, Sch. 3 para. 25, **Sch. 9**, (with s. 111); S.I. 2006/1281, **art. 2**

Modifications etc. (not altering text)

C370 S. 299A modified (1.4.1996) by 1994 c. 19, s. 66(7), **Sch. 17 para. 15(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/3198, art. 6(3), **Sch. 5**

300 Tree preservation orders in anticipation of disposal of Crown land.

F673 . . . . . .

Annotations:

Amendments (Textual)

F673 S. 300 repealed (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 120, 121, Sch. 3 para. 26, **Sch. 9** (with s. 111, Sch. 3 para. 26(2)); S.I. 2006/1281, **art. 2**

301 Requirement of planning permission for continuance of use instituted by the Crown.

F674 . . . . . .

Annotations:

Amendments (Textual)

F674 S. 301 repealed (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 120, 121, Sch. 3 para. 27, **Sch. 9** (with s. 111, Sch. 3 para. 27(2)); S.I. 2006/1281, **art. 2**

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Enforcement in respect of war-time breaches of planning control by Crown

302 Enforcement in respect of war-time breaches of planning control by the Crown.

(1) This section applies where during the war period—

(a) works not complying with planning control were carried out on land, or

(b) a use of land not complying with planning control was begun by or on behalf of the Crown.

(2) Subject to subsection (4), if at any time after the end of the war period there subsists in the land a permanent or long-term interest which is neither held by or on behalf of the Crown nor subject to any interest or right to possession so held, the planning control shall, so long as such an interest subsists in the land, be enforceable in respect of those works or that use notwithstanding—

(a) that the works were carried out or the land used by or on behalf of the Crown, or

(b) the subsistence in the land of any interest held by or on behalf of the Crown in reversion (whether immediate or not) expectant on the termination of that permanent or long-term interest.

(3) A person entitled to make an application under this subsection with respect to any land may apply at any time before the relevant date to an authority responsible for enforcing any planning control for a determination—

(a) whether works on the land carried out, or a use of the land begun, during the war period fail to comply with any planning control which the authority are responsible for enforcing, and

(b) if so, whether the works or use should be deemed to comply with that control.

(4) Where any works on land carried out, or use of land begun, during the war period remain or continues after the relevant date and no such determination has been given, the works or use shall by virtue of this subsection be treated for all purposes as complying with that control unless steps for enforcing the control have been begun before that date.

(5) Schedule 15 shall have effect for the purpose of making supplementary provision concerning the enforcement of breaches of planning control to which this section applies and the making and determination of applications under subsection (3).

(6) In this section and that Schedule—

"authority responsible for enforcing planning control" means, in relation to any works on land or use of land, the authority empowered by virtue of section 75 of the 1947 Act or of paragraph 34 of Schedule 24 to the 1971 Act (including that paragraph as it continues in effect by virtue of Schedule 3 to the [M159]Planning (Consequential Provisions) Act 1990) to serve an enforcement notice in respect of it or the authority who would be so empowered if the works had been carried out, or the use begun, otherwise than in compliance with planning control;

"the relevant date", in relation to any land, means the date with which the period of five years from the end of the war period ends, but for the purposes of this definition any time during which, notwithstanding subsection (2), planning control is unenforceable by reason of the subsistence in or over the land of any interest or right to possession held by or on behalf of the Crown shall be disregarded;

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"owner" has the same meaning as in the [M160]Housing Act 1985 and "owned" shall be construed accordingly;

"permanent or long-term interest", in relation to any land, means the fee simple in the land, a tenancy of the land granted for a term of more than ten years and not subject to a subsisting right of the landlord to determine the tenancy at or before the expiration of ten years from the beginning of the term, or a tenancy granted for a term of ten years or less with a right of renewal which would enable the tenant to prolong the term of the tenancy beyond ten years;

"tenancy" includes a tenancy under an underlease and a tenancy under an agreement for a lease or underlease, but does not include an option to take a tenancy and does not include a mortgage;

"war period" means the period extending from 3rd September 1939 to 26th March 1946;

"works" includes any building, structure, excavation or other work on land.

(7) References in this section and that Schedule to non-compliance with planning control mean—

(a) in relation to works on land carried out, or a use of land begun, at a time when the land was subject to a resolution to prepare a scheme under the [M161]Town and Country Planning Act 1932, that the works were carried out or the use begun otherwise than in accordance with the terms of an interim development order or of permission granted under such an order;

(b) in relation to works on land carried out, or a use of land begun, at a time when the land was subject to such a scheme, that the works were carried out or the use begun otherwise than in conformity with the provisions of the scheme;

and references in this Act to compliance with planning control shall be construed accordingly.

(8) References in this section and that Schedule to the enforcement of planning control shall be construed as references to the exercise of the powers conferred by section 75 of the 1947 Act or by paragraph 34 of Schedule 24 to the 1971 Act (including that paragraph as it continues in effect by virtue of Schedule 3 to the [M162]Planning (Consequential Provisions) Act 1990).

Annotations:

Marginal Citations

M159 1990 c. 9.
M160 1985 c. 68.
M161 1932 c. 48.
M162 1990 c. 9.

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PART XIV

FINANCIAL PROVISIONS

[F675 303 Fees for planning applications etc.

(1) The appropriate authority may by regulations make provision for the payment of a fee or charge to a local planning authority in respect of—

(a) the performance by the local planning authority of any function they have;

(b) anything done by them which is calculated to facilitate or is conducive or incidental to the performance of any such function.

(2) The appropriate authority may by regulations make provision for the payment of a fee to the appropriate authority or the local planning authority (or of fees to both the appropriate authority and the local planning authority) in respect of any application for planning permission deemed to be made under section 177(5).

(3) The appropriate authority may by regulations make provision for the payment of a fee to the appropriate authority in respect of any application for planning permission which is deemed to be made to the appropriate authority under—

(a) any provision of this Act other than section 177(5), or

(b) any order or regulations made under this Act.

(4) The appropriate authority may by regulations make provision for the payment of a fee to the appropriate authority in respect of an application for planning permission made under section 293A (urgent Crown development).

(5) Regulations under this section may in particular—

(a) make provision as to when a fee or charge payable under the regulations is to be paid;

(b) make provision as to who is to pay a fee or charge payable under the regulations;

(c) make provision as to how a fee or charge payable under the regulations is to be calculated (including who is to make the calculation);

(d) prescribe circumstances in which a fee or charge payable under the regulations is to be remitted or refunded (wholly or in part);

(e) prescribe circumstances in which no fee or charge is to be paid;

(f) make provision as to the effect of paying or failing to pay a fee or charge in accordance with the regulations;

(g) prescribe circumstances in which a fee or charge payable under the regulations to one local planning authority is to be transferred to another local planning authority.

(6) Regulations under this section may—

(a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;

(b) in the case of regulations made by virtue of subsection (5)(f) or paragraph (a) of this subsection, amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(7) In this section "the appropriate authority" means—

(a) the Secretary of State in relation to England;

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(b) the Welsh Ministers in relation to Wales.

(8) No regulations shall be made under this section unless a draft of the regulations has been laid before and approved by resolution of—

(a) each House of Parliament, in the case of regulations made by the Secretary of State;

(b) the National Assembly for Wales, in the case of regulations made by the Welsh Ministers.

(9) Section 333(3) does not apply in relation to regulations made under this section by the Welsh Ministers.

(10) If a local planning authority calculate the amount of fees or charges in pursuance of provision made by regulations under subsection (1) the authority must secure that, taking one financial year with another, the income from the fees or charges does not exceed the cost of performing the function or doing the thing (as the case may be).

(11) A financial year is the period of 12 months beginning with 1 April.**]**

Annotations:

Amendments (Textual)

F675 S. 303 substituted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), **ss. 199**, 241 (with s. 226); S.I. 2009/400, **art. 5**

Modifications etc. (not altering text)

C371 S. 303 restricted (18.12.1996) by 1996 c. 61, **s. 11(5)**

C372 S. 303 restricted (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 12(5)**

[F676 303ZA Fees for appeals

(1) The appropriate authority may by regulations make provision for the payment of a fee to the appropriate authority in respect of an appeal to the appropriate authority under any provision made by or under—

(a) this Act;

(b) the Planning (Listed Buildings and Conservation Areas) Act 1990.

(2) The regulations may in particular—

(a) make provision as to when a fee payable under the regulations is to be paid;

(b) make provision as to how such a fee is to be calculated (including who is to make the calculation);

(c) prescribe circumstances in which such a fee is to be remitted or refunded (wholly or in part);

(d) prescribe circumstances in which no fee is to be paid;

(e) make provision as to the effect of paying or failing to pay a fee in accordance with the regulations.

(3) A fee payable to the appropriate authority under regulations made under this section is payable—

(a) by the appellant;

(b) in addition to any fee payable to the appropriate authority under regulations made under section 303.

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(4) Regulations under this section may—

(a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;

(b) in the case of regulations made by virtue of subsection (2)(e) or paragraph (a) of this subsection, amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(5) In this section "the appropriate authority" means—

(a) the Secretary of State in relation to England;

(b) the Welsh Ministers in relation to Wales.

(6) No regulations shall be made under this section unless a draft of the regulations has been laid before and approved by resolution of—

(a) each House of Parliament, in the case of regulations made by the Secretary of State;

(b) the National Assembly for Wales, in the case of regulations made by the Welsh Ministers.

(7) Section 333(3) does not apply in relation to regulations made under this section by the Welsh Ministers.**]**

Annotations:

Amendments (Textual)

F676 S. 303ZA inserted (1.10.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), **ss. 200**, 241 (with s. 226); S.I. 2009/2260, **art. 4**

[F677303A Responsibility of local planning authorities for costs of holding certain inquiries etc.

[F678(1) This section applies if the appropriate authority appoints a person to carry out or hold a qualifying procedure.

(1A) A qualifying procedure is—

(a) an independent examination under section 20 or 64 of the Planning and Compulsory Purchase Act 2004;

(b) a local inquiry or other hearing under paragraph 8(1)(a) of Schedule 7;

(c) the consideration of objections under paragraph 8(1)(b) of that Schedule.

(1B) The appropriate authority is—

(a) the Secretary of State if the local planning authority causing the procedure to be carried out or held is in England;

(b) the National Assembly for Wales if the local planning authority causing the procedure to be carried out or held is in Wales.**]**

(2) The **[F679**appropriate authority**]** may require the whole or any part of the costs borne by **[F680**it**]** in relation to the qualifying **[F681**procedure**]** to be paid by the local planning authority causing the qualifying **[F681**procedure**]** to be held.

(3) The **[F679**appropriate authority**]** may cause the amount of any such costs to be certified; and any amount so certified and required by **[F680**it**]** to be paid by a local planning authority shall be recoverable from that authority as a civil debt.

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(4) What may be recovered under this section by the **[**F679appropriate authority**]** is the entire administrative cost of, or incidental to, the qualifying **[**F681procedure**]** , so far as borne by **[**F680it**]** , including, in particular, such reasonable amount or element as **[**F682it**]** may determine in respect of the general staff costs and overheads of his department.

(5) For the purposes of subsection (4), the **[**F679appropriate authority**]** may by regulations prescribe a standard daily amount in relation to any description of qualifying **[**F681procedure**]** and any description of person appointed to hold it, F683. . . and where, in relation to a qualifying **[**F681procedure**]** of that description, a person of that description is or has been so appointed, what may be recovered in respect of that qualifying **[**F681procedure**]** by virtue of the appointment of that person . . . is—

(a) the prescribed standard amount from time to time applicable in the case of that qualifying **[**F681procedure**]** and that person in respect of each day, or an appropriate proportion of that amount in respect of a part of a day, on which that person is engaged in the holding of, or is otherwise engaged on work connected with, the qualifying **[**F681procedure**]** ;

(b) any costs actually incurred on travelling or subsistence allowances payable to that person in connection with the qualifying **[**F681procedure**]** ;

(c) any costs attributable to the appointment of an assessor to assist that person F684. . . and

(d) any other costs attributable to the appointment of that person.

(6) The cost of, or incidental to, a qualifying **[**F681procedure**]** which does not take place may be recovered by the **[**F679appropriate authority**]** from the local planning authority from which it would have been recoverable, had the qualifying **[**F681procedure**]** taken place, to the same extent, and in the same way, as the cost of, or incidental to, a qualifying **[**F681procedure**]** which does take place.

(7) F685. . . . . .

(8) . . . . . .

(9) . . . . . .

[F686(9A) References to a local planning authority causing a qualifying inquiry to be held include references to a requirement under the Planning and Compulsory Purchase Act 2004 on the authority to submit a plan to the appropriate authority for independent examination.**]**

(10) In this section—

(a) any reference to costs borne by the **[**F687appropriate authority**]** includes a reference to costs which, apart from this section, would fall, or would have fallen, to be borne by **[**F688it**]** ; and

(b) any reference to any remuneration or allowance being paid or payable to a person includes a reference to its being paid or payable for him.

(11) This section applies in relation to costs arising before, as well as costs arising after, its coming into force.**]**

Annotations:

Amendments (Textual)

F677 S. 303A inserted (8.11.1995) by 1995 c. 49, **s. 1(1)**

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F678 S. 303A(1)-(1B) substituted (28.9.2004 (E.), 15.10.2005 (W.)) by Planning and Compulsory Purchase Act 2004 (c. 5), s. 118, **Sch. 6 para. 11(2)**, (with s. 111); S.I. 2004/2202, **art. 2**; S.I. 2005/2847, **art. 2**

F679 Words in s. 303A(2)-(6) substituted (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 11(3)** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3)

F680 Word in s. 303A(2)-(6) substituted (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 11(3)** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3)

F681 Word in s. 303A(2)(4)(5)(6) substituted (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 11(4)** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3)

F682 Word in s. 303A(2)-(6) substituted (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 11(3)** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3)

F683 Words in s. 303A(5) repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 11(5)** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3)

F684 Words in s. 303A(5)(c) repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 11(5)(c)** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3)

F685 S. 303A(7)-(9) substituted (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 11(6)** (with s. 111); S.I. 2004/2202, **art. 2** Sch .1 (subjject to transitional provisions and savings in art. 4) ; S.I. 2005/2847, **art. 2** Sch. 1 (subjject to transitional provisions and savings in art. 3)

F686 S. 303A(9A) inserted (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 11(7)** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subjject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** Sch. 1 (subjject to transitional provisions and savings in art. 3)

F687 Words in s. 303A(10)(a) substituted (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 11(3)** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3)

F688 Word in s. 303A(10)(a) substituted (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 11(3)** (with s. 111); S.I. 2004/2202, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 3)

Modifications etc. (not altering text)

C373 S. 303A modified (8.11.1995) by 1995 c. 49, **s. 1(2)(3)(4)**
S. 303A restricted (8.11.1995) by 1995 c. 49, **s. 2(14)**

304 Grants for research and education.

The Secretary of State may, with the consent of the Treasury, make grants for assisting establishments engaged in promoting or assisting research relating to, and education with respect to, the planning and design of the physical environment.

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[F689 304A Grants for advice and assistance

(1) The appropriate authority may make grants for the purpose of assisting any person to provide advice and assistance in connection with any matter which is related to—

(a) the planning Acts;

(b) the Planning and Compulsory Purchase Act 2004;

[F690 (ba) the Planning Act 2008;]

(c) the enactments mentioned in subsection (2).

(2) The enactments are enactments which relate to planning contained in the following Acts—

(a) the Planning and Compensation Act 1991;

(b) the Transport and Works Act 1992;

(c) the Environment Act 1995.

(3) The appropriate authority may make a grant subject to such terms and conditions as it thinks appropriate.

(4) Person includes a body whether or not incorporated.

(5) The appropriate authority is—

(a) the Secretary of State in relation to England;

(b) the National Assembly for Wales in relation to Wales.]

Annotations:

Amendments (Textual)

F689 S. 304A inserted (13.5.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 115**, 121 (with s. 111)

F690 S. 304A(1)(ba) inserted (6.4.2009) by Planning Act 2008 (c. 29), **ss. 177**, 241 (with s. 226); S.I. 2009/400, **art. 3**

305 Contributions by Ministers towards compensation paid by local authorities.

(1) Where—

(a) compensation is payable by a local authority [F691 or National Park authority] under this Act in consequence of any decision or order to which this section applies, and

(b) that decision or order was given or made wholly or partly in the interest of a service which is provided by a government department and the cost of which is defrayed out of money provided by Parliament,

the Minister responsible for the administration of that service may pay to that authority a contribution of such amount as he may with the consent of the Treasury determine.

(2) This section applies to any decision or order given or made under Part III, the provisions of Part VI relating to purchase notices, Part VII, Part VIII or Schedule 5, 6 or 9.

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Annotations:

Amendments (Textual)

F691 Words in s. 305(1)(a) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(9)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

306 Contributions by local authorities and statutory undertakers.

(1) Without prejudice to section 274 of the [M163]Highways Act 1980 (contributions by local authorities to expenses of highway authorities), any local authority may contribute towards any expenses incurred by a local highway authority—

(a) in the acquisition of land under Part IX of this Act or Chapter V of Part I of the [M164]Planning (Listed Buildings and Conservation Areas) Act 1990,

(b) in the construction or improvement of roads on land so acquired, or

(c) in connection with any development required in the interests of the proper planning of the area of the local authority.

(2) Any local authority and any statutory undertakers may contribute towards—

[[F692](a) any expenses incurred by a local planning authority for the purposes of carrying out a review under section 13 or 61 of the Planning and Compulsory Purchase Act 2004 (duty of local planning authority to keep under review certain matters affecting development);

(ab) any expenses incurred by a county council for the purposes of carrying out a review under section 14 of that Act (duty of county council to keep under review certain matters affecting development);**]**

(b) any expenses incurred by a local planning authority or a mineral planning authority in or in connection with the performance of any of their functions under Part III, the provisions of Part VI relating to purchase notices, Part VII **[**[F693]except sections 196A and 196B**]**, Part VIII (except section 207), Part IX or Schedule 5 or 9.

(3) Where any expenses are incurred by a local authority in the payment of compensation payable in consequence of anything done under Part III, the provisions of Part VI relating to purchase notices, Part VII **[**[F693]except sections 196A and 196B**]**, Part VIII, or Schedule 5 or 9, the Secretary of State may, if it appears to him to be expedient to do so, require any other local authority to contribute towards those expenses such sum as appears to him to be reasonable, having regard to any benefit accruing to that authority by reason of the proceeding giving rise to the compensation.

(4) Subsection (3) shall apply in relation to payments made by a local authority to any statutory undertakers in accordance with financial arrangements to which effect is given under section 275(5)(c), as it applies in relation to compensation payable by such an authority in consequence of anything done under Part III, Part VIII or Schedule 5 or 9, and the reference in that subsection to the proceeding giving rise to the compensation shall be construed accordingly.

(5) For the purposes of this section, contributions made by a local planning authority towards the expenditure of a joint advisory committee shall be deemed to be expenses incurred by that authority for the purposes for which that expenditure is incurred by the committee.

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[F694(6) This section shall have effect as if the references to a local authority included references to a National Park authority.**]**

Annotations:

Amendments (Textual)

F692 S. 306(2)(a)(ab) substituted for s. 306(2)(a) (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 12** (with s. 111); S.I. 2004/2202, **art. 2** (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** (subject to transitional provisions and savings in art. 3)

F693 Words in s. 306(2)(b)(3) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, 84(2)-(4), **Sch. 7 para. 47** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 4)

F694 S. 306(6) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(10)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

Modifications etc. (not altering text)

C374 S. 306(2)(a) applied (with modifications) (1.4.1996) by 1994 c. 19, s. 66(7), **Sch. 17 Pt. II para. 17(1)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 6(3), **Sch. 5**

Marginal Citations

M163 1980 c. 66.

M164 1990 c. 9.

307 Assistance for acquisition of property where objection made to blight notice in certain cases.

(1) The council of a county, **[**F695county borough,**]** district or London borough may advance money to any person for the purposes of enabling him to acquire a hereditament or agricultural unit in respect of which a counter-notice has been served under section 151 specifying the grounds mentioned in subsection (4)(d) of that section as, or as one of, the grounds of objection.

(2) No advance may be made under subsection (1) in the case of a hereditament if its annual value exceeds such amount as may be prescribed for the purposes of section 149(3)(a).

(3) An advance under subsection (1) may be made subject to such conditions as the council may think fit.

Annotations:

Amendments (Textual)

F695 Words in s. 307(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(12)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

308 Recovery from acquiring authorities of sums paid by way of compensation.

(1) This section applies where—

(a) an interest in land is compulsorily acquired or is sold to an authority possessing compulsory purchase powers, and

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(b) a notice is registered under section 110(2) [F696]. . . in respect of any of the land acquired or sold (whether before or after the completion of the acquisition or sale) in consequence of a planning decision or order made before the service of the notice to treat, or the making of the contract, in pursuance of which the acquisition or sale is effected.

(2) Where this section applies the Secretary of State shall, subject to the following provisions of this section, be entitled to recover from the acquiring authority a sum equal to so much of the amount of the compensation specified in the notice as (in accordance with section 110(5) . . .) is to be treated as attributable to that land.

(3) If, immediately after the completion of the acquisition or sale, there is outstanding some interest in the land acquired or sold to which a person other than the acquiring authority is entitled, the sum referred to in subsection (2) shall not accrue due until that interest either ceases to exist or becomes vested in the acquiring authority.

(4) No sum shall be recoverable under this section in the case of a compulsory acquisition or sale where the Secretary of State is satisfied that the interest in question is being acquired for the purposes of the use of the land as a public open space.

(5) Where the Secretary of State recovers a sum under this section in respect of any land by reason that it is land in respect of which a notice is registered under the provisions of section 110, section 112(11) to (13) shall have effect in relation to that sum as if it were a sum recovered as mentioned in section 112(11).

(6) In this section . . . "interest" (where the reference is to an interest in land) means the fee simple or a tenancy of the land and does not include any other interest in it.

Annotations:

Amendments (Textual)

F696 Words in s. 308(1)(b)(2)(6) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 26(1)(a)(b)(c), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F697]309 . . . . . .

Annotations:

Amendments (Textual)

F697 S. 309 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, 84(6), Sch. 6 para. 27, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

310 Sums recoverable from acquiring authorities reckonable for purposes of grant.

Where—

(a) a sum is recoverable from any authority under section 308 [F698]. . . by reference to an acquisition or purchase of an interest in land, and

(b) a grant became or becomes payable to that or some other authority under an enactment in respect of that acquisition or purchase or of a subsequent appropriation of the land,

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the power conferred by that enactment to pay the grant shall include, and shall be deemed always to have included, power to pay a grant in respect of that sum as if it had been expenditure incurred by the acquiring authority in connection with the acquisition or purchase.

Annotations:

Amendments (Textual)

F698 Words in s. 310 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 28, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

311 Expenses of government departments.

(1) The following expenses of the Secretary of State shall be paid out of money provided by Parliament—

(a) any expenses incurred by the Secretary of State under subsection (5) of section 220 or in the payment of expenses of any committee established under that section;

(b) any sums necessary to enable the Secretary of State to make any payments becoming payable by him under Part IV [F699]. . .;

(c) any expenses incurred by the Secretary of State under Part X;

(d) any expenses incurred by the Secretary of State in the making of grants under section 304;

(e) any administrative expenses incurred by the Secretary of State for the purposes of this Act.

(2) There shall be paid out of money provided by Parliament any expenses incurred by any government department (including the Secretary of State)—

(a) in the acquisition of land under Part IX;

(b) in the payment of compensation under section 236(4), 279(2) or 325;

(c) under section 240(1)(b); or

(d) under section 305.

Annotations:

Amendments (Textual)

F699 Words in s. 311(1)(b) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 29, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F700]312 . . . . . .

Annotations:

Amendments (Textual)

F700 S. 312 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 30, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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313 General provision as to receipts of Secretary of State.

F701. . .Subject to the provisions of section 112, any sums received by the Secretary of State under any provision of this Act shall be paid into the Consolidated Fund.

Annotations:

Amendments (Textual)

F701 Words in s. 313 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 31, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

314 Expenses of county councils.

The council of a county may direct that any expenses incurred by them under the provisions specified in Parts I and II of Schedule 16 shall be treated as special expenses of a county council chargeable upon such part of the county as may be specified in the directions.

PART XV

MISCELLANEOUS AND GENERAL PROVISIONS

Application of Act in special cases

315 Power to modify Act in relation to minerals.

(1) In relation to development consisting of the winning and working of minerals **[**F702or involving the depositing of mineral waste**]**, the provisions specified in Parts I and II of Schedule 16 shall have effect subject to such adaptations and modifications as may be prescribed.

(2) In relation to interests in land consisting of or comprising minerals (being either the fee simple or tenancies of such land) F703. . ., the provisions specified in Part III of Schedule 16 shall have effect subject to such adaptations and modifications as may be prescribed.

(3) Regulations made for the purposes of this section may only be made with the consent of the Treasury and shall be of no effect unless they are approved by resolution of each House of Parliament.

(4) Any regulations made by virtue of subsection (1) shall not apply—

(a) to the winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works on it which are occupied or used for those purposes; F704. . .

(b) . . . . . .

(5) Nothing in subsection (1) or (4) shall be construed as affecting the prerogative right of Her Majesty (whether in right of the Crown or of the Duchy of Lancaster) or of the Duke of Cornwall to any gold or silver mine.

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Annotations:

Amendments (Textual)

F702 Words in s. 315(1) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(2)-(4), **Sch. 1 para. 11** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F703 Words in s. 315(2) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 32, **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F704 S. 315(4)(b) and word "or" immediately preceding it repealed (1.11.1994) by 1994 c. 21, s. 67, Sch. 9 para. 39(2), **Sch. 11 Pt. III** (with s. 40(7)); S.I. 1994/2552, art. 3, **Sch. 2**

[F705316 Land of interested planning authorities and development by them.

(1) The provisions of Parts III, VII and VIII of this Act shall apply in relation to—

(a) land of interested planning authorities; and

(b) the development of any land by interested planning authorities or by such authorities jointly with any other persons,

subject to regulations made by virtue of this section.

(2) The regulations may, in relation to such land or such development—

(a) provide for any of those provisions to apply subject to prescribed exceptions or modifications or not to apply;

(b) make new provision as to any matter dealt with in any of those provisions;

(c) make different provision in relation to different classes of land or development.

(3) Without prejudice to subsection (2), the regulations may provide—

(a) subject to subsection (5), for applications for planning permission to develop such land, or for such development, to be determined by the authority concerned, by another interested planning authority or by the Secretary of State; and

(b) for the procedure to be followed on such applications,

and, in the case of applications falling to be determined by an interested planning authority, they may regulate the authority's arrangements for the discharge of their functions, notwithstanding anything in section 101 of the [M165]Local Government Act 1972.

(4) The regulations shall—

(a) provide for section 71(3), and any provision made by virtue of section 65 or 71 by a development order, to apply to applications for planning permission to develop such land, or for such development, subject to prescribed exceptions or modifications, or

(b) make corresponding provision.

(5) In the case of any application for planning permission to develop land of an interested planning authority where—

(a) the authority do not intend to develop the land themselves or jointly with any other person; and

(b) if it were not such land, the application would fall to be determined by another body,

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the regulations shall provide for the application to be determined by that other body, unless the application is referred to the Secretary of State under section 77.

(6) In this section "interested planning authority", in relation to any land, means any body which exercises any of the functions of a local planning authority in relation to that land; and for the purposes of this section land is land of an authority if the authority have any interest in it.

(7) This section applies to any consent required in respect of any land as it applies to planning permission to develop land.

(8) Subsection (1) does not apply to sections 76, 90(2) and (5) and 223.**]**

Annotations:

Amendments (Textual)

F705 S. 316 substituted (25.11.1991 for certain purposes and otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s.20**, (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1491, **art. 2**

Modifications etc. (not altering text)

C375 S. 316: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Marginal Citations

M165 1972 c. 70.

[F706 316A Local planning authorities as statutory undertakers.

In relation to statutory undertakers who are local planning authorities, section 283 and the provisions specified in that section shall have effect subject to such exceptions and modifications as may be prescribed.**]**

Annotations:

Amendments (Textual)

F706 S. 316A inserted (25.11.1991 for certain purposes and otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 48** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1491, art. 2, **Sch. 1**

F707 317 . . . . . .

Annotations:

Amendments (Textual)

F707 S. 317 repealed (1.11.1994) by 1994 c. 21, s. 67, Sch. 9 para. 39(2), **Sch. 11 Pt. III** (with s. 40(7)); S.I. 1994/2552, art. 3, **Sch. 2**

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318 Ecclesiastical property.

(1) Without prejudice to the provisions of the [M166]Acquisition of Land Act 1981 with respect to notices served under that Act, where under any of the provisions of this Act a notice or copy of a notice is required to be served on an owner of land, and the land is ecclesiastical property, a similar notice or copy of a notice shall be served on the **[**[F708]Diocesan Board of Finance for the diocese in which the land is situated**]** .

(2) **[**[F709]Where any ecclesiastical property is vested in the incumbent of a benefice which is vacant**]**—

(a) if the property is situated elsewhere than in Wales, then for the purposes of the provisions specified in Part VI of Schedule 16 **[**[F710]it**]** shall be treated as being vested in the **[**[F711]Diocesan Board of Finance for the diocese in which the land is situated**]** ;

(b) in any case, **[**[F710]it**]** shall, for the purposes of a compulsory acquisition of the property under Part IX, be treated as being vested in the **[**[F711]Diocesan Board of Finance for the diocese in which the land is situated**]** , and any notice to treat shall be served, or be deemed to have been served, accordingly.

(3) Any compensation payable under Part IV, section 186, Part VIII (except section 204) or section 250 in respect of land which is ecclesiastical property **[**[F712]shall be paid to the Diocesan Board of Finance for the diocese in which the land is situated**]** and shall [F713]. . . be applied by **[**[F714]it**]**, for the purposes of a compulsory acquisition of the property under Part IX, be treated as being vested in the Church Commissioners, and any notice to treat shall be served or deemed to have been served, accordingly.

(4) Any sum which under any of the provisions specified in Part III of Schedule 16 is payable in relation to land which is, or on 1st July 1948 was, ecclesiastical property, and apart from this subsection would be payable to an incumbent—

(a) shall be paid to the **[**[F715]Diocesan Board of Finance for the diocese in which the land is situated**]** , and

(b) shall be applied by **[**[F714]it**]** for the purposes mentioned in subsection **[**[F716](3)**]**.

(5) Where any sum is recoverable under section 111, **[**[F717]or 112**]** in respect of any such land, the **[**[F718]Diocesan Board of Finance for the diocese in which the land is situated**]** may apply any money or securities held by **[**[F714]it**]** in the payment of that sum.

(6) In this section "ecclesiastical property" means land belonging to an ecclesiastical benefice **[**[F719]of the Church of England**]**, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese **[**[F720]of the Church of England**]** or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction [F721]. . . .

Annotations:

Amendments (Textual)

F708 Words in s. 318(1) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(a)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

F709 Words in s. 318(2) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(b)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

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F710 Word in s. 318(5) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(b)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

F711 Words in s. 318(2) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(a)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

F712 Words in s. 318(3) substituted for s. 318(3)(a)(b) (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(c)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

F713 Words in s. 318(3)(b) omitted (E.) (1.10.2006) by virtue of Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(c)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

F714 Word in s. 318(3)(4)(5) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(d)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

F715 Words in s. 318(4) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(a)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

F716 Word in s. 318(4)(b) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 Pt. II para. 30(2)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F717 Words in s. 318(5) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 33** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F718 Words in s. 318(5) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(a)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

F719 Words in s. 318(6) inserted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(e)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

F720 Words in s. 318(6) inserted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(e)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

F721 Words in s. 318(6) omitted (E.) (1.10.2006) by virtue of Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), ss. 14, 16(2), **Sch. 5 para. 26(e)**; {Instrument dated 11.9.2006 made by the Archbishops of Canterbury and York}

Modifications etc. (not altering text)

C376 S. 318(1)(3)(6) applied (with modifications) (1.6.1997) by S.I. 1997/1160, **reg. 16(1)**

Marginal Citations

M166 1981 c. 67.

[F722 319 The Isles of Scilly.

(1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.

(2) An order under this section may in particular provide for the exercise by the Council of the Isles of Scilly of any functions exercisable by a local planning authority or mineral planning authority.

(3) Before making an order under this section the Secretary of State shall consult with that Council.]

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Annotations:

Amendments (Textual)

F722 S. 319 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.49** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

[F723 Determination of procedure

Annotations:

Amendments (Textual)

F723 S. 319A and preceding cross-heading inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), **ss. 196(1)**, 241 (with s. 226); S.I. 2009/400, **art. 3** (with art. 6(2))

319A Determination of procedure for certain proceedings

(1) The Secretary of State must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in whichever of the following ways appears to the Secretary of State to be most appropriate—

(a) at a local inquiry;

(b) at a hearing;

(c) on the basis of representations in writing.

(3) The Secretary of State must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Secretary of State must notify the appellant or applicant (as the case may be) and the local planning authority of any determination made under subsection (1).

(6) The Secretary of State must publish the criteria that are to be applied in making determinations under subsection (1).

(7) This section applies to—

(a) an application referred to the Secretary of State under section 77 instead of being dealt with by a local planning authority in England;

(b) an appeal under section 78 against a decision of a local planning authority in England;

(c) an appeal under section 174 against an enforcement notice issued by a local planning authority in England;

(d) an appeal under section 195 against a decision of a local planning authority in England; and

(e) an appeal under section 208 against a notice under section 207(1) issued by a local planning authority in England.

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(8) But this section does not apply to proceedings if they are referred to a Planning Inquiry Commission under section 101; and on proceedings being so referred, any determination made in relation to the proceedings under subsection (1) of this section ceases to have effect.

(9) The Secretary of State may by order amend subsection (7) to—

(a) add proceedings to, or remove proceedings from, the list of proceedings to which this section applies, or

(b) otherwise modify the descriptions of proceedings to which this section applies.

(10) An order under subsection (9) may—

(a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;

(b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.**]**

Local inquiries and other hearings

320 Local inquiries.

(1) The Secretary of State may cause a local inquiry to be held for the purposes of the exercise of any of his functions under any of the provisions of this Act.

(2) Subsections (2) to (5) of section 250 of the [M167]Local Government Act 1972 (local inquiries: evidence and costs) apply to an inquiry held by virtue of this section.

Annotations:

Modifications etc. (not altering text)

C377 S. 320 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**

C378 S. 320: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M167 1972 c. 70.

321 Planning inquiries to be held in public subject to certain exceptions.

(1) This section applies to any inquiry held under section 320(1), paragraph 6 of Schedule 6 or paragraph 5 of Schedule 8.

(2) Subject to subsection (3), at any such inquiry oral evidence shall be heard in public and documentary evidence shall be open to public inspection.

(3) If the Secretary of State is satisfied in the case of any such inquiry—

(a) that giving evidence of a particular description or, as the case may be, making it available for inspection would be likely to result in the disclosure of information as to any of the matters mentioned in subsection (4); and

(b) that the public disclosure of that information would be contrary to the national interest,

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he may direct that evidence of the description indicated in the direction shall only be heard or, as the case may be, open to inspection at that inquiry by such persons or persons of such descriptions as he may specify in the direction.

(4) The matters referred to in subsection (3)(a) are—

(a) national security; and

(b) the measures taken or to be taken to ensure the security of any premises or property.

[[F724](5) If the Secretary of State is considering giving a direction under subsection (3) the Attorney General may appoint a person to represent the interests of any person who will be prevented from hearing or inspecting any evidence at a local inquiry if the direction is given.

(6) If before the Secretary of State gives a direction under subsection (3) no person is appointed under subsection (5), the Attorney General may at any time appoint a person as mentioned in subsection (5) for the purposes of the inquiry.

(7) The Lord Chancellor may by rules make provision—

(a) as to the procedure to be followed by the Secretary of State before he gives a direction under subsection (3) in a case where a person has been appointed under subsection (5);

(b) as to the functions of a person appointed under subsection (5) or (6).

(8) Rules made under subsection (7) must be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(9) If a person is appointed under subsection (5) or (6) (the appointed representative) the Secretary of State may direct any person who he thinks is interested in the inquiry in relation to a matter mentioned in subsection (4) (the responsible person) to pay the fees and expenses of the appointed representative.

(10) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the Secretary of State.

(11) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person or determined by him to be certified.

(12) An amount so certified is recoverable from the responsible person as a civil debt.**]**

Annotations:

Amendments (Textual)

F724 S. 321(5)-(12) inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 80(1)**, 121 (with s. 111); S.I. 2004/ 2097, {art. 2}; S.I. 2006/1281, **art. 2**

Modifications etc. (not altering text)

C379 S. 321: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

[[F725]321A Appointed representative: no inquiry

(1) This section applies if—

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(a) a person is appointed under subsection (5) or (6) of section 321, but

(b) no inquiry is held as mentioned in subsection (1) of that section.

(2) Subsections (9) to (12) of section 321 apply in respect of the fees and expenses of the person appointed as if the inquiry had been held.

(3) For the purposes of subsection (2) the responsible person is the person to whom the Secretary of State thinks he would have given a direction under section 321(9) if an inquiry had been held.

(4) This section does not affect section 322A.**]**

Annotations:

Amendments (Textual)

F725 S. 321A inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 80(2)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

[F726**321B Special provision in relation to planning inquiries: Wales**

(1) This section applies if the matter in respect of which a local inquiry to which section 321 applies is to be held relates to Wales.

(2) The references in section 321(5) and (6) to the Attorney General must be read as references to the Counsel General to the **[**F727Welsh Assembly Government**]** .

(3) The Assembly may by regulations make provision as mentioned in section 321(7) in connection with a local inquiry to which this section applies.

(4) If the Assembly acts under subsection (3) rules made by the Lord Chancellor under section 321(7) do not have effect in relation to the inquiry.

(5) F728 . . . . . .

(6) Section 333(3) does not apply to regulations made under subsection (4).**]**

Annotations:

Amendments (Textual)

F726 S. 321B inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 81(1)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

F727 Words in s. 321B(2) substituted by Government of Wales Act 2006 (c. 32), ss. 160, 161, **Sch. 10 para. 35(a)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F728 S. 321B(5) repealed by Government of Wales Act 2006 (c. 32), ss. 160, 161, 163, Sch. 10 para. 35(b), **Sch. 12** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

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[F729]322 Orders as to costs of parties where no local inquiry held.

(1) This section applies to proceedings under this Act where the Secretary of State is required, before reaching a decision, to give any person an opportunity of appearing before and being heard by a person appointed by him.

[[F730](1A) This section also applies to proceedings under this Act to which section 319A applies.**]**

(2) The Secretary of State has the same power to make orders under section 250(5) of the [M168]Local Government Act 1972 (orders with respect to the costs of the parties) in relation to proceedings to which this section applies which do not give rise to a local inquiry as he has in relation to a local inquiry.

Annotations:

Amendments (Textual)

F729 S. 322 omitted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **6** (which temp. omission falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3))

F730 S. 322(1A) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 10** (with s. 226); S.I. 2009/400, **art. 3**

Modifications etc. (not altering text)

C380 S. 322 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**; applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 37(2)**; S.I. 1992/725, **arts. 2**, 3
S. 322 applied (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 322: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Commencement Information

I1 S. 322 omitted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **6** (which temp. omission falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3) thus bringing s. 322 partially into force)

Marginal Citations

M168 1972 c. 70.

[[F731]322A Orders as to costs: supplementary.

(1) This section applies where—

(a) for the purposes of any proceedings under this Act—

(i) the Secretary of State is required, before a decision is reached, to give any person an opportunity, or ask any person whether he wishes, to appear before and be heard by a person appointed by him; and

(ii) arrangements are made for a local inquiry or hearing to be held;

(b) the inquiry or hearing does not take place; and

(c) if it had taken place, the Secretary of State or a person appointed by him would have had power to make an order under section 250(5) of the [M169]Local Government Act 1972 requiring any party to pay any costs of any other party.

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[[F732](1A) This section also applies where—

(a) arrangements are made for a local inquiry or a hearing to be held pursuant to a determination under section 319A;

(b) the inquiry or hearing does not take place; and

(c) if it had taken place, the Secretary of State or a person appointed by the Secretary of State would have had power to make an order under section 250(5) of the Local Government Act 1972 requiring any party to pay any costs of any other party.**]**

(2) Where this section applies the power to make such an order may be exercised, in relation to costs incurred for the purposes of the inquiry or hearing, as if it had taken place.**]**

Annotations:

Amendments (Textual)

F731 S. 322A inserted (2.1.1992 except for certain purposes which exception is *prosp.*.) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **ss. 30(1)**, 84(2)-(4) (with s. 84(5)); S.I. 1991/2728, **art.3** (subject to art. 4)

F732 S. 322A(1A) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 11** (with s. 226); S.I. 2009/400, **art. 3**

Modifications etc. (not altering text)

C381 S. 322A applied (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
S. 322A: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 322A applied (with modifications) (1.6.1997) by S.I. 1997/1160, **reg. 9(7)**

C382 S. 322A applied (13.2.2004 for E. and 31.5.2005 for W.) by 1981 c. 69, Sch. 15 para. 10A(3) (as inserted by 2000 c. 37, ss. 51, 103(3)-(5), Sch. 5 Pt. I para. 11(8); S.I. 2004/292, **art. 2(d)(iii)** (with art. 3(1); S.I. 2005/1314, **art. 2(a)(iii)**)
S. 322A applied (12.2.2003 for E. for certain purposes, 15.7.2005 for W. for certain purposes, 11.5.2006 for W. otherwise, and for E. otherwise prosp.) by 1980 c. 66, Sch. 6 para. 2B(3) (as inserted by 2000 c. 37, ss. 57, 103(3)-(5), Sch. 6 para. 23(8); S.I. 2003/272, **art. 2(p)**; S.I. 2005/1314, **art. 3(d)(viii)(gg)**; S.I. 2006/1279, **art. 2(l)(n)**)
S. 322A applied (30.1.2001) by 1981 c. 69, **ss. 28F(11)**, 28L(13) (as substituted (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1**)
S. 322A applied (E.) (1.2.2002) by S.I. 2001/3966, **art. 15(10)**

C383 S. 322A applied (19.8.2002) by The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas)(Wales) Regulations 2002 (S.I. 2002/2127), {reg. 15(10)} (with reg. 17)
S. 322A applied (E.) (1.10.2006) by The Environmental Impact Assessment (Agriculture)(England) Regulations 2006 (S.I. 2006/2362), {reg. 33(13)}
S. 322A applied (E.) (21.5.2007) by Wildlife and Countryside Act 1981 (c. 69), Sch. 15 para. 10A(3) (as inserted by Countryside and Rights of Way Act 2000 (c. 37), ss. 51, 103, **Sch. 5 para. 11**); S.I. 2007/1493, **art. 2**)
S. 322A applied (W.) (31.10.2007) by The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2007 (S.I. 2007/2933), **reg. 31(11)**

Marginal Citations

M169 1972 c. 70.

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[F733 322B Local inquiries in London: special provision as to costs in certain cases.

(1) This section applies where—

(a) the local planning authority for a London borough refuse an application for planning permission,

(b) that refusal is in compliance with a direction made by the Mayor of London in accordance with provision made in a development order by virtue of section 74(1B)(a), and

(c) an appeal against the refusal is made to the Secretary of State under section 78.

(2) If the Secretary of State causes a local inquiry to be held under section 320(1) to determine the appeal, in its application to the inquiry section 250 of the 1972 Act shall be treated as if—

(a) for subsection (4) there were substituted the subsection set out at subsection (5) below, and

(b) for subsection (5) there were substituted the subsection set out at subsection (6) below.

(3) If the appeal does not give rise to a local inquiry under section 320, in the application of section 322(2) in relation to the appeal the reference to section 250(5) of the 1972 Act shall be treated as if it were a reference to that provision as modified by subsection (2)(b) above.

(4) If arrangements are made for a local inquiry in relation to the appeal and the inquiry does not take place, in the application of section 322A in relation to the appeal the reference to section 250(5) of the 1972 Act shall be treated as if it were a reference to that provision as modified by subsection (2)(b) above.

(5) The subsection referred to in subsection (2)(a) above is as follows—

(“) Where this subsection applies to an inquiry, the costs incurred by the Secretary of State in relation to the inquiry shall be paid—

(a) by the Mayor of London, if he is not a party to the inquiry and if the Secretary of State decides that the Mayor acted unreasonably in making the direction in accordance with which the local planning authority refused the planning permission, or

(b) if the Mayor is a party or if the Secretary of State does not so decide, by such local authority or party to the inquiry as he may direct;

and the Secretary of State may cause the amount of the costs so incurred to be certified, and any amount so certified and directed to be paid by the Mayor or by any authority or person shall be recoverable from the Mayor or from that authority or person by the Secretary of State summarily as a civil debt. ”

(6) The subsection referred to in subsection (2)(b) above is as follows—

(“) Where this subsection applies to an inquiry, or to costs incurred for the purposes of an inquiry, the Secretary of State may make orders as to the costs of the parties to the inquiry and as to the parties by whom the costs are to be paid; and—

(a) the parties by whom the costs are ordered to be paid may include the Mayor of London if he is not a party to the inquiry and if the Secretary of State decides that the Mayor acted unreasonably in making the direction in accordance with which the local planning authority refused the planning permission;

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(b) every such order may be made a rule of the High Court on the application of any party named in the order. ”

(7) In this section “the 1972 Act” means the Local Government Act 1972.**]**

Annotations:

Amendments (Textual)

F733 S. 322B inserted (3.7.2000) by 1999 c. 29, **s. 345** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

323 Procedure on certain appeals and applications.

(1) The Secretary of State may by regulations prescribe the procedure to be followed in connection with proceedings under this Act where he is required, before reaching a decision, to give any person an opportunity of appearing before and being heard by a person appointed by him and which are to be disposed of without an inquiry or hearing to which rules under **[**F734section 9 of the Tribunals and Inquiries Act 1992**]** apply.

[F735(1A) The Secretary of State may by regulations prescribe the procedure to be followed in connection with proceedings under this Act which, pursuant to a determination under section 319A, are to be considered on the basis of representations in writing.**]**

(2) **[**F736Regulations under this section may**]** in particular make provision as to the procedure to be followed—

(a) where steps have been taken with a view to the holding of **[**F737an inquiry or hearing to which rules under section 9 of the Tribunals and Inquiries Act 1992 would apply**]** which does not take place, or

(b) where steps have been taken with a view to the determination of any matter by a person appointed by the Secretary of State and the proceedings are the subject of a direction that the matter shall instead be determined by the Secretary of State, or

(c) where steps have been taken in pursuance of such a direction and a further direction is made revoking that direction,

and may provide that such steps shall be treated as compliance, in whole or in part, with the requirements of the regulations.

(3) **[**F736Regulations under this section may**]** also—

(a) provide for a time limit within which any party to the proceedings must submit representations in writing and any supporting documents;

(b) prescribe the time limit (which may be different for different classes of proceedings) or enable the Secretary of State to give directions setting the time limit in a particular case or class of case;

(c) empower the Secretary of State to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit; and

(d) empower the Secretary of State, after giving the parties written notice of his intention to do so, to proceed to a decision notwithstanding that no written representations were made within the time limit, if it appears to him that he has sufficient material before him to enable him to reach a decision on the merits of the case.

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Annotations:

Amendments (Textual)

F734 Words in s. 323(1) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 26**

F735 S. 323(1A) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 12(2)** (with s. 226); S.I. 2009/400, **art. 3**

F736 Words in s. 323(2)(3) substituted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 12(3)** (with s. 226); S.I. 2009/400, **art. 3**

F737 Words in s. 323(2)(a) substituted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 12(4)** (with s. 226); S.I. 2009/400, **art. 3**

Modifications etc. (not altering text)

C384 S. 323 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**; applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 37(2)**; S.I. 1992/725, **arts. 2**, 3

C385 S. 323: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Rights of entry

324 Rights of entry.

(1) Any person duly authorised in writing by the Secretary of State or by a local planning authority may at any reasonable time enter any land for the purpose of surveying it in connection with—

[F738(a) the preparation, revision, adoption or approval of a local development document under Part 2 of the Planning and Compulsory Purchase Act 2004 or a local development plan under Part 6 of that Act;**]**

(b) any application under Part III or sections F739. . ., 220 or 221 or under any order or regulations made under any of those provisions, for any permission, consent or determination to be given or made in connection with that land or any other land under that Part or any of those sections or under any such order or regulations;

(c) any proposal by the local planning authority or by the Secretary of State to make, issue or serve any order or notice under Part III (other than sections 94 and 96), F740. . . **[**F741or Chapter 2 or 3 of Part VIII**]** or under any order or regulations made under any of those provisions.

F742(2) . . . . . .

(3) Any person duly authorised in writing by the local planning authority may at any reasonable time enter any land for the purpose of exercising a power conferred on the authority by section 225 if—

(a) F743. . . . . .

(b) it would be impossible to exercise the power without entering the land.

F744(4) . . . . . .

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(5) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local planning authority may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of that land or any other land which is payable by the local planning authority under Part IV, section 186, **[**[F745]Chapter 2 or 3 of Part VIII**]**, section 250(1) or Part XI (other than section 279(2) or (3) or 280(1)(c)).

(6) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local authority or Minister authorised to acquire land under section 226 or 228 or by a local authority who have power to acquire land under Part IX may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land or in connection with any claim for compensation in respect of any such acquisition.

(7) Any person duly authorised in writing by the Secretary of State or by a local planning authority may at any reasonable time enter any land in respect of which an order or notice has been made or served as mentioned in subsection (1)(c) for the purpose of ascertaining whether the order or notice has been complied with.

(8) Subject to section 325, any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals in it.

(9) In subsections (1)(c) and (7) references to a local planning authority include, in relation to a building situated in Greater London, a reference to the Historic Buildings and Monuments Commission for England.

Annotations:

Amendments (Textual)

F738 S. 324(1)(a) substituted (28.9.2004 (E.), 15.10.2005 (W.)) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 13** (with s. 111); S.I. 2004/2202, **art. 2** (subject to art. 4); S.I. 2005/2847, **art. 2** (subject to art. 3)

F739 Words in s. 324(1)(b) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 23(8)(a), 84(6), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.2** (subject to art. 4)

F740 Words in s. 324(1)(c) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 11(2), 84(6), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, **art.3**, (subject to art. 5)

F741 Words in s. 324(1)(c) expressed to be inserted (2.1.1992) for "or Part VIII" by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(8)(b)** (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

F742 S. 324(2) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 23(8)(c), 84(6), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.2** (subject to art. 5)

F743 S. 324(3)(a) repealed (6.4.2006 for E. and 18.1.2008 for W.) by Clean Neighbourhoods and Environment Act 2005 (c. 16), ss. 34(6), 107, 108, **Sch. 5 Pt. 3**; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 2(g)**; S. I. 2007/3371, **art. 2(b)**

F744 S. 324(4) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31 , 84(6), Sch. 6 para. 34, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F745 Words in s. 324(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 23(8)(d)**, (with s.84(5))

Modifications etc. (not altering text)

C386 S. 324: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

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C387 S. 324(1)(a) applied (with modifications) (1.4.1996) by 1994 c. 19, s. 66(7), **Sch. 17 Pt. II para. 17(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 6(3), **Sch. 5**

C388 S. 324(6) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(c)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

C389 S. 324(8) applied (with modifications) (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by Communications Act 2003 (c. 21), ss. 118, 411, **Sch. 4 para. 6(3)(4)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

325 Supplementary provisions as to rights of entry.

(1) A person authorised under section 324 to enter any land—

(a) shall, if so required, produce evidence of his authority **[**F746and state the purpose of his entry**]** before so entering, and

(b) shall not demand admission as of right to any land which is occupied unless 24 hours' notice of the intended entry has been given to the occupier.

(2) Any person who wilfully obstructs a person acting in the exercise of his powers under section 324 shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**F747level 3**]** on the standard scale.

(3) If any person who, in compliance with the provisions of section 324, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him in it as to any manufacturing process or trade secret, he shall be guilty of an offence.

(4) Subsection (3) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the **[**F748land**]**.

(5) A person who is guilty of an offence under subsection (3) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(6) Where any **[**F749damage is caused to land or chattels**]**—

(a) in the exercise of a right of entry conferred under section 324, or

(b) in the making of any survey for the purpose of which any such right of entry has been so conferred,

compensation **[**F749may be recovered by any person suffering the damage**]** from the Secretary of State or authority on whose behalf the entry was effected.

(7) The provisions of section 118 shall apply in relation to compensation under subsection (6) as they apply in relation to compensation under Part IV.

(8) No person shall carry out under section 324 any works authorised by virtue of subsection (8) of that section unless notice of his intention to do so was included in the notice required by subsection (1).

(9) The authority of the appropriate Minister shall be required for the carrying out under that section of works so authorised if the land in question is held by statutory undertakers, and they object to the proposed works on the ground that the execution of the works would be seriously detrimental to the carrying on of their undertaking.

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Annotations:

Amendments (Textual)

F746 Words in s. 325(1)(a) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 50(2)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F747 Words in s. 325(2) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 50(3)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

F748 Word in s. 325(4) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 50(4)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

F749 Words in s. 325(6) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 11(3)** (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to art. 5)

Modifications etc. (not altering text)

C390 S. 325 applied (with modifications) by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 88(7)**; applied (with modifications) (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 36(6)**; S.I. 1992/725, **arts. 2**, 3

C391 S. 325: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C392 S. 325(1)-(5)(8)(9) applied (with modifications) (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by 2003 c. 21, ss. 118, 411, **Sch. 4 para. 6(3)(4)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

C393 S. 325(9) applied (10.11.1993) by 1993 c. 28, **s. 163(11)**; S.I. 1993/2762, **art. 3**

[F750 325A Rights of entry: Crown land

(1) Section 324 applies to Crown land subject to the following modifications.

(2) A person must not enter Crown land unless he has the relevant permission.

(3) Relevant permission is the permission of—

(a) a person appearing to the person seeking entry to the land to be entitled to give it, or

(b) the appropriate authority.

(4) In subsection (8) the words "Subject to section 325" must be ignored.

(5) Section 325 does not apply to anything done by virtue of this section.

(6) "Appropriate authority" must be construed in accordance with section 293(2).]

Annotations:

Amendments (Textual)

F750 S. 325A inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 13** (with s. 111); S.I. 2006/1281, **art. 2**

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Miscellaneous and general provisions

[F751326 . . . . . .

Annotations:

Amendments (Textual)

F751 S. 326 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 35, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F752327 . . . . . .

Annotations:

Amendments (Textual)

F752 S. 327 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 36, **Sch. 19 Pt.II**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F753327AApplications: compliance with requirements

(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—

(a) the form or manner in which the application must be made;

(b) the form or content of any document or other matter which accompanies the application.

(2) The local planning authority must not entertain such an application if it fails to comply with the requirement.**]**

Annotations:

Amendments (Textual)

F753 S. 327A inserted (6.8.2004 for certain purposes, 10.8.2006 for E. and 30.6.2007 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 42(5)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 3** (with art. 4) (as amended by S.I. 2010/321, **art. 3**); S.I. 2007/1369, **art. 2** (with art. 3) (as amended by S.I. 2010/321, **art. 4**)

328 Settled land and land of universities and colleges.

(1) The purposes authorised for the application of capital money—

(a) by section 73 of the M170Settled Land Act 1925 F754. . .; and

(b) by section 26 of the M171Universities and College Estates Act 1925,

shall include the payment of any sum recoverable under section 111, **[**F755or 112**]**.

(2) The purposes authorised as purposes for which money may be raised by mortgage—

(a) by section 71 of the Settled Land Act 1925 F756. . .; and

(b) by section 30 of the Universities and College Estates Act 1925,

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shall include the payment of any sum so recoverable.

Annotations:

Amendments (Textual)

F754 Words in s. 328(1)(a) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

F755 Words in s. 328(1) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31, **Sch. 6 para. 37**(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F756 Words in s. 328(2)(a) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

Modifications etc. (not altering text)

C394 S. 328: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M170 1925 c. 18.

M171 1925 c. 24.

329 Service of notices.

(1) Any notice or other document required or authorised to be served or given under this Act may be served or given either—

(a) by delivering it to the person on whom it is to be served or to whom it is to be given; or

(b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address; or

(c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or, in a case where an address for service has been given by that person, at that address; or

[F757(cc) in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in subsection (3A), to that person at that address (subject to subsection (3B)); or**]**

(d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if—

(a) it is addressed to him either by name or by the description of "the owner" or, as the case may be, "the occupier" of the premises (describing them) and is delivered or sent in the manner specified in subsection (1)(a), (b) or (c); or

(b) it is so addressed and is marked in such a manner as may be prescribed for securing that it is plainly identifiable as a communication of importance and—

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(i) it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or

(ii) it is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.

(3) Where—

(a) the notice or other document is required to be served on or given to all persons who have interests in or are occupiers of premises comprised in any land, and

(b) it appears to the authority required or authorised to serve or give the notice or other document that any part of that land is unoccupied,

the notice or document shall be taken to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if it is addressed to "the owners and any occupiers" of that part of the land (describing it) and is affixed conspicuously to some object on the land.

[[F758](3A) The condition mentioned in subsection (1)(cc) is that the notice or other document shall be—

(a) capable of being accessed by the person mentioned in that provision;

(b) legible in all material respects; and

(c) in a form sufficiently permanent to be used for subsequent reference;

and for this purpose "legible in all material respects" means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served or given by means of a notice or document in printed form.

(3B) Subsection (1)(cc) shall not apply to—

(a) service of a planning contravention notice;

(b) service of a copy of an enforcement notice by a local planning authority;

(c) giving of notice under section 173A of the exercise of powers conferred by subsection (1) of that section;

(d) service under section 181(4) of notice of a local planning authority's intention to take steps required by an enforcement notice;

(e) service of an enforcement notice issued by the Secretary of State;

(f) service of a stop notice, or of notice of withdrawal of a stop notice, by a local planning authority;

(g) service of a stop notice by the Secretary of State;

(h) service of a breach of condition notice or of notice of withdrawal of a breach of condition notice;

(i) giving of notice of the making of a tree preservation order, or service of a copy of such an order, in accordance with regulations under section 199;

(j) service of a notice under section 215 requiring steps to be taken to remedy the condition of any land;

(k) service of a notice under section 330 requiring information as to interests in land.**]**

[[F759](4) This section is without prejudice to section 233 of the [M172]Local Government Act 1972 (general provisions as to service of notices by local authorities).**]**

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Annotations:

Amendments (Textual)

F757 S. 329(1)(cc) inserted (E.) (31.3.2003) by The Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956), **art. 4(2)**; (W.) (1.1.2005) by The Town and Country Planning (Electronic Communications) (Wales) Order 2004 (S.I. 2004/3156), **art. 4(2)** (with art. 14)

F758 S. 329(3A)(3B) inserted (E.) (31.3.2003) by The Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956), **art. 4(3)**, (W.) (1.1.2005) by The Town and Country Planning (Electronic Communications) (Wales) Order 2004 (S.I. 2004/3156), **art. 4(3)** (with art. 14)

F759 S. 329(4) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.51** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Modifications etc. (not altering text)

C395 S. 329 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**; applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 37(2)**; S.I. 1992/725, **arts. 2**, 3
S. 329 applied (E.) (1.10.2006) by The Environmental Impact Assessment (Agriculture) (England) Regulations 2006 (S.I. 2006/2362), **reg. 7(6)**
S. 329 applied (E.) (10.10.2006) by The Environmental Impact Assessment (Agriculture) (England) (No. 2) Regulations 2006 (S.I. 2006/2362), regs. 1(2), **6(6)**

C396 S. 329: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C397 S. 329 applied (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 108**

C398 S. 329(1)(2)(4) applied (with modifications) (1.6.1997) by S.I. 1997/1160, **reg. 16(2)**

Marginal Citations

M172 1972 c. 70.

[F760 329A Service of notices on the Crown

(1) Any notice or other document required under this Act to be served on the Crown must be served on the appropriate authority.

(2) Section 329 does not apply for the purposes of the service of such a notice or document.

(3) "Appropriate authority" must be construed in accordance with section 293(2).]

Annotations:

Amendments (Textual)

F760 S. 329A inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 16** (with s. 111); S.I. 2006/1281, **art. 2**

330 Power to require information as to interests in land.

(1) For the purpose of enabling the Secretary of State or a local authority to make an order or issue or serve any notice or other document which, by any of the provisions of this

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Act, he or they are authorised or required to make, issue or serve, the Secretary of State or the local authority may by notice in writing require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to give in writing such information as to the matters mentioned in subsection (2) as may be so specified.

(2) Those matters are—

(a) the nature of the interest in the premises of the person on whom the notice is served;

(b) the name and **[**F761postal**]** address of any other person known to him as having an interest in the premises;

(c) the purpose for which the premises are being used;

(d) the time when that use began;

(e) the name and **[**F761postal**]** address of any person known to the person on whom the notice is served as having used the premises for that purpose;

(f) the time when any activities being carried out on the premises began.

(3) A notice under subsection (1) may require information to be given within 21 days after the date on which it is served, or such longer time as may be specified in it, or as the Secretary of State or, as the case may be, the local authority may allow.

(4) Any person who, without reasonable excuse, fails to comply with a notice served on him under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Any person who, having been required by a notice under subsection (1) to give any information, knowingly makes any misstatement in respect of it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or both.

[F762(6) This section shall have effect as if the references to a local authority included references to a National Park authority.**]**

Annotations:

Amendments (Textual)

F761 Word in s. 330(2)(b)(e) inserted (E.) (31.3.2003) by The Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956), **art. 5(b)**; (W.) (1.1.2005) by The Town and Country Planning (Electronic Communications) (Wales) Order 2004 (S.I. 2004/3156), **art. 5(b)** (with art. 14)

F762 S. 330(6) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(11)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

Modifications etc. (not altering text)

C399 S. 330 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**; applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 37(2)**; S.I. 1992/725, **arts. 2**, 3; power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3)(b), **Sch. 29 Pt. II para. 9** as substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

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C400 S. 330: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
C401 S. 330: functions of local authority may be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 3(1), **Sch. 2 para. 16**
C402 S. 330 applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 9** (with arts. 6, 7)
S. 330 applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5** (with arts. 6, 7)
S. 330 applied (with modifications (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
S. 330 applied (with modifications) (6.4.2006) by The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I. 2006/616), {art. 6)}
S. 330 applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

[F763 330A Information as to interests in Crown land

(1) This section applies to an interest in Crown land which is not a private interest.

(2) Section 330 does not apply to an interest to which this section applies.

(3) For a purpose mentioned in section 330(1) the Secretary of State may request the appropriate authority to give him such information as to the matters mentioned in section 330(2) as he specifies in the request.

(4) The appropriate authority must comply with a request under subsection (3) except to the extent—

(a) that the matter is not within the knowledge of the authority, or

(b) that to do so will disclose information as to any of the matters mentioned in section 321(4).

(5) Expressions used in this section and in Part 13 must be construed in accordance with that Part.**]**

Annotations:

Amendments (Textual)
F763 S. 330A inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79, 121, **Sch. 3 para. 17** (with s. 111); S.I. 2006/1281, **art. 2**

331 Offences by corporations.

(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against accordingly.

(2) In subsection (1) "director", in relation to any body corporate—

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(a) which was established by or under an enactment for the purpose of carrying on under national ownership an industry or part of an industry or undertaking, and

(b) whose affairs are managed by its members,

means a member of that body corporate.

Annotations:

Modifications etc. (not altering text)

C403 S. 331 applied by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(1)**; excluded by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 89(2)**; applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), **s. 37(2)**; S.I. 1992/725, **arts. 2**, 3

C404 S. 331: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**
S. 331 restricted (E.) (13.4.2001) by S.I. 2001/1478, **art. 3(a)**

332 Combined applications.

(1) Regulations made under this Act may provide for the combination in a single document, made in such form and transmitted to such authority as may be prescribed, of—

(a) an application for planning permission in respect of any development; and

(b) an application required, under any enactment specified in the regulations, to be made to a local authority in respect of that development.

(2) Before making any regulations under this section, the Secretary of State shall consult with such local authorities or associations of local authorities as appear to him to be concerned.

(3) Different provision may be made by any such regulations in relation to areas in which different enactments are in force.

(4) If an application required to be made to a local authority under an enactment specified in any such regulations is made in accordance with the provisions of the regulations, it shall be valid notwithstanding anything in that enactment prescribing, or enabling any authority to prescribe, the form in which, or the manner in which, such an application is to be made.

(5) Subsection (4) shall have effect without prejudice to—

(a) the validity of any application made in accordance with the enactment in question; or

(b) any provision of that enactment enabling a local authority to require further particulars of the matters to which the application relates.

(6) In this section "application" includes a submission.

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Annotations:

Modifications etc. (not altering text)
C405 S. 332: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

333 Regulations and orders.

(1) The Secretary of State may make regulations under this Act—

(a) for prescribing the form of any notice, order or other document authorised or required by this Act to be served, made or issued by any local authority **[**F764or National Park authority**]**;

(b) for any purpose for which regulations are authorised or required to be made under this Act (other than a purpose for which regulations are authorised or required to be made by another Minister).

(2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.

[F765(2A) Regulations may make different provision for different purposes.**]**

(3) Any statutory instrument containing regulations made under this Act (except regulations under section 88 and regulations which by virtue of this Act are of no effect unless approved by a resolution of each House of Parliament) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) The power to make development orders and orders under sections 2, **[**F766 2A, 2F,**]** 28, 55(2)(f), **[**F767 61A(5)**]** 87, 149(3)(a) **[**F768, 319 and 319A(9)**]** shall be exercisable by statutory instrument.

(5) Any statutory instrument—

(a) which contains an order under section 2 which has been made after a local inquiry has been held in accordance with subsection (2) of that section; or

(b) which contains a development order or an order under section **[**F769 2A, 2F,**]** 28, **[**F770 61A(5)(unless it is made by the National Assembly for Wales),**]** 87 or 149(3)(a),

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[F771(5A) No order may be made under section 319A(9) unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.**]**

(6) Without prejudice to subsection (5), where a development order makes provision for excluding or modifying any enactment contained in a public general Act (other than any of the enactments specified in Schedule 17) the order shall not have effect until that provision is approved by a resolution of each House of Parliament.

(7) Without prejudice to section 14 of the **M173**Interpretation Act 1978, any power conferred by any of the provisions of this Act to make an order, shall include power to vary or revoke any such order by a subsequent order.

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Annotations:

Subordinate Legislation Made

P8 S. 333: power previously exercised by S.I. 1990/1562, 2032

P9 S. 333(7): s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by S.I. 1991/1536,

P10 S. 333(7): s. 55(2)(f) (with s. 333(7)) power exercised by S.I. 1991/1567

Amendments (Textual)

F764 Words in s. 333(1) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(12)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F765 S. 333(2A) inserted (6.8.2004 for certain purposes, otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 14(2)** (with s. 111); S.I. 2004/2097, **art. 2**

F766 Words in s. 333(4) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(3)(a)**, 59; S.I. 2008/582, **art. 2(a)**

F767 Words in S. 333(4) inserted (6.8.2004 for certain purposes and 10.5.2006 for E. otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(3)(a)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

F768 Words in s. 333(4) substituted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 13(2)** (with s. 226); S.I. 2009/400, **art. 3**

F769 Words in s. 333(5)(b) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 31(3)(b)**, 59; S.I. 2008/582, **art. 2(a)**

F770 Words in s. 333(5)(b) inserted (6.8.2004 for certain purposes and 10.5.2006 for E. otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 40(3)(b)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

F771 S. 333(5A) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 13(3)** (with s. 226); S.I. 2009/400, **art. 3**

Modifications etc. (not altering text)

C406 S. 333: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

M173 1978 c. 30.

334 Licensing planning areas.

F772 . . . . . .

Annotations:

Amendments (Textual)

F772 S. 334 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 198, 199, Sch. 6 para. 109, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, **art. 2**

Modifications etc. (not altering text)

C407 S. 334: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

335 Act not excluded by special enactments.

For the avoidance of doubt it is hereby declared that the provisions of this Act, and any restrictions or powers imposed or conferred by it in relation to land, apply and

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may be exercised in relation to any land notwithstanding that provision is made by any enactment in force at the passing of the 1947 Act, or by any local Act passed at any time during the Session of Parliament held during the regnal years 10 & 11 Geo. 6, for authorising or regulating any development of the land.

Annotations:

Modifications etc. (not altering text)
C408 S. 335: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

336 Interpretation.

(l) In this Act, except in so far as the context otherwise requires and subject to the following provisions of this section and to any transitional provision made by the Planning (Consequential Provisions) Act 1990—

"the 1944 Act" means the Town and Country Planning Act 1944;

"the 1947 Act" means the [M174]Town and Country Planning Act 1947;

"the 1954 Act" means the [M175]Town and Country Planning Act 1954;

"the 1959 Act" means the [M176]Town and Country Planning Act 1959;

"the 1962 Act" means the [M177]Town and Country Planning Act 1962;

"the 1968 Act" means the [M178]Town and Country Planning Act 1968;

"the 1971 Act" means the [M179]Town and Country Planning Act 1971;

"acquiring authority", in relation to the acquisition of an interest in land (whether compulsorily or by agreement) or to a proposal so to acquire such an interest, means the government department, local authority or other body by whom the interest is, or is proposed to be, acquired;

[[F773]"address", in relation to electronic communications, means any number or address used for the purposes of such communications;**]**

"advertisement" means any word, letter, model, sign, placard, board, notice **[**[F774]awning, blind**]**, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the previous provisions of this definition) includes any hoarding or similar structure used **[**[F774]or designed**]**, or adapted for use **[**[F774]and anything else principally used, or designed or adapted principally for use,**]**, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

"aftercare condition" has the meaning given in paragraph 2(2) of Schedule 5;

"aftercare scheme" has the meaning given in paragraph 2(3) of Schedule 5;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;

"the appropriate Minister" has the meaning given in section 265;

"authority possessing compulsory purchase powers", in relation to the compulsory acquisition of an interest in land, means the person or body of

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persons effecting the acquisition and, in relation to any other transaction relating to an interest in land, means any person or body of persons who could be or have been authorised to acquire that interest compulsorily for the purposes for which the transaction is or was effected or a body (being a parish council, community council or parish meeting) on whose behalf a district council or county council **[**F775or county borough council**]** could be or have been so authorised;

"authority to whom Part II of the 1959 Act applies" means a body of any of the descriptions specified in Part I of Schedule 4 to the 1959 Act;

[F776"breach of condition notice" has the meaning given in section 187A;

[F777"breach of planning control" has the meaning given in section 171A**]]**

"bridleway" has the same meaning as in the M180Highways Act 1980;

"the Broads" has the same meaning as in the M181Norfolk and Suffolk Broads Act 1988;

"building" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;

"buildings or works" includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly **[**F778and references to the removal of buildings or works include demolition of buildings and filling in of trenches**]**;

[F779"building operations" has the meaning given by section 55**]**

"caravan site" has the meaning given in section 1(4) of the M182Caravan Sites and Control of Development Act 1960;

"clearing", in relation to land, means the removal of buildings or materials from the land, the levelling of the surface of the land, and the carrying out of such other operations in relation to it as may be prescribed;

"common" includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green;

"compulsory acquisition" does not include the vesting in a person by an Act of Parliament of property previously vested in some other person;

"conservation area" means an area designated under section 69 of the Planning M183(Listed Buildings and Conservation Areas) Act 1990;

[F780"depositing of mineral waste" means any process whereby a mineral-working deposit is created or enlarged and "depositing of refuse or waste materials" includes the depositing of mineral waste;**]**

"development" has the meaning given in section 55, and "develop" shall be construed accordingly;

[F781"development consent" means development consent under the Planning Act 2008;**]**

F782 . . .

"development order" has the meaning given in section 59;

[F783"development plan" must be construed in accordance with section 38 of the Planning and Compulsory Purchase Act 2004;**]**

"disposal" means disposal by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other manner, except by way of appropriation, gift or mortgage, and "dispose of" shall be construed accordingly;

[F784"electronic communication" has the same meaning as in the Electronic Communications Act 2000;**]**

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"enactment" includes an enactment in any local or private Act of Parliament and an order, rule, regulation, byelaw or scheme made under an Act of Parliament;

"enforcement notice" means a notice under section 172;

"engineering operations" includes the formation or laying out of means of access to highways;

"enterprise zone scheme" means a scheme or modified scheme having effect to grant planning permission in accordance with section 88;

"erection", in relation to buildings as defined in this subsection, includes extension, alteration and re-erection;

F785 . . .

"footpath" has the same meaning as in the M184Highways Act 1980;

"fuel or field garden allotment" means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;

"functions" includes powers and duties;

"government department" includes any Minister of the Crown;

"the Greater London Development Plan" means the development plan submitted to the Minister of Housing and Local Government under section 25 of the M185London Government Act 1963 and approved by the Secretary of State under section 5 of the 1962 Act or the corresponding provision of the 1971 Act;

"highway" has the same meaning as in the M186Highways Act 1980 ;

"improvement", in relation to a highway, has the same meaning as in the Highways Act 1980;

"joint planning board" has the meaning given in section 2;

"land" means any corporeal hereditament, including a building, and, in relation to the acquisition of land under Part IX, includes any interest in or right over land;

"lease" includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or a mortgage, and "leasehold interest" means the interest of the tenant under a lease as so defined;

"local authority" (except in section 252 and subject to subsection (10) **[**F786below and section 71(7) of the Environment Act 1995**]**) means—

(a) **[**F787a billing authority or a precepting authority **[**F788(except the Receiver for the Metropolitan Police District)**]**, as defined in section 69 of the Local Government Finance Act 1992 **[**F789or the Metropolitan Police Authority**]**;

(aa) **[**F790a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;**]]**

(ab) **[**F791the London Fire and Emergency Planning Authority;**]**

(b) a levying body within the meaning of section 74 of **[**F792the Local Government Finance Act 1988**]** ; and

(c) a body as regards which section 75 of that Act applies;

and includes any joint board or joint committee if all the constituent authorities are local authorities within paragraph (a), (b) or (c);

"local highway authority" means a highway authority other than the Secretary of State;

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"local planning authority" shall be construed in accordance with Part I;

"London borough" includes the City of London, references to the council of a London borough or the clerk to such a council being construed, in relation to the City, as references to the Common Council of the City and the town clerk of the City respectively;

"means of access" includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a street;

. . .

"mineral planning authority" has the meaning given in section **[**F793**]**1**]**;

"mineral-working deposit" means any deposit of material remaining after minerals have been extracted from land or otherwise deriving from the carrying out of operations for the winning and working of minerals in, on or under land;

"minerals" includes all **[**F794substances**]** of a kind ordinarily worked for removal by underground or surface working, except that it does not include peat cut for purposes other than sale;

"Minister" means any Minister of the Crown or other government department;

"mortgage" includes any charge or lien on any property for securing money or money's worth;

F795 . . .

"open space" means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground;

"operational land" has the meaning given in section 263;

"owner", in relation to any land, means F796. . .a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let;

"the planning Acts" means this Act, the M187Planning (Listed Buildings and Conservation Areas) Act 1990, the M188Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990;

[F797"planning contravention notice" has the meaning given in section 171C**]**

"planning decision" means a decision made on an application under Part III **[**F798or section 293A**]**;

"planning permission" means permission under Part III **[**F798or section 293A**]**, F799. . .

"planning permission granted for a limited period" has the meaning given in section 72(2)

"prescribed" (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act;

. . .

"**[**F800public gas transporter**]**" has the same meaning as in Part I of the M189Gas Act 1986;

"purchase notice" has the meaning given in section 137;

F801 . . .

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"replacement of open space", in relation to any area, means the rendering of land available for use as an open space, or otherwise in an undeveloped state, in substitution for land in that area which is so used;

"restoration condition" has the meaning given in paragraph 2(2) of Schedule 5;

[F802 "restricted byway" has the same meaning as in Part 2 of the Countryside and Rights of Way Act 2000;**]**

. . .

"simplified planning zone" and "simplified planning zone scheme" shall be construed in accordance with sections 82 and 83;

[F803"spatial development strategy" shall be construed in accordance with Part VIII of the Greater London Authority Act 1999 (planning);**]**

. . .

"statutory undertakers" and "statutory undertaking" have the meanings given in section 262;

"steps for the protection of the environment" has the meaning given in paragraph 5(4) of Schedule 9;

"stop notice" has the meaning given in section 183;

"suspension order" has the meaning given in paragraph 5 of Schedule 9; and

"supplementary suspension order" has the meaning given in paragraph 6 of Schedule 9;

"tenancy" has the same meaning as in the M190Landlord and Tenant Act 1954 ;

"tree preservation order" has the meaning given in section 198;

[F804"universal postal service provider" means a universal service provider within the meaning of the Postal Services Act 2000; and references to the provision of a universal postal service shall be construed in accordance with that Act;**]**

"urban development area" and "urban development corporation" have the same meanings as in Part XVI of the M191Local Government, Planning and Land Act 1980;

"use", in relation to land, does not include the use of land for the carrying out of any building or other operations on it;

"Valuation Office" means the Valuation Office of the Inland Revenue Department;

"war damage" has the meaning given in the M192War Damage Act 1943.

[F805"waste" includes anything that is waste for the purposes of Directive 2006/12/EC of the European Parliament and of the Council on waste, and that is not excluded from the scope of that Directive by Article 2(1) of that Directive;**]**

["the winning and working of minerals" includes the extraction of minerals from a mineral working deposit.**]**

[F806(1A) In this Act—

(a) any reference to a county (other than one to a county planning authority) shall be construed, in relation to Wales, as including a reference to a county borough;

(b) any reference to a county council shall be construed, in relation to Wales, as including a reference to a county borough council; and

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(c) section 17(4) and (5) of the Local Government (Wales) Act 1994 (references to counties and districts to be construed generally in relation to Wales as references to counties and county boroughs) shall not apply.**]**

(2) If, in relation to anything required or authorised to be done under this Act, any question arises as to which Minister is or was the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury.

(3) If any question so arises whether land of statutory undertakers is operational land, that question shall be determined by the Minister who is the appropriate Minister in relation to those undertakers.

(4) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of any enactment, is to be deemed to be served.

[[F807](4A) Where—

(a) an electronic communication is used for the purpose of serving or giving a notice or other document on or to any person for the purposes of this Act, and

(b) the communication is received by that person outside that person's business 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.**]**

(5) With respect to references in this Act to planning decisions—

(a) in relation to a decision altered on appeal by the reversal or variation of the whole or part of it, such references shall be construed as references to the decision as so altered;

(b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the local planning authority and not to the decision of the Secretary of State on the appeal;

(c) in relation to a decision given on an appeal in the circumstances mentioned in section 78(2), such references shall be construed as references to the decision so given;

(d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the local planning authority (whether or not that decision is or was altered on that appeal) or, in the case of a decision given on an appeal in the circumstances mentioned in section 78(2), the end of the period there mentioned.

(6) Section 56 shall apply for determining for the purposes of this Act when development of land shall be taken to be initiated.

(7) In relation to the sale or acquisition of an interest in land—

(a) in a case where the interest is or was conveyed or assigned without a preliminary contract, references in this Act to a contract are references to the conveyance or assignment; and

(b) references to the making of a contract are references to the execution of it.

(8) In this Act—

(a) references to a person from whom title is derived by another person include references to any predecessor in title of that other person;

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(b) references to a person deriving title from another person include references to any successor in title of that other person;

(c) references to deriving title are references to deriving title either directly or indirectly.

(9) References in the planning Acts to any of the provisions **[**F808of Parts III, VII and VIII**]** include, except where the context otherwise requires, references to those provisions as modified under section 316 F809. . ..

(10) In section 90, Chapter I of Part VI, and **[**F810section**]** 330 "local authority", in relation to land in the Broads, includes the Broads Authority.

Annotations:

Amendments (Textual)

F773 Definition in s. 336(1) inserted (E.) (31.3.2003) by The Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956), **art. 6(2)**; (W.) (1.1.2005) by The Town and Country Planning (Electronic Communications) (Wales) Order 2004 (S.I. 2004/3156), **art. 6(2)** (with art. 14)

F774 Words in s. 336(1) inserted (6.4.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 24**(with s. 84(5)); S.I. 1992/665, **art. 2**

F775 Words in definition of "authority possessing compulsory purchase powers" in s. 336(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(13)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F776 Definition in s. 336(1) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(2)(a)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1**

F777 Definition in s. 336(1) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(2)(a)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F778 Words in s. 336(1) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(2)(b)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F779 Definition in s. 336(1) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(2)(c)**(with s. 84(5)); S.I. 1992/1279, **art. 2** (with art. 3)

F780 Definitions in s. 336(1) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 12(a)(e)**(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F781 S. 336(1): definition of "development consent" inserted (1.3.2010) by Planning Act 2008 (c. 29), ss. 36, 241, **Sch. 2 para. 37** (with s. 226); S.I. 2010/101, **art. 2** (with art. 6)

F782 Definitions in s. 336(1) repealed (25.9.1991) by Planning and compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 12(b), Sch. 19 Pt. I (with s. 84(5)); S.I. 1991/2067, art. 3, **Sch. 1**

F783 S.336(1): definition of "development plan" substituted (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 121, **Sch. 6 para. 15** (with s. 111); S.I. 2004/2202, **art. 2** (subject to transitional provisions and savings in art. 4) ; S.I. 2005/2847, **art. 2** (subject to transitional provisions and savings in art. 3)

F784 Definition in s. 336(1) inserted (E.) (31.3.2003) by The Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956), **art. 6(2)**; (W.) (1.1.2005) by The Town and Country Planning (Electronic Communications) (Wales) Order 2004 (S.I. 2004/3156), **art. 6(2)** (with art. 14)

F785 Definition in s. 336(1) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 52(2)(d), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2**

F786 Words in definition of "local authority" in s. 336(1) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(13)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F787 Paras.(a)(aa) in definition of "local authority" in s. 336(1) substituted (2.11.1992) for para. (a) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 91**; S.I. 1992/2454, **art. 2**

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F788 Words in para. (a) in the definition of "local authority" in s. 336(1) repealed (prosp.) by 1999 c. 29, ss. 325, 423, 425(2), Sch. 27 para. 66(a), **Sch. 34 Pt. VII** (with Sch. 12 para. 9(1))

F789 Words in para. (a) in the definition of "local authority" in s. 336(1) inserted (3.7.2000) by 1999 c. 29, s. 325, **Sch. 27 para. 66(b)**; S.I. 1999/3434, **art. 2**; S.I. 2000/1648, art. 2, **Sch.** (subject to transitional provisions in Sch.)

F790 S. 336(1): words in definition of "local authority" substituted (1.10.2004 for E. and 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), ss. 53, 61, **Sch. 1 para. 72(2)**; S.I. 2004/2304, **art. 2(2)** (subject to art. 3); S.I. 2004/2917, **art. 2**

F791 S. 336(1): in the definition of "local authority" (ab) inserted (26.1.2009) by Planning Act 2008 (c. 29), **ss. 201**, 241(6) (with s. 226)

F792 Words in s. 336(1) substituted (1.10.2004 for E. and 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), ss. 53, 61, **Sch. 1 para. 72(3)**; S.I. 2004/2304, **art. 2(2)** (subject to art. 3); S.I. 2004/2917, **art. 2**

F793 Words in definition of "mineral planning authority" in s. 336(1) substituted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(13)(c)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F794 Word in s. 336(1) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 12(c)**(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F795 Definitions repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 38, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F796 Words in s. 336(1) repealed (17.7.1992) by Planning and compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 52(2)(e), Sch. 19 Pt. I (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

F797 Definition in s. 336(1) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(2)(f)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F798 Words in s. 336(1) inserted (7.6.2006) by The Planning and Compulsory Purchase Act 2004 (Commencement No. 9 and Consequential Provisions) Order 2006 (S.I. 2006/1281), **art. 5(d)**

F799 Words in s. 336(1) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 52(2)(g), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 2** (subject to art. 5)

F800 Words in s. 336(1) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 18(4)**; S.I. 1996/218, **art. 2**

F801 Definitions in s. 336(1) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 12(d), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2067, art. 3, **Sch. 1**

F802 Words in s. 336(1) inserted (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

F803 Definition of "spatial development strategy" in s. 336(1) inserted (12.1.2000) by 1999 c. 29, **s. 344(10)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 2**

F804 Definition of "universal postal service provider" in s. 336(1) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 83**

F805 S. 336(1): definition of "waste" inserted (6.4.2008) by The Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538), reg. 73, **Sch. 21 para. 19** (with reg. 72, Sch. 4)

F806 S. 336(1A) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(14)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F807 S. 336(4A) inserted (E.) (31.3.2003) by The Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956), **art. 6(3)**; (W.) (1.1.2005) by The Town and Country Planning (Electronic Communications) (Wales) Order 2004 (S.I. 2004/3156), **art. 6(3)** (with art. 14)

F808 Words in s. 336(9) substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(3)**(with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

F809 Words in s. 336(9) repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 52(3), **Sch. 19 Pt. I**(with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

F810 Words in s. 336(10) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 52(4)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

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Modifications etc. (not altering text)

C409 S. 336: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

C410 S. 336(1) applied (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), **ss. 209(3)(a)**, 223(2)
S. 336(1) applied (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 208(3)(a)**, 225(2)

Marginal Citations

M174 1947 c. 51.
M175 1954 c. 72.
M176 1959 c. 53.
M177 1962 c. 38.
M178 1968 c. 72.
M179 1971 c. 78.
M180 1980 c. 66.
M181 1988 c. 4.
M182 1960 c. 62.
M183 1990 c. 9.
M184 1980 c. 66.
M185 1963 c. 33.
M186 1980 c. 66.
M187 1990 c. 9.
M188 1990 c. 10.
M189 1986 c. 44.
M190 1954 c. 56.
M191 1980 c. 65.
M192 1943 c. 21.

337 Short title, commencement and extent.

(1) This Act may be cited as the Town and Country Planning Act 1990.

(2) Except as provided in Part II and in Schedule 4 to the [M193]Planning (Consequential Provisions) Act 1990, this Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

(3) This Act extends to England and Wales only.

Annotations:

Marginal Citations

M193 1990 c. 11.

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SCHEDULES

SCHEDULE 1

Section 1.

LOCAL PLANNING AUTHORITIES: DISTRIBUTION OF FUNCTIONS

Preliminary

1 (1) In this Schedule "county matter" means in relation to any application, order or notice —

(a) the winning and working of minerals in, on or under land (whether by surface or underground working) or the erection of any building, plant or machinery —

(i) which it is proposed to use in connection with the winning and working of minerals or with their treatment or disposal in or on land adjoining the site of the working; or

(ii) which a person engaged in mining operations proposes to use in connection with the grading, washing, grinding or crushing of minerals;

(b) the use of land, or the erection of any building, plant or machinery on land, for the carrying out of any process for the preparation or adaptation for sale of any mineral or the manufacture of any article from a mineral where—

(i) the land forms part of or adjoins a site used or proposed to be used for the winning and working of minerals; or

(ii) the mineral is, or is proposed to be, brought to the land from a site used, or proposed to be used, for the winning and working of minerals by means of a pipeline, conveyor belt, aerial ropeway, or similar plant or machinery, or by private road, private waterway or private railway;

(c) the carrying out of searches and tests of mineral deposits or the erection of any building, plant or machinery which it is proposed to use in connection with them;

(d) the **[**F811depositing**]** of mineral waste;

(e) the use of land for any purpose required in connection with the transport by rail or water of aggregates (that is to say, any of the following, namely—

(i) sand and gravel;

(ii) crushed rock;

(iii) artificial materials of appearance similar to sand, gravel or crushed rock and manufactured or otherwise derived from iron or steel slags, pulverised fuel ash, clay or mineral waste),

or the erection of any building, plant or machinery which it is proposed to use in connection with them;

(f) the erection of any building, plant or machinery which it is proposed to use for the coating of roadstone or the production of concrete or of concrete products or artificial aggregates, where the building, plant or machinery is to

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be erected in or on land which forms part of or adjoins a site used or proposed to be used—

(i) for the winning and working of minerals; or

(ii) for any of the purposes mentioned in paragraph (e) above;

(g) the erection of any building, plant or machinery which it is proposed to use for the manufacture of cement;

(h) the carrying out of operations in, on, over or under land, or a use of land, where the land is or forms part of a site used or formerly used for the winning and working of minerals and where the operations or use would conflict with or prejudice compliance with a restoration condition or an aftercare condition;

(i) the carrying out of operations in, on, over or under land, or any use of land, which is situated partly in and partly outside a National Park;

(j) the carrying out of any operation which is, as respects the area in question, a prescribed operation or an operation of a prescribed class or any use which is, as respects that area, a prescribed use or use of a prescribed class.

F812(2) . . . . . .

Annotations:

Amendments (Textual)

F811 Words in Sch. 1 para. 1(1)(d) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 13(a)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F812 Sch. 1 para. 1(2) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21 , 84(6), Sch. 1 para. 13(b), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Development plans

2 F813 . . . . . .

Annotations:

Amendments (Textual)

F813 Sch. 1 para. 2 repealed (6.8.2004 for certain purposes, 28.9.2004 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 16(2), **Sch. 9** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2004/2202, **art. 2**, Sch. 1 (subject to transitional provisions and savings in art. 4)

Planning and special control

3 (1) The functions of a local planning authority of determining—

(a) applications for planning permission;

[F814(aa) applications for non-material changes to planning permission under section 96A;**]**

[F815(b) applications for a certificate under section 191 or 192**]**

shall, subject to sub-paragraph (2), be exercised by the district planning authority.

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(2) The functions of a local planning authority of determining any such application as is mentioned in sub-paragraph (1) which **[**F816relates**]** to a county matter shall be exercised by the county planning authority.

F817(3) . . . . . .

(4) . . . . . .

(5) . . . . . .

(6) . . . . . .

(7) The previous provisions of this paragraph shall not apply to applications relating to land in a National Park F818. . . .

Annotations:

Amendments (Textual)

F814 Sch. 1 para. 3(1)(aa) inserted (1.10.2009) by Planning Act 2008 (c. 29), **ss. 190(6)**, 241 (with s. 226); S.I. 2009/2260, **art. 3**

F815 Sch. 1 para. 3(1)(b) substituted (27.7.1992) for para. 3(1)(b)(c) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 53(2)**(with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

F816 Word in Sch. 1 para. 3(2) substituted (25.11.1991 for certain purposes and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **ss. 19(2)(a)**, 84(2)-(4)(with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 3** (subject to art. 4)

F817 Sch. 1 para. 3(3)-(6) omitted (25.11.1991 for certain purposes and otherwise 2.1.1992) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), **ss. 19(2)(b)**, 84(2)-(4)(6), Sch. 19 Pt. I (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 3** (subject to art. 4)

F818 Words in Sch. 1 para. 3(7) repealed (6.8.2004 for certain purposes, otherwise prosp .) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 16(3), **Sch. 9** (with s. 111); S.I. 2004/2097, **art. 2**

4 F819(1) . . . . . .

(2) Where any **[**F820application for planning permission, for a certificate under section 191 or 192 or for consent to the display of advertisements under section 220, relating in each case**]** to land in a National Park or an application so relating for approval of a matter reserved under an outline planning permission within the meaning of section 92 falls to be determined by a **[**F821National Park authority**]**. . ., that authority shall before determining it consult with **[**F822any authority which (but for section 4A) would be F823. . .**]** the district planning authority for the area in which the land to which the application relates is situated.

Annotations:

Amendments (Textual)

F819 Sch. 1 para. 4(1) repealed (25.11.1991 for certain purposes, 2.1.1992 for other purposes and 6.4.1992 so far as not yet in force) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 19(2)(b), 84(6), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art. 3** (subject to art. 5); S.I. 1992/665, **art. 2**

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F820 Words in Sch 1 para. 4(2) substituted (2.1.1992 for certain purposes and 6.4.1992 otherwise) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 53(3)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5); S.I. 1992/665, **art. 2**

F821 Words in Sch. 1 para. 4(2) inserted (1.4.1997) by 1995 c. 25, s. 78, **Sch. 10 para. 23(14)(a)(i)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/2560, **art. 2**

F822 Words in Sch. 1 para. 4(2) inserted (1.4.1997) by 1995 c. 25, s. 78, **Sch. 10 para. 32(14)(a)(ii)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/2560, **art. 2**

F823 Words in Sch. 1 para. 4(2) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

5 (1) The Secretary of State may include in a development order such provisions as he thinks fit enabling a local highway authority to impose restrictions on the grant by the local planning authority of planning permission for the following descriptions of development relating to land in the area of the local highway authority—

(a) the formation, laying out or alteration of any means of access to a road classified under section 12(3) of the [M194]Highways Act 1980 or section 27 of the [M195]Local Government Act 1966 or to a proposed road the route of which has been adopted by resolution of the local highway authority and notified as such to the local planning authority;

(b) any other operations or use of land which appear to the local highway authority to be likely to result in a material increase in the volume of traffic entering or leaving such a classified or proposed road, to prejudice the improvement or construction of such a road or to result in a material change in the character of traffic entering, leaving or using such a road.

(2) The reference to a local planning authority in sub-paragraph (1) shall not be construed as including a reference to an urban development corporation who are the local planning authority by virtue of an order under section 149 of the Local Government, [M196]Planning and Land Act 1980, and no provision of a development order which is included in it by virtue of that paragraph is to be construed as applying to such a corporation.

(3) The Secretary of State may include in a development order provision enabling a local highway authority to impose restrictions on the grant by an urban development corporation who are the local planning authority of planning permission for such descriptions of development as may be specified in the order.

Annotations:

Marginal Citations

M194 1980 c. 66.
M195 1966 c. 42.
M196 1980 c. 65.

6 (1) A development order may also include provision requiring a county planning authority who are determining any application mentioned in paragraph 3 and relating to a county matter, or an application for approval of a matter reserved under an outline planning permission within the meaning of section 92 and so relating, to give the district planning authority for the area in which the land to which the application relates is situated an opportunity to make recommendations to the county planning authority as to the manner in which the application is determined, and to take into account any such recommendations.

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(2) It may also include provision requiring a county or district planning authority who have received any application so mentioned or any application for such approval [F824]. . .) to notify the district or, as the case may be, county planning authority of the terms of their decision, or, where the application is referred to the Secretary of State, the date when it was so referred and, when notified to them, the terms of his decision.

Annotations:

Amendments (Textual)

F824 Words in Sch. 1 para. 6(2) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 3, **Sch.**

[[F825]7 (1) A local planning authority must not determine an application for planning permission to which the consultation requirements apply unless it complies with sub-paragraph (7).

(2) The consultation requirements are—

(a) consultation with **[**[F826]the responsible regional authorities**]** for the region in which the authority's area is situated if the development is one to which sub-paragraph (3) applies;

(b) consultation by a district planning authority with the county planning authority for their area if the development is one to which sub-paragraph (4) applies.

(3) This sub-paragraph applies to—

(a) a development which would by reason of its scale or nature or the location of the land be of major importance for the implementation of **[**[F827]the regional strategy**]** or a relevant regional policy, or

(b) a development of a description in relation to which **[**[F828]the responsible regional authorities have**]** given notice in writing to the local planning authority that it wishes to be consulted.

(4) This sub-paragraph applies to—

(a) a development which would materially conflict with or prejudice the implementation of a relevant county policy,

(b) a development in an area in relation to which the county planning authority have given notice in writing to the district planning authority that development is likely to affect or be affected by the winning and working of minerals, other than coal,

(c) a development of land in respect of which the county planning authority have given notice in writing to the district planning authority that they propose to carry out development,

(d) a development which would prejudice a proposed development mentioned in paragraph (c) in respect of which notice has been given as so mentioned,

(e) a development of land in relation to which the county planning authority have given notice in writing to the district planning authority that it is proposed to use the land for waste disposal, or

(f) a development which would prejudice a proposed use mentioned in paragraph (e) in respect of which notice has been given as so mentioned.

(5) The consultation requirements do not apply—

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(a) in respect of a development to which sub-paragraph (3) applies if **[**F829the responsible regional authorities give**]** a direction authorising the determination of the application without compliance with the requirements;

(b) in respect of a development to which sub-paragraph (4) applies if the county planning authority gives a direction authorising the determination of the application without compliance with the requirements.

(6) A direction under sub-paragraph (5) may be given in respect of a particular application or a description of application.

(7) If the consultation requirements apply the local planning authority—

(a) must give notice to **[**F830the responsible regional authorities**]** or county planning authority (as the case may be)(the consulted body) that they propose to consider the application,

(b) must send a copy of the application to the consulted body, and

(c) must not determine the application until the end of such period as is prescribed by development order beginning with the date of the giving of notice under paragraph (a).

(8) Sub-paragraph (7)(c) does not apply if before the end of the period mentioned in that sub-paragraph—

(a) the local planning authority have received representations concerning the application from the consulted body, or

(b) the consulted body gives notice that it does not intend to make representations.

(9) A relevant regional policy is—

(a) a policy contained in a draft revision of **[**F831the regional strategy**]** which has been submitted to the Secretary of State in pursuance of **[**F832section 78(1) of the Local Democracy, Economic Development and Construction Act 2009**]** of the 2004 Act, or

(b) a policy contained in a structure plan which has effect by virtue of paragraph 1 of Schedule 8 to the 2004 Act.

(10) A relevant county policy is—

(a) a policy contained in a local development document which has been prepared in accordance with a minerals and waste scheme and submitted to the Secretary of State in pursuance of section 20(1) of the 2004 Act or adopted by the county planning authority in pursuance of section 23 of that Act, or

(b) a policy contained in a structure plan which has effect by virtue of paragraph 1 of Schedule 8 to the 2004 Act.

[F833(11) In this paragraph "responsible regional authorities", in relation to a regional strategy, has the same meaning as in Part 5 of the Local Democracy, Economic Development and Construction Act 2009.**]**

(12) The 2004 Act is the Planning and Compulsory Purchase Act 2004.**]**

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Annotations:

Amendments (Textual)

F825 Sch. 1 para. 7 substituted (6.8.2004 for certain purposes and 24.8.2005 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, **Sch. 6 para. 16(4)** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2005/2081, **art. 2** (subject to savings in art. 4)

F826 Words in Sch. 1 para. 7(2)(a) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 85, 148, 149, **Sch. 5 para. 3(2)**; S.I. 2009/3318, **art. 4**

F827 Words in Sch. 1 para. 7(3)(a) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 85, 148, 149, **Sch. 5 para. 3(3)(a)**; S.I. 2009/3318, **art. 4**

F828 Words in Sch. 1 para. 7(3)(b) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 85, 148, 149, **Sch. 5 para. 3(3)(b)**; S.I. 2009/3318, **art. 4**

F829 Words in Sch. 1 para. 7(5)(a) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 85, 148, 149, **Sch. 5 para. 3(4)**; S.I. 2009/3318, **art. 4**

F830 Words in Sch. 1 para. 7(7)(a) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 85, 148, 149, **Sch. 5 para. 3(5)**; S.I. 2009/3318, **art. 4**

F831 Words in Sch. 1 para. 7(9)(a) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 85, 148, 149, **Sch. 5 para. 3(6)**; S.I. 2009/3318, **art. 4**

F832 Words in Sch. 1 para. 7(9)(a) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 85, 148, 149, **Sch. 5 para. 3(6)**; S.I. 2009/3318, **art. 4**

F833 Sch. 1 para. 7(11) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 85, 148, 149, **Sch. 5 para. 3(7)**; S.I. 2009/3318, **art. 4**

[F834 8 (1) A local planning authority who have the function of determining applications for planning permission shall, if requested to do so by the council of any parish F835. . . situated in their area, notify the council of—

(a) any relevant planning application; and

(b) any alteration to that application accepted by the authority.

(2) In sub-paragraph (1) "a relevant planning application" means an application which—

(a) relates to land in the parish . . .; and

(b) is an application for—

(i) planning permission; or

(ii) approval of a matter reserved under an outline planning permission within the meaning of section 92.

(3) Any request made for the purposes of sub-paragraph (1) shall be in writing and state that the council wishes to be notified of all relevant applications or all applications of a description specified in the request.

(4) An authority shall comply with the duty to notify a council of an application by—

(a) sending the council a copy of the application; or

(b) indicating to the council the nature of the development which is the subject of the application and identifying the land to which it relates,

and any notification falling within paragraph (b) shall be in writing.

(5) An authority shall comply with their duty to notify a council of an alteration by—

(a) sending a copy of the alteration to the council; or

(b) informing the council in writing of its general effect,

but they need not notify a council of an alteration which in their opinion is trivial.

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(6) A development order may require a local planning authority which is dealing with an application of which a council is entitled to be notified—

(a) to give the council an opportunity to make representations to them as to the manner in which the application should be determined;

(b) to take into account any such representations;

(c) to notify the council of the terms of their decision or, where the application is referred to the Secretary of State, the date when it was so referred and, when notified to them, the terms of his decision.**]**

Annotations:

Amendments (Textual)

F834 Sch. 1 para. 8 substituted (2.1.1992 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 53(5)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5); S.I. 1992/2831, **art. 2** (with art. 3)

F835 Words in Sch. 1 para. 8(1)(2)(a) repealed (1.4.1996) by 1994 c. 19, ss. 20(4), 66(8), Sch. 6 Pt. II para. 24(15), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

9 (1) The functions of local planning authorities under the provisions of this Act relating to simplified planning zone schemes shall be exercised in non-metropolitan counties by the district planning authorities.

F836(2) . . . . . .

(3) . . . . . .

Annotations:

Amendments (Textual)

F836 Sch. 1 para. 9(2)(3) repealed (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 28, 84(6), Sch. 5 Pt. II para.3, **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3); S.I. 1992/2831, art. 2, **Sch.**

10 Elsewhere than in a National Park, the functions of a local planning authority under section 94 shall be exercisable by the district planning authority, except that where the relevant planning permission was granted by the county planning authority, those functions, so far as relating to that permission, shall be exercisable by the county planning authority and also by the district planning authority after consulting the county planning authority.

11 (1) The functions of a local planning authority of—

(a) making orders under section 97 revoking or modifying planning permission, or under section 102 requiring discontinuance of use, imposing conditions on continuance of use or requiring the alteration or removal of buildings or works, or

(b) issuing enforcement notices under section 172 or serving **[**F837planning contravention notices under section 171C or**]** stop notices under section 183 **[**F838or breach of condition notices under section 187A**]**,

shall, subject to sub-paragraphs (2) to (4), be exercisable by the district planning authority.

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(2) In a case where it appears to the district planning authority of a district in a non-metropolitan county that the functions mentioned in sub-paragraph (1) relate to county matters, they shall not exercise those functions without first consulting the county planning authority.

(3) Subject to sub-paragraph (4), in a non-metropolitan county those functions shall also be exercisable by a county planning authority in a case where it appears to that authority that they relate to a matter which should properly be considered a county matter.

(4) In relation to a matter which is a county matter by virtue of any of the provisions of paragraph 1(1)(a) to (h) the functions of a local planning authority specified in sub-paragraph (1)(b) shall only be exercisable by the county planning authority in their capacity as mineral planning authority.

Annotations:

Amendments (Textual)

F837 Words in Sch. 1 para. 11(1)(b) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 53(6)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F838 Words in Sch. 1 para. 11(1)(b) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 53(6)**(with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

12 In sections 178(1), 181(4)(b) and 190(2) to (5) any reference to the local planning authority shall be construed as a reference to the authority who issued the notice or made the order in question or, in the case of an notice issued or an order made by the Secretary of State, the authority named in the notice or order.

[F839 12A The functions of a local planning authority under section 187B are exercisable by any body having the function of taking enforcement action in respect of the breach in question**]**

Annotations:

Amendments (Textual)

F839 Sch. 1 para. 12A inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 53(7)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch.1** (subject to art. 5)

13 (1) **[**F840 In the case of any area for which there is both a district planning authority and a county planning authority, the county planning authority**]** may only make a tree preservation order—

(a) if they make it in pursuance of section 197(b);

(b) if it relates to land which does not lie wholly within the area of a single district planning authority;

(c) if it relates to land in which the county planning authority hold an interest;

F841 . . .

(d) . . . . . .

(2) Where a local planning authority have made a tree preservation order under section 198 or the Secretary of State has made such an order by virtue of section 202, the powers of varying or revoking the order and the powers of dispensing with section 206 or serving, or appearing on an appeal relating to, a notice under

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section 207 shall be exercisable only by the authority who made the order or, in the case of an order made by the Secretary of State, the authority named in the order.

Annotations:

Amendments (Textual)

F840 Words in Sch. 1 para. 13(1) substituted (1.4.1997) by 1995 c. 25, s. 78, **Sch. 10 para. 32(14)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/2560, **art. 2**

F841 Sch. 1 para. 13(d) and word "or" preceding it repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

14 The functions of local planning authorities under sections 69, 211, 214, 220, 221, 224 and 225, and in non-metropolitan counties the functions under section 215, are exercisable by district planning authorities.

15 (1) The copy of the notice required to be served by paragraph 4(5) of Schedule 8 on a local planning authority shall, in the case of a proposal that a government department should give a direction under section 90(1) or that development should be carried out by or on behalf of a government department, be served on the local planning authority who, in the opinion of the Secretary of State, would have been responsible for dealing with an application for planning permission for the development in question if such an application had fallen to be made.

(2) References in paragraphs 3(2) and 5(1) of that Schedule to the local planning authority shall be construed as references to the local planning authority on whom that copy is required to be served.

Compensation

16 (1) Claims for payment of compensation under section 107 (including that section as applied by section 108) and sections [F842]. . . 115(1) to (4), 186 and 223 shall, subject to sub-paragraph (3), be made to and paid by the local planning authority who took the action by virtue of which the claim arose or, where that action was taken by the Secretary of State, the local planning authority from whom the appeal was made to him or who referred the matter to him or, in the case of an order made or notice served by him by virtue of section 100, 104 or 185, the appropriate authority, and references in those sections to a local planning authority shall be construed accordingly.

(2) In this paragraph "appropriate authority" means—

(a) in the case of a claim for compensation under section 107 or 108, the local planning authority who granted, or are to be treated for the purposes of section 107 as having granted, the planning permission the revocation or modification of which gave rise to the claim;

(b) in the case of a claim for compensation under section 115(1) to (4) or 186, the local planning authority named in the relevant order or stop notice of the Secretary of State;

(c) in the case of a claim for compensation under section 223, the district planning authority.

(3) The Secretary of State may after consultation with all the authorities concerned direct that where a local planning authority is liable to pay compensation under any of the provisions mentioned in sub-paragraph (1) in any particular case or class of case they

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shall be entitled to be reimbursed the whole of the compensation or such proportion of it as he may direct from one or more authorities specified in the direction.

(4) The local planning authority by whom compensation is to be paid and to whom claims for compensation are to be made under section 144(2) shall be the district planning authority.

Annotations:

Amendments (Textual)

F842 Word in Sch. 1 para. 16(1) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 39, **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

17 Claims for payment of compensation under a tree preservation order by virtue of section 203, and claims for payment of compensation under section 204 by virtue of directions given in pursuance of such an order, shall be made to and paid by the local planning authority who made the order or, in the case of an order made by the Secretary of State, the authority named in the order; and the reference in section 204(2) to the authority exercising functions under the tree preservation order shall have effect subject to the provisions of this paragraph.

18 The local planning authority by whom compensation is to be paid under section 279(1)(a) to statutory undertakers shall be the authority who referred the application for planning permission to the Secretary of State and the appropriate Minister, or from whose decision the appeal was made to them or who served the enforcement notice appealed against, as the case may be.

The Crown

19 (1) Elsewhere than in a metropolitan county or a National Park the functions conferred by section 302 and Schedule 15 on the authority responsible for enforcing planning control shall, subject to sub-paragraph (3)—

(a) in the case of works on or a use of land which in the opinion of the district planning authority relates to a county matter, be exercised by the county planning authority;

(b) in any other case be exercised by the district planning authority.

F843(2) . . . . . .

[F844(2A) As respects the area of any National Park for which a National Park authority is the local planning authority those functions shall be exercised by that authority.**]**

(3) Every application made under subsection (3) of that section to an authority responsible for enforcing planning control shall be made to the district planning authority who, in the case of an application falling to be determined by the county planning authority, shall send it on to the latter.

(4) A county planning authority determining any such application shall give the district planning authority for the area in which the land to which the application relates is situated an opportunity to make recommendations to the county planning authority as to the manner in which the application should be determined and shall take any such recommendations into account.

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(5) A county or district planning authority who have dealt with any such application shall notify the district or, as the case may be, the county planning authority of the terms of their determination or, in a case where the application has been referred to the Secretary of State, the date when it was so referred.

Annotations:

Amendments (Textual)

F843 Sch. 1 para. 19(2) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

F844 Sch. 1 para. 19(2A) inserted (1.4.1997) by 1995 c. 25, s. 78, **Sch. 10 para. 32(14)(c)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/2560, **art. 2**

Miscellaneous

20 (1) The local planning authority whom the Secretary of State is required to consult under section **[**F845100(3), 104(3), 196A(3), 202(1) or 214B(6)**]** or serve with a notice of his proposals under section 100(4) or 104(4) shall be the county planning authority or the district planning authority, as he thinks appropriate, and references in sections 100(2), (3) and (4) and 104(2), (3) and (4) and 202 to the local planning authority shall be construed accordingly.

(2) In sections 96, 182 and 185 any reference to the local planning authority shall be construed as a reference to the county planning authority or the district planning authority, as the Secretary of State thinks appropriate.

[F846(3) In relation to land in the area of a joint planning board, a person entering into a planning obligation under section 106 or 299A may identify the council of the county in which the land is situated as the authority by whom the obligation is enforceable.**]**

(4) In paragraph 16 of Schedule 13 the reference to the local planning authority shall be construed—

F847(a) . . . . . .

(b) in relation to land **[**F848F849. . . land in an area the local planning authority for which comprises both a county planning authority and a district planning authority**]**, as a reference to the district planning authority.

Annotations:

Amendments (Textual)

F845 Words in Sch. 1 para. 20(1) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 53(8)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F846 Sch. 1 para. 20(3) substituted (25.10.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 53(9)**(with s. 84(5)); S.I. 1991/2272, **art. 3**

F847 Sch. 1 para. 20(4)(a) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

F848 Words in Sch. 1 para. 20(4)(b) substituted (1.4.1997) by 1995 c. 25, s. 78, **Sch. 10 para. 32(14)(d)(ii)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/2560, **art. 2**

F849 By 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.** it is provided (1.4.1997) that the word "other" in Sch. 1 para. 20(4)(b) shall be repealed

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21 (1) Subject to sub-paragraph (2), the provisions of this Schedule do not apply in Greater London.

(2) Paragraph 5(3) of this Schedule applies in Greater London and paragraph 2(3) of Part I and of Part II of Schedule 2 shall apply as respects the temporary application of paragraph 7(1) of this Schedule in the metropolitan counties and in Greater London respectively.

[F850SCHEDULE 1A

DISTRIBUTION OF LOCAL PLANNING AUTHORITY FUNCTIONS: WALES

Annotations:

Amendments (Textual)

F850 Sch. 1A inserted (1.4.1996) by 1994 c. 19, s. 18(7), **Sch. 4** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

1 (1) Where a local planning authority are not the local highway authority, the Secretary of State may include in a development order such provisions as he thinks fit enabling the local highway authority to impose restrictions on the grant by the local planning authority of planning permission for the following descriptions of development relating to land in the area of the local highway authority—

(a) the formation, laying out or alteration of any means of access to—

(i) a road classified under section 12(3) of the M197Highways Act 1980 or section 27 of the M198Local Government Act 1966; or

(ii) a proposed road the route of which has been adopted by resolution of the local highway authority and notified as such to the local planning authority;

(b) any other operations or use of land which appear to the local highway authority to be likely to—

(i) result in a material increase in the volume of traffic entering or leaving such a classified or proposed road;

(ii) prejudice the improvement or construction of such a road; or

(iii) result in a material change in the character of traffic entering, leaving or using such a road.

(2) The reference to a local planning authority in sub-paragraph (1) shall not be construed as including a reference to an urban development corporation who are the local planning authority by virtue of an order under section 149 of the M199Local Government, Planning and Land Act 1980, and no provision of a development order which is included in it by virtue of that sub-paragraph is to be construed as applying to such a corporation.

(3) The Secretary of State may include in a development order provision enabling a local highway authority to impose restrictions on the grant by an urban development corporation who are the local planning authority of planning permission for such descriptions of development as may be specified in the order.

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Annotations:

Marginal Citations
M197 1980 c. 66.
M198 1966 c. 42.
M199 1980 c. 65.

2 (1) A local planning authority who have the function of determining applications for planning permission shall, if requested to do so by the council for any community or group of communities situated in their area, notify that council of—

(a) any relevant planning application; and

(b) any alteration to that application accepted by the authority.

(2) In sub-paragraph (1) "relevant planning application" means an application which—

(a) relates to land in the community or (as the case may be) one of the communities concerned; and

(b) is an application for—

(i) planning permission; or

(ii) approval of a matter reserved under an outline planning permission within the meaning of section 92.

(3) Any request made for the purposes of sub-paragraph (1) shall be in writing and shall state that the community council wishes to be notified of all relevant applications or all applications of a description specified in the request.

(4) An authority shall comply with the duty to notify a community council of an application by—

(a) sending the council a copy of the application; or

(b) indicating to the council the nature of the development which is the subject of the application and identifying the land to which it relates,

and any notification falling within paragraph (b) shall be in writing.

(5) An authority shall comply with their duty to notify a community council of an alteration by—

(a) sending a copy of the alteration to the council; or

(b) informing the council in writing of its general effect,

but they need not notify a community council of an alteration which in their opinion is trivial.

(6) A development order may require a local planning authority who are dealing with an application of which a community council is entitled to be notified—

(a) to give to the council an opportunity to make representations to them as to the manner in which the application should be determined;

(b) to take into account any such representations;

(c) to notify the council of the terms of their decision or, where the application is referred to the Secretary of State, the date when it was so referred and, when notified to them, the terms of his decision.

3 Paragraphs 4 to 10 apply only in relation to any area for which, by virtue of any provision of or made under section 6, 7 or 8, there is more than one local planning authority.

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4 In sections 178(1), 181(4)(b) and 190(2), (3) and (5) any reference to the local planning authority shall be construed as a reference to the authority who issued the notice or made the order in question or, in the case of a notice issued or an order made by the Secretary of State, the authority named in the notice or order.

5 The functions of a local planning authority under section 187B are exercisable by any body having the function of taking enforcement action in respect of the breach in question.

6 Where a local planning authority have made a tree preservation order under section 198 or the Secretary of State has made such an order by virtue of section 202, the powers of varying or revoking the order and the powers of dispensing with section 206 or serving, or appearing on an appeal relating to, a notice under section 207 shall be exercisable only by the authority who made the order or, in the case of an order made by the Secretary of State, the authority named in the order.

7 (1) The copy of the notice required to be served by paragraph 4(5) of Schedule 8 on a local planning authority shall, in the case of a proposal that a government department should give a direction under section 90(1) or that development should be carried out by or on behalf of a government department, be served on the local planning authority who, in the opinion of the Secretary of State, would have been responsible for dealing with an application for planning permission for the development in question if such an application had fallen to be made.

(2) References in paragraphs 3(2) and 5(1) of that Schedule to the local planning authority shall be construed as references to the local planning authority on whom that copy is required to be served.

Compensation

8 (1) Claims for payment of compensation under section 107 (including that section as applied by section 108) and sections 115(1) to (4) and 186 shall, subject to sub-paragraph (3), be made to and paid by the local planning authority who took the action by virtue of which the claim arose or, where that action was taken by the Secretary of State, the local planning authority from whom the appeal was made to him or who referred the matter to him or, in the case of an order made or notice served by him by virtue of section 100, 104 or 185, the appropriate authority, and references in those sections to a local planning authority shall be construed accordingly.

(2) In this paragraph "appropriate authority" means—

(a) in the case of a claim for compensation under section 107 or 108, the local planning authority who granted, or are to be treated for the purposes of section 107 as having granted, the planning permission the revocation or modification of which gave rise to the claim; and

(b) in the case of a claim for compensation under section 115(1) to (4) or 186, the local planning authority named in the relevant order or stop notice of the Secretary of State.

(3) The Secretary of State may, after consultation with all the authorities concerned, direct that where a local planning authority is liable to pay compensation under any of the provisions mentioned in sub-paragraph (1) in any particular case or class of case they shall be entitled to be reimbursed the whole of the compensation or such proportion of it as he may direct from one or more authorities specified in the direction.

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9 Claims for payment of compensation under a tree preservation order by virtue of section 203, and claims for payment of compensation under section 204 by virtue of directions given in pursuance of such an order, shall be made to and paid by the local planning authority who made the order or, in the case of an order made by the Secretary of State, the authority named in the order; and the reference in section 204(2) to the authority exercising functions under the tree preservation order shall have effect subject to the provisions of this paragraph.

10 The local planning authority by whom compensation is to be paid under section 279(1)(a) to statutory undertakers shall be the authority who referred the application for planning permission to the Secretary of State and the appropriate Minister, or from whose decision the appeal was made to them or who served the enforcement notice appealed against, as the case may be.

Miscellaneous

11 In relation to land in the area of a joint planning board, a person entering into a planning obligation under section 106 or 299A may identify the council of the county or county borough in which the land is situated as the authority by whom the obligation is enforceable.**]**

SCHEDULE 2

Sections 28 and 54.

DEVELOPMENT PLANS: TRANSITIONAL PROVISIONS

[F851]PART I

THE METROPOLITAN COUNTIES

. . . . . .

Annotations:

Amendments (Textual)

F851 Sch. 2 Pts. 1, 2, 3 repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 17, **Sch. 9** (with s. 111)

Modifications etc. (not altering text)

C411 Sch. 2 Pt. I applied (with modifications) (*temp.* from 1.5.1994) by S.I. 1994/1210, **art. 7(3)(a)**
Sch. 2 Pt. I applied (with modifications) (*temp.* from 1.4.1998) by S.I. 1996/1863, **art. 4(4)(a)**
Sch. 2 Pt. I applied (with modifications) (*temp.* from 1.4.1998) by S.I. 1996/1867, **art. 13(4)(a)**
Sch. 2 Pt. I applied (with modifications) (*temp.* from 1.4.1998) by S.I. 1996/1875, **art. 5(6)(a)**

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[F854PART IA

WALES

Annotations:

Amendments (Textual)

F854 Sch. 2 Pt. IA inserted (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. II para. 8** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

Continuation of structure, local and old development plans

1 (1) Every existing plan which relates to any part of Wales shall continue in force on and after 1st April 1996.

(2) When a unitary development plan has become fully operative for the area of a local planning authority in Wales—

(a) any existing plan which is for the time being in force; and

(b) any interim plan,

shall cease to have effect in respect of its plan area to the extent that it is comprised in the area of that local planning authority.

(3) Any existing plan or interim plan shall, while it continues in force in respect of the area, or part of the area, of any local planning authority in Wales, be treated for the purposes of—

(a) this Act,

(b) any other enactment relating to town and country planning,

(c) the M200Land Compensation Act 1961, and

(d) the M201Highways Act 1980,

as being, or as being comprised in, the development plan in respect of that area or, as the case may be, that part of that area.

(4) Sub-paragraphs (1) to (3) have effect subject to the provisions of this Part of this Schedule and the 1994 Act transitional provisions.

(5) In this paragraph—

"the 1994 Act transitional provisions" means the provisions of Part III of Schedule 5 to the Local Government (Wales) Act 1994;

"existing plan" means a—

(a) structure plan;

(b) local plan; or

(c) old development plan,

to the extent that it was in force in respect of any area in Wales immediately before 1st April 1996 (and includes any alteration made to, or replacement of, the plan after that date under the 1994 Act transitional provisions);

"interim plan" means any modified plan (within the meaning of the 1994 Act transitional provisions) which comes into force in respect of any area in Wales on or after 1st April 1996 under those provisions;

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"old development plan" means any plan which was in force immediately before 1st April 1996 by virtue of Schedule 7 to the [M202]Town and Country Planning Act 1971 and Part III of this Schedule; and

"plan area", in relation to an existing plan or interim plan, means the area in respect of which it was in force immediately before 1st April 1996 or, as the case may be, comes into force on or after that date.

Annotations:

Marginal Citations
M200 1961 c. 33.
M201 1980 c. 66.
M202 1971 c. 78.

Revocation of structure plan

2 (1) Where under Chapter I of Part II of this Act the Secretary of State approves all or any of Part I of a unitary development plan for the whole or part of the area of a local planning authority in Wales ("the relevant whole or part area"), he may by order—

(a) wholly or partly revoke an existing plan which is a structure plan in respect of the plan area, to the extent that it is comprised in the relevant whole or part area or any part of it; and

(b) make such consequential amendments to that existing plan as appear to him to be necessary or expedient.

(2) Before making an order under this paragraph, the Secretary of State shall consult the local planning authority for the area to which the unitary development plan relates.

Incorporation of current policy in unitary development plan

3 (1) This paragraph applies where—

(a) a unitary development plan is being prepared for the area of a local planning authority in Wales;

(b) the local planning authority preparing that plan have published in the prescribed manner a statement in the prescribed form identifying a policy included in the plan as an existing policy;

(c) one or more local plans is or, as the case may be, are together in force throughout the policy area; and

(d) a local inquiry or other hearing is held for the purpose of considering any objection to the plan.

(2) The person holding the inquiry or other hearing need not allow an objector to appear if he is satisfied that—

(a) the objection is to a policy identified in the statement published under sub-paragraph (1)(b);

(b) the policy so identified is an existing policy; and

(c) there has been no significant change in circumstances affecting the existing policy since it first formed part of any plan mentioned in sub-paragraph (1)(c).

(3) In this paragraph—

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"existing policy" means a policy the substance of which (however expressed) was contained in the local plan or local plans mentioned in sub-paragraph (1)(c);

"policy" includes a proposal; and

"policy area" means so much of the area of the local planning authority to which the policy concerned relates.

Meaning of "local plan"

4 In this Part of this Schedule, "local plan" includes—

(a) a minerals local plan;

(b) a waste local plan;

(c) a local plan adopted or approved before the commencement of Part I of Schedule 4 to the [M203]Planning and Compensation Act 1991 or under Part III of that Schedule.**]**

Annotations:

Marginal Citations

M203 1991 c. 34.

[F855]PART II

GREATER LONDON

. . . . . .

Annotations:

Amendments (Textual)

F855 Sch. 2 Pts. 1, 2, 3 repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 17, **Sch. 9** (with s. 111)

[F870]PART III

OLD DEVELOPMENT PLANS

. . . . . .

Annotations:

Amendments (Textual)

F870 Sch. 2 Pts. 1, 2, 3 repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 17, **Sch. 9** (with s. 111)

Modifications etc. (not altering text)

C412 Sch. 2 Pt. III applied (*temp.* from 1.5.1994) by S.I. 1994/1210, **art. 7(3)**
Sch. 2 Pt. III applied (*temp.* from 1.4.1998) by S.I. 1996/1863, **art. 4(4)(b)**
Sch. 2 Pt. III applied (*temp.* from 1.4.1998) by S.I. 1996/1867, **art. 13(4)(b)**

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Sch. 2 Pt. III applied (*temp.* from 1.4.1998) by S.I. 1996/1875, **art. 5(6)(b)**

SCHEDULE 3

Sections 55, 107 and 114.

DEVELOPMENT NOT CONSTITUTING NEW DEVELOPMENT

PART I

DEVELOPMENT NOT RANKING FOR COMPENSATION UNDER S. 114

1 The carrying out of—

(a) the rebuilding, as often as occasion may require, of any building which was in existence on 1st July 1948, or of any building which was in existence before that date but was destroyed or demolished after 7th January 1937, including the making good of war damage sustained by any such building;

(b) the rebuilding, as often as occasion may require, of any building erected after 1st July 1948 which was in existence at a material date;

(c) the carrying out for the maintenance, improvement or other alteration of any building, of works which—

(i) affect only the interior of the building, or do not materially affect the external appearance of the building, and

(ii) are works for making good war damage,

so long as the cubic content of the original building is not substantially exceeded.

2 The use as two or more separate dwellinghouses of any building which at a material date was used as a single dwellinghouse.

PART II

DEVELOPMENT RANKING FOR COMPENSATION UNDER S. 114

F871 3 . . . . . .

Annotations:

Amendments (Textual)

F871 Sch. 3 paras 3-8 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 40(1), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F872 4 . . . . . .

Annotations:

Amendments (Textual)

F872 Sch. 3 paras. 3-8 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 40(1), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

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F873 5 . . . . . .

Annotations:

Amendments (Textual)

F873 Sch. 3 paras. 3-8 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31 , 84(6), Sch.6 para. 40(1), **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F874 6 . . . . . .

Annotations:

Amendments (Textual)

F874 Sch. 3 paras. 3-8 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch.6 para. 40(1), **Sch. 19 Pt.II**(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F875 7 . . . . . .

Annotations:

Amendments (Textual)

F875 Sch. 3 paras. 3-8 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 40(1), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F876 8 . . . . . .

Annotations:

Amendments (Textual)

F876 Sch 3 paras. 3-8 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 40(1), **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

PART III

SUPPLEMENTARY PROVISIONS

9 Where after 1st July 1948—

(a) any buildings or works have been erected or constructed, or any use of land has been instituted, and

(b) any condition imposed under Part III of this Act, limiting the period for which those buildings or works may be retained, or that use may be continued, has effect in relation to those buildings or works or that use,

this Schedule shall not operate except as respects the period specified in that condition.

10 (1) Any reference in this Schedule to the cubic content of a building shall be construed as a reference to that content as ascertained by external measurement.

(2) For the purposes of **[**F877 paragraph 1**]** the cubic content of a building is substantially increased or exceeded—

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(a) in the case of a dwellinghouse, if it is increased or exceeded by more than one-tenth or 1,750 cubic feet, whichever is the greater; and

(b) in any other case, if it is increased or exceeded by more than one-tenth.

Annotations:

Amendments (Textual)

F877 Words in Sch. 3 para. 10(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(5), **Sch. 6 para. 40(2)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F878 11 . . . . . .

Annotations:

Amendments (Textual)

F878 Sch. 3 para. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 40(1), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

12 (1) In this Schedule "at a material date" means at either—

(a) 1st July 1948; or

(b) the date by reference to which this Schedule falls to be applied in the particular case in question.

(2) Sub-paragraph (1)(b) shall not apply in relation to any buildings, works or use of land in respect of which, whether before or after the date mentioned in that sub-paragraph, an enforcement notice served before that date has become or becomes effective.

13 (1) In relation to a building erected after 1st July 1948 which results from the carrying out of any such works as are described in paragraph 1, any reference in this Schedule to the original building is a reference to the building in relation to which those works were carried out and not to the building resulting from the carrying out of those works.

[F879(2) This paragraph does not apply for the purposes of sections 111 and 138.**]**

Annotations:

Amendments (Textual)

F879 Sch. 3 para. 13(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(5), **Sch. 6 para. 40(3)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F880 14 . . . . . .

Annotations:

Amendments (Textual)

F880 Sch. 3 para. 14 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), Sch. 6 para. 40(1), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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SCHEDULE 4

Section 57(7).

SPECIAL PROVISIONS AS TO LAND USE IN 1948

1 Where on lst July 1948 land was being temporarily used for a purpose other than the purpose for which it was normally used, planning permission is not required for the resumption of the use of the land for the latter purpose before 6th December 1968.

2 Where on 1st July 1948 land was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for another purpose, planning permission is not required in respect of the use of the land for that other purpose on similar occasions on or after 6th December 1968 if the land has been used for that other purpose on at least one similar occasion since 1st July 1948 and before the beginning of 1968.

3 Where land was unoccupied on 1st July 1948, but had before that date been occupied at some time on or after 7th January 1937, planning permission is not required in respect of any use of the land begun before 6th December 1968 for the purpose for which the land was last used before 1st July 1948.

4 Notwithstanding anything in paragraphs 1 to 3, the use of land as a caravan site shall not, by virtue of any of those paragraphs, be treated as a use for which planning permission is not required, unless the land was so used on one occasion at least during the period of two years ending with 9th March 1960.

[F881SCHEDULE 4A

LOCAL DEVELOPMENT ORDERS: PROCEDURE

Annotations:

Amendments (Textual)

F881 Sch. 4A inserted (6.8.2004 for certain purposes and 10.5.2006 for E. and otherwise prosp.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 40, 121, **Sch. 1** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1061, **art. 2**

Preparation

1 (1) A local development order must be prepared in accordance with such procedure as is prescribed by a development order.

(2) A development order may include provision as to—

(a) the preparation, submission, approval, adoption, revision, revocation and withdrawal of a local development order;

(b) notice, publicity, and inspection by the public;

(c) consultation with and consideration of views of such persons and for such purposes as are prescribed;

(d) the making and consideration of representations.

(3) Regulations under this paragraph may include provision as to the matters relating to a local development order to be included in the report to be made by a local planning authority under section 35 or 76 of the Planning and Compulsory Purchase Act 2004.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Revision

2 (1) The local planning authority may at any time prepare a revision of a local development order.

(2) An authority in England must prepare a revision of a local development order—

(a) if the Secretary of State directs them to do so, and

(b) in accordance with such timetable as he directs.

(3) An authority in Wales must prepare a revision of a local development order—

(a) if the National Assembly for Wales directs them to do so, and

(b) in accordance with such timetable as it directs.

(4) **[**F882If a development plan document mentioned in section 61A(1) is revised under section 26 of the Planning and Compulsory Purchase Act 2004 (revision of local planning documents) or revoked under section 25 of that Act (revocation by Secretary of State) a local development order made to implement the policies in the document must be revised accordingly.**]**

(5) **[**F882If a local development plan mentioned in section 61A(1) is revised under section 70 of the Planning and Compulsory Purchase Act 2004 (revision of local development plan) or revoked under section 68 of that Act (revocation by National Assembly for Wales) a local development order made to implement the policies in the plan must be revised accordingly.**]**

(6) This Schedule applies to the revision of a local development order as it applies to the preparation of the order.

Annotations:

Amendments (Textual)

F882 Sch. 4A para. 2(4)(5) repealed (23.6.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 188(4), 238, 241, **Sch. 13** (with s. 226); S.I. 2009/1303, **art. 2**, Sch.

Order to be adopted

3 A local development order is of no effect unless it is adopted by resolution of the local planning authority.

Annual report

4 (1) The report made under section 35 of the Planning and Compulsory Purchase Act 2004 must include a report as to the extent to which the local development order is achieving its purposes.

(2) The Secretary of State may prescribe the form and content of the report as it relates to the local development order.

Annual report

5 (1) The report made under section 76 of the Planning and Compulsory Purchase Act 2004 must include a report as to the extent to which the local development order is achieving its purposes.

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(2) The National Assembly for Wales may prescribe the form and content of the report as it relates to the local development order.**]**

SCHEDULE 5

Sections 72(5), 79(4), 97(5) and Schedule 9.

CONDITIONS RELATING TO MINERAL WORKING

PART I

CONDITIONS IMPOSED ON GRANT OF PERMISSION

Duration of development

1 (1) Every planning permission for development **[**F883—

(a) consisting of the winning and working of minerals; or

(b) involving the depositing of mineral waste,**]**

shall be subject to a condition as to the duration of the development.

(2) Except where a condition is specified under sub-paragraph (3), the condition in the case of planning permission granted or deemed to be granted after 22nd February 1982 is that the **[**F884winning and working of minerals or the depositing of mineral waste**]** must cease not later than the expiration of the period of 60 years beginning with the date of the permission.

(3) An authority granting planning permission after that date or directing after that date that planning permission shall be deemed to be granted may specify a longer or shorter period than 60 years, and if they do so, the condition is that the **[**F884winning and working of minerals or the depositing of mineral waste**]** must cease not later than the expiration of a period of the specified length beginning with the date of the permission.(4)A longer or shorter period than 60 years may be prescribed for the purposes of sub-paragraphs (2) and (3).

(5) The condition in the case of planning permission granted or deemed to have been granted before 22nd February 1982 is that the **[**F884winning and working of minerals or the depositing of mineral waste**]** must cease not later than the expiration of the period of 60 years beginning with that date.

(6) A condition to which planning permission for development **[**F885consisting of the winning and working of minerals**]** is subject by virtue of this paragraph—

(a) is not to be regarded for the purposes of the planning Acts as a condition such as is mentioned in section 72(1)(b); but

(b) is to be regarded for the purposes of sections 78 and 79 as a condition imposed by a decision of the local planning authority, and may accordingly be the subject of an appeal under section 78.

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Annotations:

Amendments (Textual)

F883 Words in Sch. 5 para. 1(1) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 14(1)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F884 Words in Sch. 5 para. 1(2)(3)(5) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 14(2)**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F885 Words in Sch. 5 para. 1(6) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 14(3), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Power to impose aftercare conditions

2 (1) Where—

(a) planning permission for development consisting of the winning and working of minerals **[**F886or involving the depositing of refuse or waste materials**]** is granted, and

(b) the permission is subject to a condition requiring that after **[**F887the winning and working is completed or the depositing has ceased**]**, the site shall be restored by the use of any or all of the following, namely, subsoil, topsoil and soil-making material,

it may be granted subject also to any such condition as the mineral planning authority think fit requiring that such steps shall be taken as may be necessary to bring land to the required standard for whichever of the following uses is specified in the condition, namely—

(i) use for agriculture;

(ii) use for forestry; or

(iii) use for amenity.

(2) In this Act—

(a) a condition such as is mentioned in paragraph (b) of sub-paragraph (1) is referred to as " a restoration condition"; and

(b) a condition requiring such steps to be taken as are mentioned in that sub-paragraph is referred to as "an aftercare condition".

(3) An aftercare condition may either—

(a) specify the steps to be taken; or

(b) require that the steps be taken in accordance with a scheme (in this Act referred to as an "aftercare scheme") approved by the mineral planning authority.

(4) A mineral planning authority may approve an aftercare scheme in the form in which it is submitted to them or may modify it and approve it as modified.

(5) The steps that may be specified in an aftercare condition or an aftercare scheme may consist of planting, cultivating, fertilising, watering, draining or otherwise treating the land.

(6) Where a step is specified in a condition or a scheme, the period during which it is to be taken may also be specified, but no step may be required to be taken after the expiry of the aftercare period.

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(7) In sub-paragraph (6) "the aftercare period" means a period of five years from compliance with the restoration condition or such other maximum period after compliance with that condition as may be prescribed; and in respect of any part of a site, the aftercare period shall commence on compliance with the restoration condition in respect of that part.

(8) The power to prescribe maximum periods conferred by sub-paragraph (7) includes power to prescribe maximum periods differing according to the use specified.

(9) In this paragraph "forestry" means the growing of a utilisable crop of timber.

Annotations:

Amendments (Textual)

F886 Words in Sch. 5 para. 2(1)(a) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 14(4)(a)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F887 Words in Sch. 5 para. 2(1)(b) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 14(4)(b)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Meaning of "required standard"

3 (1) In a case where—

(a) the use specified in an aftercare condition is a use for agriculture; and

(b) the land was in use for agriculture at the time of the grant of the planning permission or had previously been used for that purpose and had not at the time of the grant been used for any authorised purpose since its use for agriculture ceased; and

(c) the Minister has notified the mineral planning authority of the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

(2) In any other case where the use specified in an aftercare condition is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.

(3) Where the use specified in an aftercare condition is a use for forestry, the land is brought to the required standard when it is reasonably fit for that use.

(4) Where the use specified in an aftercare condition is a use for amenity, the land is brought to the required standard when it is suitable for sustaining trees, shrubs or other plants.

(5) In this paragraph—

"authorised" means authorised by planning permission;

"forestry" has the same meaning as in paragraph 2; and

"the Minister" means—

(a) in relation to England, the Minister of Agriculture, Fisheries and Food; and

(b) in relation to Wales, the Secretary of State.

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Consultations

4 (1) Before imposing an aftercare condition, the mineral planning authority shall consult —

(a) the Minister, where they propose that the use specified in the condition shall be a use for agriculture; and

(b) the Forestry Commission, where they propose that the use so specified shall be a use for forestry,

as to whether it is appropriate to specify that use.

(2) Where after consultations required by sub-paragraph (1) the mineral planning authority are satisfied that the use that they ought to specify is a use for agriculture or for forestry, they shall consult—

(a) where it is for agriculture, the Minister; and

(b) where it is for forestry, the Forestry Commission,

with regard to whether the steps to be taken should be specified in the aftercare condition or in an aftercare scheme.

(3) The mineral planning authority shall also consult the Minister or, as the case may be, the Forestry Commission—

(a) as to the steps to be specified in an aftercare condition which specifies a use for agriculture or for forestry; and

(b) before approving an aftercare scheme submitted in accordance with an aftercare condition which specifies such a use.

(4) The mineral planning authority shall also, from time to time as they consider expedient, consult the Minister or the Commission, as the case may be, as to whether the steps specified in an aftercare condition or an aftercare scheme are being taken.

[[F888](4A) Without prejudice to the application of this paragraph in relation to consultation with the Forestry Commission, where the Minister is consulted pursuant to any provision of this paragraph—

(a) he is not required to inspect any land or to express a view on any matter or question; and

(b) he is not precluded from responding in general terms or otherwise in terms which are not specific to the land in question.**]**

(5) In this paragraph "forestry" and "the Minister" have the same meanings as in paragraph 3.

Annotations:

Amendments (Textual)

F888 Sch. 5 para. 4(4A) inserted (1.2.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 43** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**

Certificate of compliance

5 If, on the application of any person with an interest in land in respect of which an aftercare condition has been imposed, the mineral planning authority are satisfied that the condition has been complied with they shall issue a certificate to that effect.

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Recovery of expenses of compliance

6 A person who has complied with an aftercare condition but who has not himself **[**[F889]won and worked minerals or deposited refuse or waste materials**]** shall be entitled, subject to any condition to the contrary contained in a contract which is enforceable against him by the person who last carried out such operations, to recover from that person any expenses reasonably incurred in complying with the aftercare condition.

Annotations:

Amendments (Textual)

F889 Words in Sch. 5 para. 6 substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 14(5)**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

PART II

CONDITIONS IMPOSED ON REVOCATION OR MODIFICATION OF PERMISSION

7 An order under section 97 may in relation to planning permission for development consisting of the winning and working of minerals **[**[F890]or involving the depositing of refuse or waste materials**]**, include such aftercare condition as the mineral planning authority think fit if—

(a) it also includes a restoration condition; or

(b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Act.

Annotations:

Amendments (Textual)

F890 Words in Sch. 5 para. 7 inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 14(6)**(with s. 84(5)); S.I. 1991/2067, **art3** (subject to art. 4)

8 Paragraphs 2(3) to (9) and 3 to 6 shall apply in relation to an aftercare condition so imposed as they apply in relation to such a condition imposed under paragraph 2.

I[F891]*Interpretation*

Annotations:

Amendments (Textual)

F891 Sch. 5 para. 9 and cross heading inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 14(7)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

[F892]9 In this Schedule any reference to a mineral planning authority shall be construed, in relation to the exercise of functions with respect to the depositing of refuse or waste materials (other than mineral waste), as a reference to the authority entitled to discharge such functions.**]**

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Annotations:

Amendments (Textual)

F892 Sch. 5 para. 9 and cross heading inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 14(7)** (with s. 84(5)); S.I. 1991/ 2067, art.3 (subject to art. 4)

SCHEDULE 6

Sections 79,175,195,208.

DETERMINATION OF CERTAIN APPEALS BY PERSON APPOINTED BY SECRETARY OF STATE

Annotations:

Modifications etc. (not altering text)

C413 Sch. 6 excluded (27.5.1997) by 1997 c. 8, ss. 70(4), 278(2), **Sch. 7 para. 7** (with s. 64)

Determination of appeals by appointed person

1 (1) The Secretary of State may by regulations prescribe classes of appeals under sections 78 **[**F893106B**]**, 174, 195 and 208, **[**F894of this Act, paragraph 5 of Schedule 2 to the Planning and Compensation Act 1991**][**F895and paragraphs 6(11) and (12) and 11(1) of Schedule 13 and paragraph 9(1) of Schedule 14 to the Environment Act 1925**]** which are to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.

(2) Those classes of appeals shall be so determined except in such classes of case—

(a) as may for the time being be prescribed, or

(b) as may be specified in directions given by the Secretary of State.

(3) Regulations made for the purpose of this paragraph may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.

(4) This paragraph shall not affect any provision in this Act or **[**F896any other Act or any instrument made under this Act or any other Act**]** that an appeal shall lie to, or a notice of appeal shall be served on, the Secretary of State.

(5) A person appointed under this paragraph is referred to in this Schedule as "an appointed person".

Annotations:

Amendments (Textual)

F893 Words in Sch. 6 para. 1(1) inserted (9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 54(2)**; S.I. 1992/2831, **art. 2**

F894 Words in Sch. 6 para. 1(1) inserted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), **ss. 198(2)(a)**, 241 (with s. 226); S.I. 2009/400, **art. 5**

F895 Words in Sch. 6 para. 1(1) inserted (1.2.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 44** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**

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F896 Words in Sch. 6 para. 1(4) substituted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), **ss. 198(2)(b)**, 241 (with s. 226); S.I. 2009/400, **art. 5**

Powers and duties of appointed person

2 (1) An appointed person shall have the same powers and duties—

(a) in relation to an appeal under section 78, as the Secretary of State has under **[**F897subsections (1), (4) and (6A)**]** of section 79;

[F898(aa) in relation to an appeal under section 106B, as he has under that section**]**

(b) in relation to an appeal under section 174, as he has under sections 176(1), (2) **[**F899to (2A)**]**and (5) and 177(1) to (4);

(c) in relation to an appeal under section 195, as he has under subsections (2) and (3) of that section F900. . .;

(d) in relation to an appeal under section 208, as he has under subsections (7) **[**F901to (8A)**]** of that section.

[F902(e) in relation to an appeal under paragraph 5 of Schedule 2 to the Planning and Compensation Act 1991, as the Secretary of State has under paragraph 6(1) and (3) of that Schedule.**]**

(2) Sections 79(2) **[**F903106B(4)**]**, 175(3), 196(1) and 208(5) **[**F904of this Act and paragraph 6(2) of Schedule 2 to the Planning and Compensation Act 1991**]** shall not apply to an appeal which falls to be determined by an appointed person, but before it is determined the Secretary of State shall ask the appellant and the local planning authority whether they wish to appear before and be heard by the appointed person.

(3) If both the parties express a wish not to appear and be heard the appeal may be determined without their being heard.

(4) If either of the parties expresses a wish to appear and be heard, the appointed person shall give them both an opportunity of doing so.

[F905(5) Sub-paragraph (2) does not apply—

(a) in the case of an appeal to which section 319A applies; or

(b) in the case of an appeal under section 78 if the appeal is referred to a Planning Inquiry Commission under section 101.**]**

(6) Where an appeal has been determined by an appointed person, his decision shall be treated as that of the Secretary of State.

(7) Except as provided by Part XII, the validity of that decision shall not be questioned in any proceedings whatsoever.

(8) It shall not be a ground of application to the High Court under section 288, or of appeal to the High Court under section 289 F906. . ., that an appeal ought to have been determined by the Secretary of State and not by an appointed person, unless the appellant or the local planning authority challenge the appointed person's power to determine the appeal before his decision on the appeal is given.

(9) Where in any enactment (including this Act) there is a reference to the Secretary of State in a context relating or capable of relating to an appeal to which this Schedule applies or to anything done or authorised or required to be done by, to or before the Secretary of State on or in connection with any such appeal, then so far as the

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context permits it shall be construed, in relation to an appeal determined or falling to be determined by an appointed person, as a reference to him.

[F907(10) Sub-paragraph (9) does not apply to references to the Secretary of State in section 319A (powers and duties of the Secretary of State in relation to the determination of procedure for certain proceedings).**]**

Annotations:

Amendments (Textual)

F897 Words in Sch. 6 para. 2(1)(a) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 54(3)(a)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F898 Sch. 6 para. 2(1)(aa) inserted (9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 54(3)(b)**; S.I. 1992/2831, **art. 2**

F899 Words in Sch. 6 para. 2(1)(b) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 54(3)(c)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F900 Words in Sch. 6 para. 2(1)(c) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 54(3)(d), **Sch. 19 Pt. I**; S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F901 Words in Sch. 6 para. 2(1)(d) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 54(3)(e)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

F902 Sch. 6 para. 2(1)(e) inserted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), **ss. 198(3)(a)**, 241 (with s. 226); S.I. 2009/400, **art. 5**

F903 Words in Sch. 6 para. 2(2) inserted (9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 54(3)(f)**; S.I. 1992/2831, **art. 2**

F904 Words in Sch. 6 para. 2(2) inserted (6.4.2009 for E. and otherwise prosp.) by Planning Act 2008 (c. 29), **ss. 198(3)(b)**, 241 (with s. 226); S.I. 2009/400, **art. 5**

F905 Sch. 6 para. 2(5) substituted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 14(2)** (with s. 226); S.I. 2009/400, **art. 3**

F906 Words in Sch. 6 para. 2(8) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 54(3)(g), **Sch. 19 Pt. I**; S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F907 Sch. 6 para. 2(10) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 14(3)** (with s. 226); S.I. 2009/400, **art. 3**

Determination of appeals by Secretary of State

3 (1) The Secretary of State may, if he thinks fit, direct that an appeal which would otherwise fall to be determined by an appointed person shall instead be determined by the Secretary of State.

(2) Such a direction shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the appellant, the local planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under **[**F908any provision of a development order made by virtue of**]** section 71(2)(a).

(3) Where in consequence of such a direction an appeal falls to be determined by the Secretary of State, the provisions of this Act which are relevant to the appeal shall, subject to the following provisions of this paragraph, apply to the appeal as if this Schedule had never applied to it.

(4) The Secretary of State shall give the appellant, the local planning authority and any person who has made any such representations as mentioned in sub-paragraph (2)

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an opportunity of appearing before and being heard by a person appointed by the Secretary of State for that purpose if—

(a) the reasons for the direction raise matters with respect to which any of those persons have not made representations; or

(b) in the case of the appellant or the local planning authority, either of them was not asked in pursuance of paragraph 2(2) whether they wished to appear before and be heard by the appointed person, or expressed no wish in answer to that question, or expressed a wish to appear and be heard, but was not given an opportunity of doing so.

[F909(5) Sub-paragraph (4) does not apply—

(a) in the case of an appeal to which section 319A applies; or

(b) in the case of an appeal under section 78 if the appeal is referred to a Planning Inquiry Commission under section 101.**]**

[F910(5A) In the case of an appeal to which section 319A applies, the Secretary of State must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.**]**

(6) Except as provided by sub-paragraph (4) **[**F911or (5A)**]** , the Secretary of State need not give any person an opportunity of appearing before and being heard by a person appointed for the purpose, or of making fresh representations or making or withdrawing any representations already made.

(7) In determining the appeal the Secretary of State may take into account any report made to him by any person previously appointed to determine it.

Annotations:

Amendments (Textual)

F908 Words in Sch. 6 para. 3(2) inserted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 54(4)**; S.I. 1992/1491, art. 2, **Sch. 1**

F909 Sch. 6 para. 3(5)(5A) substituted (6.4.2009 for certain purposes and otherwise prosp.) for Sch. 6 para. 3(5) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 14(4)** (with s. 226); S.I. 2009/400, **art. 3**

F910 Sch. 6 para. 3(5)(5A) substituted (6.4.2009 for certain purposes and otherwise prosp.) for Sch. 6 para. 3(5) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 14(4)** (with s. 226); S.I. 2009/400, **art. 3**

F911 Words in Sch. 6 para. 3(6) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 14(5)** (with s. 226); S.I. 2009/400, **art. 3**

4 (1) The Secretary of State may by a further direction revoke a direction under paragraph 3 at any time before the determination of the appeal.

(2) Such a further direction shall state the reasons for which it is given and shall be served on the person, if any, previously appointed to determine the appeal, the appellant, the local planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under **[**F912any provision of a development order made by virtue of**]** section 71(2)(a).

(3) Where such a further direction has been given, the provisions of this Schedule relevant to the appeal shall apply, subject to sub-paragraph (4), as if no direction under paragraph 3 had been given.

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(4) Anything done by or on behalf of the Secretary of State in connection with the appeal which might have been done by the appointed person (including any arrangements made for the holding of a hearing or local inquiry) shall, unless that person directs otherwise, be treated as having been done by him.

Annotations:

Amendments (Textual)

F912 Words in Sch. 6 para. 4(2) inserted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 54(4)**; S.I. 1992/1491, art. 2, **Sch. 1**

Appointment of another person to determine appeal

5 (1) At any time before the appointed person has determined the appeal the Secretary of State may—

(a) revoke his appointment; and

(b) appoint another person under paragraph 1 to determine the appeal instead.

(2) Where such a new appointment is made the consideration of the appeal or any inquiry or other hearing in connection with it shall be begun afresh.

(3) Nothing in sub-paragraph (2) shall require—

(a) the question referred to in paragraph 2(2) to be asked again with reference to the new appointed person if before his appointment it was asked with reference to the previous appointed person (any answers being treated as given with reference to the new appointed person); or

(b) any person to be given an opportunity of making fresh representations or modifying or withdrawing any representations already made.

Local inquiries and hearings

6 (1) Whether or not the parties to an appeal have asked for an opportunity to appear and be heard, an appointed person—

(a) may hold a local inquiry in connection with the appeal; and

(b) shall do so if the Secretary of State so directs.

[F913(1A) Sub-paragraph (1) does not apply in the case of an appeal to which section 319A applies; but an appointed person may hold a hearing or local inquiry in connection with such an appeal pursuant to a determination under that section.**]**

(2) Where an appointed person—

(a) holds a hearing by virtue of paragraph 2(4) **[**F914or this paragraph**]** ; or

(b) holds an inquiry by virtue of this paragraph,

an assessor may be appointed by the Secretary of State to sit with the appointed person at the hearing or inquiry to advise him on any matters arising, notwithstanding that the appointed person is to determine the appeal.

(3) Subject to sub-paragraph (4), the costs of any such hearing or inquiry shall be defrayed by the Secretary of State.

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(4) Subsections (2) to (5) of section 250 of the [M204]Local Government Act 1972 (local inquiries: evidence and costs) apply to an inquiry held under this paragraph with the following adaptations—

(a) with the substitution in subsection (4) (recovery of costs of holding the inquiry) for the references to the Minister causing the inquiry to be held of references to the Secretary of State; and

(b) with the substitution in subsection (5) (orders as to the costs of the parties) for the reference to the Minister causing the inquiry to be held of a reference to the appointed person or the Secretary of State.

[[F915](5) The appointed person or the Secretary of State has the same power to make orders under section 250(5) of that Act (orders with respect to costs of the parties) in relation to proceedings under this Schedule which do not give rise to an inquiry as he has in relation to such an inquiry**]**.

Annotations:

Amendments (Textual)

F913 Sch. 6 para. 6(1A) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 14(6)** (with s. 226); S.I. 2009/400, **art. 3**

F914 Words in Sch. 6 para. 6(2)(a) inserted (6.4.2009 for certain purposes and otherwise prosp.) by Planning Act 2008 (c. 29), ss. 196, 241, **Sch. 10 para. 14(7)** (with s. 226); S.I. 2009/400, **art. 3**

F915 Sch. 6 para. 6(5) omitted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **7** (which temp. omission falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3))

Marginal Citations

M204 1972 c. 70.

Supplementary provisions

7 If before or during the determination of an appeal under section 78 which is to be or is being determined in accordance with paragraph 1, the Secretary of State forms the opinion mentioned in section 79(6), he may direct that the determination shall not be begun or proceeded with.

8 (1) The [M205]Tribunals and Inquiries Act **[**[F916]1992**]** shall apply to a local inquiry or other hearing held in pursuance of this Schedule as it applies to a statutory inquiry held by the Secretary of State, but as if in **[**[F917]section 10(1)**]** of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by an appointed person.

[[F918](1A) A local inquiry or hearing held in pursuance of this Schedule shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).**]**

(2) Where an appointed person is an officer of **[**[F919]the Department for Communities and Local Government**]** or the Welsh Office the functions of determining an appeal and doing anything in connection with it conferred on him by this Schedule shall be treated for the purposes of the [M206]Parliamentary Commissioner Act 1967—

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(a) if he was appointed by the Secretary of State for the time being having general responsibility in planning matters in relation to England, as functions of that Department; and

(b) if he was appointed by the Secretary of State for the time being having general responsibility in planning matters in relation to Wales, as functions of the Welsh Office.

Annotations:

Amendments (Textual)

F916 Word in Sch. 6 para. 8(1) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 28(a)**

F917 Words in Sch. 6 para. 8(1) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 28(b)**

F918 Sch. 6 para. 8(1A) inserted (1.11.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(1), 148, **Sch. 8 para. 10**; S.I. 2007/2709, **art. 3(b)(i)**

F919 Words in Sch. 6 para. 8(2) substituted (21.8.2006) by The Secretary of State for Communities and Local Government Order 2006 (S.I. 2006/1926), art. 9, **Sch. para. 3(5)**

Modifications etc. (not altering text)

C414 Sch. 6 para. 8(2)(b) modified (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

Marginal Citations

M205 1992 c. 53.

M206 1967 c. 13.

SCHEDULE 7

Section 83.

SIMPLIFIED PLANNING ZONES

General

1 (1) A simplified planning zone scheme shall consist of a map and a written statement, and such diagrams, illustrations and descriptive matter as the local planning authority think appropriate for explaining or illustrating the provisions of the scheme.

(2) A simplified planning zone scheme shall specify—

(a) the development or classes of development permitted by the scheme,

(b) the land in relation to which permission is granted, and

(c) any conditions, limitations or exceptions subject to which it is granted;

and shall contain such other matters as may be prescribed.

Notification of proposals to make or alter scheme

2 An authority who decide under section 83(2) to make or alter a simplified planning zone scheme shall—

(a) notify the Secretary of State of their decision as soon as practicable, and

(b) determine the date on which they will begin to prepare the scheme or the alterations.

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Power of Secretary of State to direct making or alteration of scheme

3 (1) If a person requests a local planning authority to make or alter a simplified planning zone scheme but the authority—

(a) refuse to do so, or

(b) do not within the period of three months from the date of the request decide to do so,

he may, subject to sub-paragraph (2), require them to refer the matter to the Secretary of State.

(2) A person may not require the reference of the matter to the Secretary of State if—

(a) in the case of a request to make a scheme, a simplified planning zone scheme relating to the whole or part of the land specified in the request has been adopted or approved within the 12 months preceding his request;

(b) in the case of a request to alter the scheme, the scheme to which the request relates was adopted or approved, or any alteration to it has been adopted or approved, within that period.

(3) The Secretary of State shall, as soon as practicable after a matter is referred to him—

(a) send the authority a copy of any representations made to him by the applicant which have not been made to the authority, and

(b) notify the authority that if they wish to make any representations in the matter they should do so, in writing, within 28 days.

(4) After the Secretary of State has—

(a) considered the matter and any written representations made by the applicant or the authority, and

(b) carried out such consultations with such persons as he thinks fit,

he may give the authority a simplified planning zone direction.

(5) The Secretary of State shall notify the applicant and the authority of his decision and of his reasons for it.

4 (1) A simplified planning zone direction is—

(a) if the request was for the making of a scheme, a direction to make a scheme which the Secretary of State considers appropriate; and

(b) if the request was for the alteration of a scheme, a direction to alter it in such manner as he considers appropriate **[**[F920]and, in either case, requires the local planning authority to take all the steps required by this Schedule for the adoption of proposals for the making or, as the case may be, alteration of a scheme.**]**

(2) A direction under sub-paragraph (1)(a) or (b) may extend—

(a) to the land specified in the request to the authority,

(b) to any part of the land so specified, or

(c) to land which includes the whole or part of the land so specified;

and accordingly may direct that land shall be added to or excluded from an existing simplified planning zone.

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Annotations:

Amendments (Textual)

F920 Words in Sch. 7 para. 4(1) inserted (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. II para.5**; S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

[F921 Steps to be taken before depositing proposals

Annotations:

Amendments (Textual)

F921 Sch. 7 paras. 5-6 and cross headings substituted for paras. 5-7 (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. I para.1** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

F922 5 (1) A local planning authority proposing to make or alter a simplified planning zone scheme shall, before determining the content of their proposals, comply with this paragraph.

(2) They shall—

(a) consult the Secretary of State having responsibility for highways as to the effect any proposals they may make might have on existing or future highways,

(b) if they are the district planning authority, consult the county council—

(i) as county planning authority, and

(ii) as to the effect which any matters the district planning authority are considering including in the proposals might have on existing or future highways, and

(c) consult or notify such persons as regulations may require them to consult or, as the case may be, notify.

(3) They shall take such steps as may be prescribed or as the Secretary of State may, in a particular case, direct to publicise—

(a) the fact that they propose to make or alter a simplified planning zone scheme, and

(b) the matters which they are considering including in the proposals.

(4) They shall consider any representations that are made in accordance with regulations.**]**

Annotations:

Amendments (Textual)

F922 Sch. 7 paras. 5-6 and cross headings substituted for paras. 5-7 (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. I para.1** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

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[F923 Procedure after deposit of proposals

Annotations:

Amendments (Textual)

F923 Sch. 7 paras. 5-6 and cross headings substituted for paras. 5-7 (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. I para.1** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

F924 6 Where a local planning authority have prepared a proposed simplified planning zone scheme, or proposed alterations to a simplified planning zone scheme, they shall—

(a) make copies of the proposed scheme or alterations available for inspection at such places as may be prescribed,

(b) take such steps as may be prescribed for the purpose of advertising the fact that the proposed scheme or alterations are so available and the places at which, and times during which, they may be inspected,

(c) take such steps as may be prescribed for inviting objections to be made within such period as may be prescribed, and

(d) send a copy of the proposed scheme or alterations to the Secretary of State and to the Secretary of State having responsibility for highways and, if they are the district planning authority, to the county council.**]**

Annotations:

Amendments (Textual)

F924 Sch. 7 paras. 5-6 and cross headings substituted (25.11.1991 for certain purposes and otherwise 9.11.1992) for paras. 5-7 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. I para.1** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

Powers of Secretary of State to secure adequate publicity and consultations

. . . . . .

[F925 Procedure for dealing with objections

Annotations:

Amendments (Textual)

F925 Sch. 7 para. 8(1)(2) and cross heading substituted (25.11.1991 for certain purposes and otherwise 9.11.1992) for para. 8(1)-(3) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. I para. 2(1)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/2413, **art. 2** (with art. 3)

F926 8 (1) Where objections to the proposed scheme or alterations are made, the local planning authority may—

(a) for the purpose of considering the objections, cause a local inquiry or other hearing to be held by a person appointed by the Secretary of State or, in such cases as may be prescribed, appointed by the authority, or

(b) require the objections to be considered by a person appointed by the Secretary of State.

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(2) A local planning authority shall exercise the power under sub-paragraph (1), or paragraph (a) or (b) of that sub-paragraph, if directed to do so by the Secretary of State.**]**

(4) Regulations may—

(a) make provision with respect to the appointment, and qualifications for appointment, of persons **[**F927for the purposes of this paragraph**]**;

(b) include provision enabling the Secretary of State to direct a local planning authority to appoint a particular person, or one of a specified list or class of persons;

(c) make provision with respect to the remuneration and allowances of the person appointed.

(5) Subsections (2) and (3) of section 250 of the M207Local Government Act 1972 (power to summon and examine witnesses) apply to an inquiry held under this paragraph.

(6) The M208Tribunals and Inquiries Act **[**F9281992**]** applies to a local inquiry or other hearing held under this paragraph as it applies to a statutory inquiry held by the Secretary of State, with the substitution in **[**F929section 10(1)**]** (statement of reasons for decision) for the references to a decision taken by the Secretary of State of references to a decision taken by a local authority.

[F930(7) A local inquiry or other hearing held under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).**]**

Annotations:

Amendments (Textual)

F926 Sch. 7 para. 8(1)(2) and cross heading substituted (25.11.1991 for certain purposes and otherwise 9.11.1992) for para. 8(1)-(3) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. I para. 2(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

F927 Words in Sch. 7 para. 8(4) substituted (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. II para. 6** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/2413, **art. 2** (with art. 3)

F928 Word in Sch. 7 para. 8(6) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 29(a)**

F929 Words in Sch. 7 para. 8(6) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 29(b)**

F930 Sch. 7 para. 8(7) inserted (1.11.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(1), 148, **Sch. 8 para. 11**; S.I. 2007/2709, **art. 3(b)(i)**

Marginal Citations

M207 1972 c. 70.

M208 1992 c. 53.

Adoption of proposals by local planning authority

9 **[**F931(1) After the expiry of the period for making objections or, if objections have been made in accordance with the regulations, after considering those objections and the views of any person holding an inquiry or hearing or considering the objections

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under paragraph 8, the local planning authority may by resolution adopt the proposals (subject to the following provisions of this paragraph and paragraph 10).**]**

(2) The authority may adopt the proposals as originally prepared or as modified so as to take account of—

(a) any such objections as are mentioned in sub-paragraph (1) or any other objections to the proposals, or

(b) any other considerations which appear to the authority to be material.

(3) If, before the proposals have been adopted by the local planning authority, it appears to the Secretary of State that they are unsatisfactory, he may direct the authority to **[**F932modify**]** the proposals in such respects as are indicated in the direction.

(4) An authority to whom such a direction is given shall not adopt the proposals unless—

(a) they satisfy the Secretary of State that they have made the modifications necessary to conform with the direction, or

(b) the direction is withdrawn.

Annotations:

Amendments (Textual)

F931 Sch. 7 para. 9(1) substituted (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. II para. 7(1)** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

F932 Word in Sch. 7 para. 9(3) substituted (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. II para. 7(2)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/2413, **art. 2** (with art. 3)

Calling in of proposals for approval by Secretary of State

10 (1) Before the proposals have been adopted by the local planning authority the Secretary of State may direct that they shall be submitted to him for his approval.

(2) If the Secretary of State gives such a direction—

(a) the authority shall not take any further steps for the adoption of the proposals, and in particular shall not hold or proceed with a local inquiry or other hearing **[**F933or any consideration of objections**]** in respect of the proposals under paragraph 8; and

(b) the proposals shall not have effect unless approved by the Secretary of State and shall not require adoption by the authority.

Annotations:

Amendments (Textual)

F933 Words in Sch. 7 para. 10(2) inserted (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. II para.8** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

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Approval of proposals by Secretary of State

11 (1) The Secretary of State may after considering proposals submitted to him under paragraph 10 either approve them, in whole or in part and with or without modifications, or reject them.

(2) In considering the proposals the Secretary of State may take into account any matters he thinks are relevant, whether or not they were taken into account in the proposals as submitted to him.

[F934(3) Where on taking the proposals into consideration the Secretary of State does not determine then to reject them he shall, before determining whether or not to approve them, consider any objections made in accordance with regulations (and not withdrawn) except objections which—

(a) have already been considered by the local planning authority or by a person appointed by the Secretary of State, or

(b) have already been considered at a local inquiry or other hearing.

(4) The Secretary of State may—

(a) for the purpose of considering any objections and the views of the local planning authority and of such other persons as he thinks fit, cause a local inquiry or other hearing to be held by a person appointed by him, or

(b) require such objections and views to be considered by a person appointed by him.

(5) In considering the proposals the Secretary of State may consult with, or consider the views of, any local planning authority or any other person; but he need not do so, or give an opportunity for the making or consideration of representations or objections, except so far as he is required to do so by sub-paragraph (3).**]**

Annotations:

Amendments (Textual)

F934 Sch. 7 para. 11(3)-(5) substituted for para. 11(3)(4) (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 para. 2(2)**(with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

Default powers

[F935 12(1) Where —

(a) a local planning authority are directed under paragraph 3 to make a simplified planning zone scheme which the Secretary of State considers appropriate or to alter such a scheme in such manner as he considers appropriate, and

(b) the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the authority are not taking within a reasonable period the steps required by this Schedule for the adoption of proposals for the making or, as the case may be, alteration of a scheme,

he may himself make a scheme or, as the case may be, the alterations.**]**

(2) Where under this paragraph anything which ought to have been done by a local planning authority is done by the Secretary of State, the previous provisions of this

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Schedule apply, so far as practicable, with any necessary modifications, in relation to the doing of that thing by the Secretary of State and the thing so done.

(3) Where the Secretary of State incurs expenses under this paragraph in connection with the doing of anything which should have been done by a local planning authority, so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by the authority to the Secretary of State.

Annotations:

Amendments (Textual)

F935 Sch. 7 para. 12(1) substituted (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. II para. 9** (with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

Regulations and directions

13 (1) Without prejudice to the previous provisions of this Schedule, the Secretary of State may make regulations with respect—

(a) to the form and content of simplified planning zone schemes, and

(b) to the procedure to be followed in connection with their preparation, withdrawal, adoption, submission, approval, making or alteration.

(2) Any such regulations may in particular—

(a) provide for the notice to be given of, or the publicity to be given to—

(i) matters included or proposed to be included in a simplified planning zone scheme, and

(ii) the adoption or approval of such a scheme, or of any alteration of it, or any other prescribed procedural step,

and for publicity to be given to the procedure to be followed in these respects;

(b) make provision with respect to the making and consideration of representations as to matters to be included in, or objections to, any such scheme or proposals for its alteration;

[F936(bb) make provision with respect to the circumstances in which representations with respect to the matters to be included in such a scheme or proposals for its alteration are to be treated, for the purposes of this Schedule, as being objections made in accordance with regulations;**]**

(c) without prejudice to paragraph (a), provide for notice to be given to particular persons of the adoption or approval of a simplified planning zone scheme, or an alteration to such a scheme, if they have objected to the proposals and have notified the local planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge;

(d) require or authorise a local planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;

(e) require a local planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request with copies of any document which has been made public F937. . ., subject (if the regulations so provide) to the payment of a reasonable charge;

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(f) provide for the publication and inspection of a simplified planning zone scheme which has been adopted or approved, or any document adopted or approved altering such a scheme, and for copies of any such scheme or document to be made available on sale.

(3) Regulations under this paragraph may extend throughout England and Wales or to specified areas only and may make different provision for different cases.

(4) Subject to the previous provisions of this Schedule and to any regulations under this paragraph, the Secretary of State may give directions to any local planning authority or to local planning authorities generally—

(a) for formulating the procedure for the carrying out of their functions under this Schedule;

(b) for requiring them to give him such information as he may require for carrying out any of his functions under this Schedule.

Annotations:

Amendments (Textual)

F936 Sch. 7 para. 13(2)(bb) inserted (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 28, **Sch. 5 Pt. II para. 10(a)**(with s. 84(5)); S.I. 1991/2728, **art.2**; S.I. 1992/2413, **art. 2** (with art. 3)

F937 Words in Sch. 7 para. 13(2)(e) repealed (25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 28, 84(6), Sch. 5 Pt. II para. 10(b), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/2413, **art. 2** (with art. 3); S.I. 1992/2831, art. 2, **Sch.**

SCHEDULE 8

Section 101(4).

PLANNING INQUIRY COMMISSIONS

PART I

CONSTITUTION AND PROCEDURE ON REFERENCES

Constitution of Commissions

1 (1) A Planning Inquiry Commission shall consist of a chairman and not less than two nor more than four other members appointed by the Secretary of State.

(2) The Secretary of State may—

(a) pay to the members of any such commission such remuneration and allowances as he may with the consent of the Treasury determine, and

(b) provide for each such commission such officers or servants, and such accommodation, as appears to him expedient to provide for the purpose of assisting the commission in the discharge of their functions.

(3) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.

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(4) In relation to any matter affecting both England and Wales—

(a) the functions of the Secretary of State under sub-paragraph (1) shall be exercised by the Secretaries of State for the time being having general responsibility in planning matters in relation to England and in relation to Wales acting jointly, and

(b) his functions under sub-paragraph (2) shall be exercised by one of those Secretaries of State authorised by the other to act on behalf of both of them for the purposes of that sub-paragraph.

Reference to a Planning Inquiry Commission

2 (1) Two or more of the matters mentioned in section 101(2) may be referred to the same commission if it appears to the responsible Minister or Ministers that they relate to proposals to carry out development for similar purposes on different sites.

(2) Where a matter referred to a commission under section 101 relates to a proposal to carry out development for any purpose at a particular site, the responsible Minister or Ministers may also refer to the commission the question whether development for that purpose should instead be carried out at an alternative site.

(3) On referring a matter to a commission, the responsible Minister or Ministers—

(a) shall state in the reference the reasons for the reference, and

(b) may draw the attention of the commission to any points which seem to him or them to be relevant to their inquiry.

Functions of Planning Inquiry Commission on reference

3 (1) A commission inquiring into a matter referred to them under section 101 shall—

(a) identify and investigate the considerations relevant to, or the technical or scientific aspects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out, and

(b) assess the importance to be attached to those considerations or aspects.

(2) If—

(a) in the case of a matter mentioned in section 101(2)(a), (b) or (c), the applicant, or

(b) in any case, the local planning authority,

so wish, the commission shall give to each of them, and, in the case of an application or appeal mentioned in section 101(2)(a) or (b), also to any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under **[**F938any provision of a development order made by virtue of section 71(2)(a)**]**, an opportunity of appearing before and being heard by one or more members of the commission.

(3) The commission shall then report to the responsible Minister or Ministers on the matter referred to them.

(4) A commission may, with the approval of the Secretary of State and at his expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to them to be relevant to a matter referred to them for inquiry and report.

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(5) In sub-paragraph (4) "the Secretary of State," in relation to any matter affecting both England and Wales, means—

(a) the Secretary of State for the time being having general responsibility in planning matters in relation to England, or

(b) the Secretary of State for the time being having responsibility in relation to Wales,

acting, by arrangements between the two of them, on behalf of both.

Annotations:

Amendments (Textual)

F938 Words in Sch. 8 para. 3(2) substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.55** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

Procedure on reference to a Planning Inquiry Commission

4 (1) A reference to a Planning Inquiry Commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time.

(2) A reference of any other matter mentioned in section 101 may be made at any time before, but not after, the determination of the relevant application referred under section 77 or the relevant appeal under section 78 or, as the case may be, the giving of the relevant direction under section 90(1).

(3) The fact that an inquiry or other hearing has been held into a proposal by a person appointed by any Minister for the purpose shall not prevent a reference of the proposal to a Planning Inquiry Commission.

(4) Notice of the making of a reference to any such commission shall be published in the prescribed manner.

(5) A copy of the notice must be served on the local planning authority for the area in which it is proposed that the relevant development will be carried out, and—

(a) in the case of an application for planning permission referred under section 77 or an appeal under section 78, on the applicant and any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under **[**F939any provision of a development order made by virtue of section 71(2)(a)**]**;

(b) in the case of a proposal that a direction should be given under section 90(1) with respect to any development, on the local authority **[**F940or National Park authority**]** or statutory undertakers applying for authorisation to carry out that development.

(6) Subject to the provisions of this paragraph and paragraph 5 and to any directions given to them by the responsible Minister or Ministers, a Planning Inquiry Commission shall have power to regulate their own procedure.

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Annotations:

Amendments (Textual)

F939 Words in Sch. 8 para. 4(5)(a) substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 55** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

F940 Words in Sch. 8 para. 4(5)(b) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(15)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

Local inquiries held by Planning Inquiry Commission

5 (1) A Planning Inquiry Commission shall, for the purpose of complying with paragraph 3(2), hold a local inquiry; and they may hold such an inquiry, if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the local planning authority want an opportunity to appear and be heard.

(2) Where a Planning Inquiry Commission are to hold a local inquiry under sub-paragraph (1) in connection with a matter referred to them, and it appears to the responsible Minister or Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this paragraph to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, he or, as the case may be, they may direct that the two inquiries be held concurrently or combined as one inquiry.

(3) An inquiry held by a commission under this paragraph shall be treated for the purposes of the Tribunals and Inquiries Act **[**[F941]1992**]** as one held by a Minister in pursuance of a duty imposed by a statutory provision.

[[F942](3A) An inquiry held by a commission under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).**]**

(4) Subsections (2) to (5) of section 250 of the [M209]Local Government Act 1972 (local inquiries: evidence and costs) shall apply in relation to an inquiry held under sub-paragraph (1) as they apply in relation to an inquiry caused to be held by a Minister under subsection (1) of that section, with the substitution for references to the Minister causing the inquiry to be held (other than the first reference in subsection (4)) of references to the responsible Minister or Ministers.

Annotations:

Amendments (Textual)

F941 Word in Sch. 8 para. 5(3) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 30**

F942 Sch. 8 para. 5(3A) inserted (1.11.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(1), 148, **Sch. 8 para. 12**; S.I. 2007/2709, **art. 3(b)(i)**

Marginal Citations

M209 1972 c. 70.

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PART II

MEANING OF "THE RESPONSIBLE MINISTER OR MINISTERS"

6 In relation to the matters specified in the first column of the Table below (which are matters mentioned in subsection (2)(a), (b), (c) or (d) of section 101 as matters which may be referred to a Planning Inquiry Commission under that section) "the responsible Minister or Ministers" for the purposes of that section and this Schedule —

(a) in the case of a matter affecting England only, are those specified opposite in the second column of the Table;

(b) in the case of a matter affecting Wales only, are those specified opposite in the third column of the Table; and

(c) in the case of a matter affecting both England and Wales, are those specified opposite in the fourth column of the Table.

7 Where an entry in the second, third or fourth columns of the Table specifies two or more Ministers, that entry shall be construed as referring to those Ministers acting jointly.

TABLE

Referred matter	**Affecting England only**	**Affecting Wales only**	**Affecting both England and Wales**
1. Application for planning permission or appeal under section 78 relating to land to which section 266(1) applies.	The Secretary of State for the time being having general responsibility in planning matters in relation to England and the appropriate Minister (if different).	The Secretary of State for the time being having general responsibility in planning matters in relation to Wales and the appropriate Minister (if different).	The Secretaries of State for the time being having general responsibility in planning matters in relation to England and in relation to Wales and the appropriate Minister (if different).
2. Application for planning permission or appeal under section 78 relating to land to which section 266(1) does not apply.	The Secretary of State for the time being having general responsibility in planning matters in relation to England.	The Secretary of State for the time being having general responsibility in planning matters in relation to Wales.	The Secretaries of State for the time being having general responsibility in planning matters in relation to England and in relation to Wales.
3. Proposal that a government department should give a direction under section 90(1) or	The Secretary of State for the time being having general responsibility in planning matters in	The Secretary of State for the time being having general responsibility in planning matters in	The Secretaries of State for the time being having general responsibility in planning matters

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that development should be carried out by or on behalf of a government department.	relation to England and the Minister (if different) in charge of the government department concerned.	relation to Wales and the Minister (if different) in charge of the government department concerned.	in relation to England and in relation to Wales and the Minister (if different) in charge of the government department concerned.

SCHEDULE 9

Section 102(8).

REQUIREMENTS RELATING TO DISCONTINUANCE OF MINERAL WORKING

Annotations:

Modifications etc. (not altering text)

C415 Sch. 9 modified (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **ss. 22(6)(b)(7)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

C416 Sch. 9 modified (W.) (8.1.2010) by The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009 (S.I. 2009/3342), **reg. 51**

Orders requiring discontinuance of mineral working

1 (1) If, having regard to the development plan and to any other material considerations, it appears to a mineral planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity)—

[[F943](a) that any use of land for—

(i) development consisting of the winning and working of minerals; or

(ii) the depositing of refuse or waste materials,

should be discontinued or that any conditions should be imposed on the continuance of the winning and working or the depositing;**]**

(b) that any buildings or works on land so used should be altered or removed; or

[[F944](c) that any plant or machinery used for the winning and working or the depositing should be altered or removed,**]**

the mineral planning authority may by order require the discontinuance of that use, or impose such conditions as may be specified in the order on the continuance of it or, as the case may be, require such steps as may be so specified to be taken for the alteration or removal of the buildings or works or plant or machinery.

[[F945](2) An order under this paragraph may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be—

(a) required by paragraph 1 of Schedule 5; or

(b) specified in the order.

(3) Subsections (3) to (5) and (7) of section 102 and section 103 apply to orders under this paragraph as they apply to orders under section 102, but as if—

(a) references to the local planning authority were references to the mineral planning authority; and

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(b) the reference in section 103(2)(a) to subsection (2) of section 102 were a reference to sub-paragraph (2).**]**

Annotations:

Amendments (Textual)

F943 Sch. 9 para. 1(1)(a) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(1)**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F944 Sch. 9 para. 1(1)(c) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(2)**(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F945 Sch. 9 para. 1(2)(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(3)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

2 **[**F946(1) An order under paragraph 1 may impose a restoration condition**]**

(2) If such an order—

(a) includes a restoration condition, or

(b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Act,

the order may also include any such aftercare condition as the mineral planning authority think fit.

(3) Paragraphs 2(3) to (9) and 3 to 6 of Schedule 5 shall apply in relation to an aftercare condition imposed under this paragraph as they apply in relation to such a condition imposed under paragraph 2 of that Schedule, but with the substitution for sub-paragraphs (1) and (2) of paragraph 3 of that Schedule of sub-paragraphs (4) and (5) below.

(4) In a case where—

(a) the use specified in the aftercare condition is a use for agriculture;

(b) the land was in use for agriculture immediately **[**F947before the development began**]**, or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased; and

(c) the Minister has notified the mineral planning authority of the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

(5) In any other case where the use specified in the aftercare condition is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.

Annotations:

Amendments (Textual)

F946 Sch. 9 para. 2(1) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(4)**(with s. 84(5)); S.I. 1991/2067, **art.3**

F947 Words in Sch. 9 para. 2(4)(b) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(5)**(with s. 84(5)); S.I. 1991/2067, **art.3**

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Prohibition of resumption of mineral working

3 **[**F948(1) Where it appears to the mineral planning authority—

(a) that development of land—

(i) consisting of the winning and working of minerals; or

(ii) involving the depositing of mineral waste,

has occurred; but

(b) the winning and working or depositing has permanently ceased,

the mineral planning authority may by order—

(i) prohibit the resumption of the winning and working or the depositing; and

(ii) impose, in relation to the site, any such requirement as is specified in sub-paragraph (3).

(2) The mineral planning authority may assume that the winning and working or the depositing has permanently ceased only when—

(a) no winning and working or depositing has occurred, to any substantial extent, at the site for a period of at least two years; and

(b) it appears to the mineral planning authority, on the evidence available to them at the time when they make the order, that resumption of the winning and working or the depositing to any substantial extent at the site is unlikely.

(3) The requirements mentioned in sub-paragraph (1) are—

(a) a requirement to alter or remove plant or machinery which was used for the purpose of the winning and working or the depositing or for any purpose ancillary to that purpose;

(b) a requirement to take such steps as may be specified in the order, within such period as may be so specified, for the purpose of removing or alleviating any injury to amenity which has been caused by the winning and working or depositing, other than injury due to subsidence caused by underground mining operations;

(c) a requirement that any condition subject to which planning permission for the development was granted or which has been imposed by virtue of any provision of this Act shall be complied with; and

(d) a restoration condition.**]**

(4) If—

(a) an order under this paragraph includes a restoration condition; or

(b) a restoration condition has previously been imposed in relation to the site by virtue of any provision of this Act,

the order under this paragraph may include any such aftercare condition as the mineral planning authority think fit.

(5) Paragraphs 2(3) to (9) and 3 to 6 of Schedule 5 apply in relation to an aftercare condition imposed under this paragraph as they apply to such a condition imposed under paragraph 2 of this Schedule.

Annotations:

Amendments (Textual)

F948 Sch. 9 para. 3(1)-(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **ss. 21**, 84(2)-(4)(5), Sch. 1 para. 15(6)(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

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Modifications etc. (not altering text)
C417 Sch. 9 para. 3 modified (22.7.2008) by The Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008 (S.I. 2008/1556), **reg. 4(3)-(5)**

4 (1) An order under paragraph 3 shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.

(2) Where a mineral planning authority submit such an order to the Secretary of State for his confirmation under this paragraph, the authority shall serve notice of the order—

(a) on any person who is an owner or occupier of any of the land to which the order relates, and

(b) on any other person who in their opinion will be affected by it.

(3) The notice shall specify the period within which any person on whom the notice is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.

(4) If within that period such a person so requires, before the Secretary of State confirms the order he shall give such an opportunity both to him and to the mineral planning authority.

(5) The period referred to in sub-paragraph (3) must not be less than 28 days from the service of the notice.

(6) Where an order under paragraph 3 has been confirmed by the Secretary of State, the mineral planning authority shall serve a copy of the order on every person who was entitled to be served with notice under sub-paragraph (2).

(7) When an order under paragraph 3 takes effect any planning permission for the development to which the order relates shall cease to have effect.

(8) Sub-paragraph (7) is without prejudice to the power of the mineral planning authority, on revoking the order, to make a further grant of planning permission for development consisting of the winning and working of minerals **[**F949or involving the depositing of mineral waste**]**.

Annotations:

Amendments (Textual)
F949 Words in Sch. 9 para. 4(8) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(7)**(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Modifications etc. (not altering text)
C418 Sch. 9 para. 4(7) modified (22.7.2008) by The Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008 (S.I. 2008/1556), **reg. 4(6)**

Orders after suspension of winning and working of minerals

5 **[**F950(1) Where it appears to the mineral planning authority—

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(a) that development of land—

(i) consisting of the winning and working of minerals; or

(ii) involving the depositing of mineral waste,

has occurred; but

(b) the winning and working or depositing has been temporarily suspended,

the mineral planning authority may by order require that steps be taken for the protection of the environment.**]**

(2) An order under sub-paragraph (1) is in this Act referred to as a "suspension order".

[F951(3) The mineral planning authority may assume that the winning and working or the depositing has been temporarily suspended only when—

(a) no such winning and working or depositing has occurred, to any substantial extent, at the site for a period of at least twelve months; but

(b) it appears to the mineral planning authority, on the evidence available to them at the time when they make the order, that a resumption of such winning and working or depositing to a substantial extent is likely.

(4) In this Act "steps for the protection of the environment" means steps for the purpose —

(a) of preserving the amenities of the area in which the land in, on or under which the development was carried out is situated during the period while the winning and working or the depositing is suspended;

(b) of protecting that area from damage during that period; or

(c) of preventing any deterioration in the condition of the land during that period.**]**

(5) A suspension order shall specify a period, commencing with the date on which it is to take effect, within which any required step for the protection of the environment is to be taken and may specify different periods for the taking of different steps.

Annotations:

Amendments (Textual)

F950 Sch. 9 para. 5(1) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(8)**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4

F951 Sch. 9 para. 5(3)(4) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(9)**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Supplementary suspension orders

6 (1) At any time when a suspension order is in operation the mineral planning authority may by order direct—

(a) that steps for the protection of the environment shall be taken in addition to or in substitution for any of the steps which the suspension order or a previous order under this sub-paragraph specified as required to be taken; or

(b) that the suspension order or any order under this sub-paragraph shall cease to have effect.

(2) An order under sub-paragraph (1) is in this Act referred to as a "supplementary suspension order".

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Confirmation and coming into operation of suspension orders

7 (1) Subject to sub-paragraph (2), a suspension order or a supplementary suspension order shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.

(2) A supplementary suspension order revoking a suspension order or a previous supplementary suspension order and not requiring that any fresh step shall be taken for the protection of the environment shall take effect without confirmation.

(3) Sub-paragraphs (2) to (5) of paragraph 4 shall have effect in relation to a suspension order or supplementary suspension order submitted to the Secretary of State for his confirmation as they have effect in relation to an order submitted to him for his confirmation under that paragraph.

(4) Where a suspension order or supplementary suspension order has been confirmed by the Secretary of State, the mineral planning authority shall serve a copy of the order on every person who was entitled to be served with notice of the order by virtue of sub-paragraph (3).

Registration of suspension orders as local land charges

8 A suspension order or a supplementary suspension order shall be a local land charge.

Review of suspension orders

9 (1) It shall be the duty of a mineral planning authority—

(a) to undertake in accordance with the following provisions of this paragraph reviews of suspension orders and supplementary suspension orders which are in operation in their area; and

(b) to determine whether they should make in relation to any land to which a suspension order or supplementary suspension order applies—

(i) an order under paragraph 3; or

(ii) a supplementary suspension order.

(2) The first review of a suspension order shall be undertaken not more than five years from the date on which the order takes effect.

(3) Each subsequent review shall be undertaken not more than five years after the previous review.

(4) If a supplementary suspension order is in operation for any part of the area for which a suspension order is in operation, they shall be reviewed together.

(5) If a mineral planning authority have made a supplementary suspension order which requires the taking of steps for the protection of the environment in substitution for all the steps required to be taken by a previous suspension order or supplementary suspension order, the authority shall undertake reviews of the supplementary suspension order in accordance with sub-paragraphs (6) and (7).

(6) The first review shall be undertaken not more than five years from the date on which the order takes effect.

(7) Each subsequent review shall be undertaken not more than five years after the previous review.

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(8) The duties to undertake reviews imposed by this paragraph are in addition to and not in substitution for the duties imposed by section 105.

Resumption of mineral working after suspension order

10 (1) Subject to sub-paragraph (2), nothing in a suspension order or a supplementary suspension order shall prevent the recommencement of development consisting of the winning and working of minerals **[**F952or involving the depositing of mineral waste at the site**]** in relation to which the order has effect.

(2) No person shall recommence such development without first giving the mineral planning authority notice of his intention to do so.

(3) A notice under sub-paragraph (2) shall specify the date on which the person giving the notice intends to recommence **[**F953the development**]**.

[F954(4) The mineral planning authority shall revoke the order if the winning and working of minerals or the depositing of mineral waste has recommenced to a substantial extent at the site in relation to which the order has effect.**]**

(5) If the authority do not revoke the order before the end of the period of two months from the date specified in the notice under sub-paragraph (2), the person who gave that notice may apply to the Secretary of State for the revocation of the order.

(6) Notice of an application under sub-paragraph (5) shall be given by the applicant to the mineral planning authority.

(7) If he is required to do so by the person who gave the notice or by the mineral planning authority, the Secretary of State shall, before deciding whether to revoke the order, give him and the mineral planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

[F955(8) If the Secretary of State is satisfied that the winning and working of minerals or the depositing of mineral waste has recommenced to a substantial extent at the site in relation to which the order has effect, he shall revoke the order.**]**

(9) If the Secretary of State revokes an order by virtue of sub-paragraph (8), he shall give notice of its revocation—

(a) to the person who applied to him for the revocation, and

(b) to the mineral planning authority.

Annotations:

Amendments (Textual)

F952 Words in Sch. 9 para. 10(1) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(10)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F953 Words in Sch. 9 para. 10(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15** (11) (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F954 Sch. 9 para. 10(4) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(12)**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F955 Sch. 9 para. 10(8) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(13)**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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Default powers of Secretary of State

11 (1) If it appears to the Secretary of State to be expedient that any order under paragraph 1, 3, 5 or 6 should be made, he may himself make such an order.

(2) Such an order which is made by the Secretary of State shall have the same effect as if it had been made by the mineral planning authority and confirmed by the Secretary of State.

(3) The Secretary of State shall not make such an order without consulting the mineral planning authority.

(4) Where the Secretary of State proposes to make an order under paragraph 1 he shall serve a notice of the proposal on the mineral planning authority.

(5) The notice shall specify the period (which must not be less than 28 days from the date of its service) within which the authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) If within that period the authority so require, before the Secretary of State makes the order he shall give the authority such an opportunity.

(7) The provisions of this Schedule and of any regulations made under this Act with respect to the procedure to be followed in connection with the submission by the mineral planning authority of any order to which sub-paragraph (1) applies, its confirmation by the Secretary of State and the service of copies of it as confirmed shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order, its making by him and the service of copies of it.

Annotations:

Modifications etc. (not altering text)
C419 Sch. 9 para. 11 : power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

[F956 Interpretation

Annotations:

Amendments (Textual)
F956 Sch. 9 para. 12 and cross heading inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(14)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F957 12 In this Schedule any reference to a mineral planning authority shall be construed, in relation to the exercise of functions with respect to the depositing of refuse or waste materials (other than mineral waste), as a reference to the authority entitled to discharge such functions.**]**

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Annotations:

Amendments (Textual)

F957 Sch. 9 para. 12 and cross heading inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, **Sch. 1 para. 15(14)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

SCHEDULE 10

Sections 111 and 114.

CONDITION TREATED AS APPLICABLE TO REBUILDING AND ALTERATIONS

1 Where the building to be rebuilt or altered is the original building, the amount of gross floor space in the building as rebuilt or altered which may be used for any purpose shall not exceed by more than ten per cent. the amount of gross floor space which was last used for that purpose in the original building.

2 Where the building to be rebuilt or altered is not the original building, the amount of gross floor space in the building as rebuilt or altered which may be used for any purpose shall not exceed the amount of gross floor space which was last used for that purpose in the building before the rebuilding or alteration.

3 In determining under this Schedule the purpose for which floor space was last used in any building, no account shall be taken of any use in respect of which an effective enforcement notice has been or could be served or, in the case of a use which has been discontinued, could have been served immediately before the discontinuance.

4 (1) For the purposes of this Schedule gross floor space shall be ascertained by external measurement.

(2) Where different parts of a building are used for different purposes, floor space common to those purposes shall be apportioned rateably.

5 In relation to a building erected after 1st July 1948 which is a building resulting from the carrying out of any such works as are described in paragraph 1 of Schedule 3, any reference in this Schedule to the original building is a reference to the building in relation to which those works were carried out and not to the building resulting from the carrying out of those works.

F958SCHEDULE 11

Annotations:

Amendments (Textual)

F958 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I**(with s. 84(5); S.I. 1991/2067, art. 3, **Sch. 1** (subject to art. 4)

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F959 . . .

Annotations:

Amendments (Textual)

F959 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I**(with s. 84(5); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F960 1 . . . . . .

Annotations:

Amendments (Textual)

F960 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I**(with s. 84(5); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F961 . . .

Annotations:

Amendments (Textual)

F961 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I** (with s. 84(5); S.I. 1991/2067, art. 3, **Sch. 1** (subject to art. 4)

F962 2 . . . . . .

Annotations:

Amendments (Textual)

F962 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I**(with s. 84(5); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F963 3 . . . . . .

Annotations:

Amendments (Textual)

F963 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I**(with s. 84(5); S.I. 1991/2067, art. 3, **Sch. 1** (subject to art. 4)

F964 . . .

Annotations:

Amendments (Textual)

F964 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

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F965 4 . . . . . .

Annotations:

Amendments (Textual)

F965 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I**(with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F966 5 . . . . . .

Annotations:

Amendments (Textual)

F966 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt. I**(with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F967 6 . . . . . .

Annotations:

Amendments (Textual)

F967 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F968 7 . . . . . .

Annotations:

Amendments (Textual)

F968 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I**(with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F969 8 . . . . . .

Annotations:

Amendments (Textual)

F969 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt. I**(with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F970 9 . . . . . .

Annotations:

Amendments (Textual)

F970 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

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F971 . . .

Annotations:

Amendments (Textual)

F971 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I**(with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F972 10 . . . . . .

Annotations:

Amendments (Textual)

F972 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I**(with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F973 . . .

Annotations:

Amendments (Textual)

F973 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I**(with s. 84(5)); S.I. 1991/2067, art. 3, **Sch. 1** (subject to art. 4)

F974 11 . . . . . .

Annotations:

Amendments (Textual)

F974 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F975 . . .

Annotations:

Amendments (Textual)

F975 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F976 12 . . . . . .

Annotations:

Amendments (Textual)

F976 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt. I**; S.I. 1991/2067, art. 3, **Sch. 1** (subject to art. 4)

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F977 . . .

Annotations:

Amendments (Textual)

F977 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), **Sch. 1 para. 16(1)**,(2) Sch. 19 Pt.I(with s. 84(5)); S.I. 1991/2067, art. 3, **Sch.1** (subject to art. 4)

F978 13 . . . . . .

Annotations:

Amendments (Textual)

F978 Sch. 11 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 21, 84(6), Sch. 1 para. 16(1)(2), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2067, art.3, **Sch. 1** (subject to art. 4)

F979 SCHEDULE 12

Annotations:

Amendments (Textual)

F979 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F980 . . .

Annotations:

Amendments (Textual)

F980 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F981 1 . . . . . .

Annotations:

Amendments (Textual)

F981 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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F982 . . .

Annotations:

Amendments (Textual)

F982 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F983 2 . . . . . .

Annotations:

Amendments (Textual)

F983 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F984 . . .

Annotations:

Amendments (Textual)

F984 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3**(subject to art. 4)

F985 3 . . . . . .

Annotations:

Amendments (Textual)

F985 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F986 . . .

Annotations:

Amendments (Textual)

F986 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F987 4 . . . . . .

Annotations:

Amendments (Textual)

F987 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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F988 . . .

Annotations:

Amendments (Textual)

F988 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3**(subject to art. 4)

F989 5 . . . . . .

Annotations:

Amendments (Textual)

F989 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F990 6 . . . . . .

Annotations:

Amendments (Textual)

F990 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F991 . . .

Annotations:

Amendments (Textual)

F991 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F992 7 . . . . . .

Annotations:

Amendments (Textual)

F992 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F993 . . .

Annotations:

Amendments (Textual)

F993 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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F994 8 . . . . . .

Annotations:

Amendments (Textual)

F994 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F995 . . .

Annotations:

Amendments (Textual)

F995 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F996 9 . . . . . .

Annotations:

Amendments (Textual)

F996 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F997 . . .

Annotations:

Amendments (Textual)

F997 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F998 10 . . . . . .

Annotations:

Amendments (Textual)

F998 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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F999 . . .

Annotations:

Amendments (Textual)

F999 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1000 11 . . . . . .

Annotations:

Amendments (Textual)

F1000 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1001 . . .

Annotations:

Amendments (Textual)

F1001 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1002 12 . . . . . .

Annotations:

Amendments (Textual)

F1002 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1003 . . .

Annotations:

Amendments (Textual)

F1003 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1004 13 . . . . . .

Annotations:

Amendments (Textual)

F1004 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

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F1005 . . .

Annotations:

Amendments (Textual)

F1005 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1006 14 . . . . . .

Annotations:

Amendments (Textual)

F1006 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1007 . . .

Annotations:

Amendments (Textual)

F1007 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F1008 15 . . . . . .

Annotations:

Amendments (Textual)

F1008 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1009 . . .

Annotations:

Amendments (Textual)

F1009 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

F1010 16 . . . . . .

Annotations:

Amendments (Textual)

F1010 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

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F1011 . . .

Annotations:

Amendments (Textual)

F1011 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1012 17 . . . . . .

Annotations:

Amendments (Textual)

F1012 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1013 . . .

Annotations:

Amendments (Textual)

F1013 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1014 18 . . . . . .

Annotations:

Amendments (Textual)

F1014 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1015 . . .

Annotations:

Amendments (Textual)

F1015 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1016 19 . . . . . .

Annotations:

Amendments (Textual)

F1016 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

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F1017 . . .

Annotations:

Amendments (Textual)

F1017 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1018 20 . . . . . .

Annotations:

Amendments (Textual)

F1018 Sch. 12 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(1), 84(6), **Sch. 19**, Pt.II (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

SCHEDULE 13

Section 149.

BLIGHTED LAND

Land allocated for public authority functions in development plans etc.

1 **F1019** . . . . . .

Annotations:

Amendments (Textual)

F1019 Sch. 13 paras. 1-4 repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 18(2), **Sch. 9** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4 and in S.I. 2005/2722, art. 7); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3); 2008 c. 29, **ss. 204**, 241 (and subject to savings in s. 226)

[F1020 1A Land which is identified for the purposes of relevant public functions by a development plan document for the area in which the land is situated.

Notes

(1) Relevant public functions are—

(a) the functions of a government department, local authority, National Park authority or statutory undertakers;

(b) the establishment or running by a public telecommunications operator of a telecommunication system.

(2) For the purposes of this paragraph a development plan document is—

(a) a development plan document which is adopted or approved for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004 (in this paragraph, the 2004 Act);

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(b) a revision of such a document in pursuance of section 26 of the 2004 Act which is adopted or approved for the purposes of Part 2 of the 2004 Act;

(c) a development plan document which has been submitted to the Secretary of State for independent examination under section 20(1) of the 2004 Act;

(d) a revision of a development plan document in pursuance of section 26 of the 2004 Act if the document has been submitted to the Secretary of State for independent examination under section 20(1) of that Act.

(3) But Note (2)(c) and (d) does not apply if the document is withdrawn under section 22 of the 2004 Act at any time after it has been submitted for independent examination.

(4) In Note (2)(c) and (d) the submission of a development plan document to the Secretary of State for independent examination is to be taken to include the holding of an independent examination by the Secretary of State under section 21 or section 27 of the 2004 Act.**]**

Annotations:

Amendments (Textual)

F1020 Sch. 13 para. 1A inserted (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, **Sch. 6 para. 18(3)** (with s. 111); S.I. 2004/2202, **art. 2** (subject to transitional provisions and savings in art. 4); S.I. 2005/2847, **art. 2** (with transitional provisions and savings in art. 3)

[F1021 1B Land in Wales which is identified for the purposes of relevant public functions by a local development plan for the area in which the land is situated.

Notes

(1) Relevant public functions are—

(a) the functions of the National Assembly for Wales, a government department, local authority, National Park authority or statutory undertakers;

(b) the establishment or running by a public telecommunications operator of a telecommunications system.

(2) For the purposes of this paragraph a local development plan is—

(a) a local development plan which is adopted or approved for the purposes of Part 6 of the Planning and Compulsory Act 2004 (in this paragraph, the 2004 Act);

(b) a revision of a local development plan in pursuance of section 70 of the 2004 Act which is adopted or approved for purposes of Part 6 of the 2004 Act;

(c) a local development plan which has been submitted to the National Assembly for independent examination under section 64(1) of the 2004 Act;

(d) a revision of a local development plan in pursuance of section 70 of the 2004 Act if the plan has been submitted to the National Assembly for independent examination under section 64(1) of that Act.

(3) But Note (2)(c) and (d) does not apply if the plan is withdrawn under section 66 of the 2004 Act at any time after it has been submitted for independent examination.

(4) In Note (2)(c) and (d) the submission of a local development plan to the National Assembly for independent examination is to be taken to include the holding of an

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independent examination by the National Assembly under section 65 or section 71 of the 2004 Act.**]**

Annotations:

Amendments (Textual)

F1021 Sch. 13 para. 1B inserted (5.10.2005) by Planning and Compulsory Purchase Act 2004 (Commencement No. 4 and Consequential, Transitional and Savings Provisions) (Wales) Order 2005 (S.I. 2005/2722), **art. 3(3)** (with art. 7)

2 **F1022** . . . . . .

Annotations:

Amendments (Textual)

F1022 Sch. 13 paras. 1-4 repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 18(2), **Sch. 9** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4 and in S.I. 2005/2722, art. 7); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3); 2008 c. 29, **ss. 204**, 241 (and subject to savings in s. 226)

3 **F1023** . . . . . .

Annotations:

Amendments (Textual)

F1023 Sch. 13 paras. 1-4 repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 18(2), **Sch. 9** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4 and in S.I. 2005/2722, art. 7); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3); 2008 c. 29, **ss. 204**, 241 (and subject to savings in s. 226)

4 **F1024** . . . . . .

Annotations:

Amendments (Textual)

F1024 Sch. 13 paras. 1-4 repealed (28.9.2004 for E. and 15.10.2005 for W.) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 118, 120, 121, Sch. 6 para. 18(2), **Sch. 9** (with s. 111); S.I. 2004/2202, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 4 and in S.I. 2005/2722, art. 7); S.I. 2005/2847, **art. 2** Sch. 1 (subject to transitional provisions and savings in art. 3); 2008 c. 29, **ss. 204**, 241 (and subject to savings in s. 226)

5 Land indicated in a plan (other than a development plan) approved by a resolution passed by a local planning authority for the purpose of the exercise of their powers under Part III as land which may be required for the purposes of **[**F1025relevant public functions (within the meaning of paragraph 1A)**]** .

6 Land in respect of which a local planning authority—

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(a) have resolved to take action to safeguard it for development for the purposes of **[**F1026relevant public functions (within the meaning of paragraph 1A)**]**

(b) have been directed by the Secretary of State to restrict the grant of planning permission in order to safeguard it for such development.

New towns and urban development areas

7 Land within an area described as the site of a proposed new town in the draft of an order in respect of which a notice has been published under paragraph 2 of Schedule 1 to the M210New Towns Act 1981.

Note

Land shall cease to be within this paragraph when—

(a) the order comes into operation (whether in the form of the draft or with modifications), or

(b) the Secretary of State decides not to make the order.

Annotations:

Marginal Citations
M210 1981 c. 64

8 Land within an area designated as the site of a proposed new town by an order which has come into operation under section 1 of the New Towns Act 1981.

9 Land which is—

(a) within an area intended to be designated as an urban development area by an order which has been made under section 134 of the M211Local Government, Planning and Land Act 1980 but has not come into effect; or

(b) within an area which has been so designated by an order under that section which has come into effect.

Annotations:

Marginal Citations
M211 1980 c. 65.

Clearance and renewal areas

10 Land within an area declared to be a clearance area by a resolution under section 289 of the M212Housing Act 1985.

Annotations:

Marginal Citations
M212 1985 c. 68.

11 Land which—

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(a) is surrounded by or adjoining an area declared to be a clearance area by a resolution under section 289 of the [M213]Housing Act 1985, and

(b) is land which a local authority have determined to purchase under section 290 of that Act.

Annotations:

Marginal Citations
M213 1985 c. 68.

12 Land indicated by information published in pursuance of section 92 of the [M214]Local Government and Housing Act 1989 as land which a local authority propose to acquire in exercise of their powers under Part VII of that Act (renewal areas).

Annotations:

Marginal Citations
M214 1989 c. 42.

Highways

13 Land indicated in a development plan (otherwise than by being dealt with in a manner mentioned in **[**[F1027]paragraph 1A**]**) as—

(a) land on which a highway is proposed to be constructed, or

(b) land to be included in a highway as proposed to be improved or altered.

14 Land on or adjacent to the line of a highway proposed to be constructed, improved or altered, as indicated in an order or scheme which has come into operation under Part II of the [M215]Highways Act 1980 (or under the corresponding provisions of Part II of the [M216]Highways Act 1959 or section 1 of the [M217]Highways Act 1971), being land in relation to which a power of compulsory acquisition conferred by any of the provisions of Part XII of that Act of 1980 (including a power compulsorily to acquire any right by virtue of section 250) may become exercisable, as being land required for purposes of construction, improvement or alteration as indicated in the order or scheme.

Notes

(1) In this paragraph the reference to an order or scheme which has come into operation includes a reference to an order or scheme which has been submitted for confirmation to, or been prepared in draft by, the Minister of Transport or the Secretary of State under Part II of that Act of 1980 and in respect of which a notice has been published under paragraph 1, 2 or 10 of Schedule 1 to that Act.

(2) Note (1) shall cease to apply when—

(a) the relevant order or scheme comes into operation (whether in its original form or with modifications), or

(b) the Secretary of State decides not to confirm or make the order or scheme.

(3) In this paragraph the reference to land required for purposes of construction, improvement or alteration as indicated in an order or scheme includes a reference to land required for the purposes of section 246(1) of the Highways Act 1980.

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Annotations:

Marginal Citations
M215 1980 c. 66.
M216 1959 c. 25.
M217 1971 c. 41.

15 Land shown on plans approved by a resolution of a local highway authority as land comprised in the site of a highway as proposed to be constructed, improved or altered by that authority.

[F1028 16 Land comprised in the site of a highway as proposed to be constructed, improved or altered by the Secretary of State if he has given written notice of the proposal, together with maps or plans sufficient to identify the land in question, to the local planning authority.**]**

Annotations:

Amendments (Textual)
F1028 Sch. 13 para. 16 substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 Pt. I para. 14(1)**; S.I. 1991/2067, **art.3** (subject to art. 4)

17 Land shown on plans approved by a resolution of a local highway authority as land proposed to be acquired by them for the purposes of section 246(1) of the M218 Highways Act 1980.

Annotations:

Marginal Citations
M218 1980 c. 66

18 Land shown in a written notice given by the Secretary of State to the local planning authority as land proposed to be acquired by him for the purposes of section 246(1) of the Highways Act 1980 in connection with a **[**F1029 highway**]** which he proposes to provide.

Annotations:

Amendments (Textual)
F1029 Words in Sch. 13 para. 18 substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 70, **Sch. 15 Pt. I para. 14(2)**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

New streets

19 Land which—
(a) either—
(i) is within the outer lines prescribed by an order under section 188 of the Highways Act 1980 (orders prescribing minimum width of new streets) or section 159 of the M219 Highways Act 1959 (which is the predecessor of that section); or

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(ii) has a frontage to a highway declared to be a new street by an order under section 30 of the [M220]Public Health Act 1925 and lies within the minimum width of the street prescribed by any byelaws or local Act applicable by virtue of the order; and

(b) is, or is part of—

(i) a dwelling erected before, or under construction on, the date on which the order is made; or

(ii) the curtilage of any such dwelling.

Note

This paragraph does not include any land in which the appropriate authority have previously acquired an interest either in pursuance of a blight notice served by virtue of this paragraph or by agreement in circumstances such that they could have been required to acquire it in pursuance of such a notice.

Annotations:

Marginal Citations

M219 1959 c. 25.

M220 1925 c. 71.

General improvement areas

20 Land indicated by information published in pursuance of section 257 of the [M221]Housing Act 1985 as land which a local authority propose to acquire in the exercise of their powers under the provisions of Part VIII of that Act relating to general improvement areas.

Annotations:

Marginal Citations

M221 1985 c. 68.

Compulsory purchase

21 Land authorised by a special enactment to be compulsorily acquired, or land falling within the limits of deviation within which powers of compulsory acquisition conferred by a special enactment are exercisable.

22 Land in respect of which—

(a) a compulsory purchase order is in force; or

(b) there is in force a compulsory purchase order providing for the acquisition of a right or rights over that land;

and the appropriate authority have power to serve, but have not served, notice to treat in respect of the land or, as the case may be, the right or rights.

Notes

(1) This paragraph applies also to land in respect of which—

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(a) a compulsory purchase order has been submitted for confirmation to, or been prepared in draft by, a Minister, and

(b) a notice has been published under paragraph 3(1)(a) of Schedule 1 to the [M222]Acquisition of Land Act 1981 or under any corresponding enactment applicable to it.

(2) Note (1) shall cease to apply when—

(a) the relevant compulsory purchase order comes into force (whether in its original form or with modifications); or

(b) the Minister concerned decides not to confirm or make the order.

Annotations:

Marginal Citations

M222 1981 c. 67.

[[F1030]23 Land—

(a) the compulsory acquisition of which is authorised by an order under section 1 or 3 of the Transport and Works Act 1992, or

(b) which falls within the limits of deviation within which powers of compulsory acquisition conferred by such an order are exercisable, or

(c) which is the subject of a proposal, contained in an application made in accordance with rules under section 6 of that Act or in a draft order prepared under section 7(3) of that Act, that it should be such land.**]**

Annotations:

Amendments (Textual)

F1030 Sch. 13 para. 23 added (1.1.1993) by Transport and Works Act 1992 (c. 42), **s. 16(2)**; S.I. 1992/2784, art. 2(a), **Sch. 1**

[[F1031]24 Land falls within this paragraph if—

(a) the compulsory acquisition of the land is authorised by an order granting development consent, or

(b) the land falls within the limits of deviation within which powers of compulsory acquisition conferred by an order granting development consent are exercisable, or

(c) an application for an order granting development consent seeks authority to compulsorily acquire the land.**]**

Annotations:

Amendments (Textual)

F1031 Sch. 13 para. 24 inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by Planning Act 2008 (c. 29), **ss. 175(2)**, 241 (with s. 226); S.I. 2009/400, **art. 3**; S.I. 2010/101, **art. 4** (with art. 6)

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[F1032 Land identified in national policy statements

Annotations:

Amendments (Textual)

F1032 Sch. 13 para. 25 and cross-heading inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by Planning Act 2008 (c. 29), **ss. 175(2)**, 241 (with s. 226); S.I. 2009/400, **art. 3**; S.I. 2010/101, **art. 4** (with art. 6)

25 Land falls within this paragraph if the land is in a location identified in a national policy statement as suitable (or potentially suitable) for a specified description of development.

Note

Land ceases to fall within this paragraph when the national policy statement—

(a) ceases to have effect, or

(b) ceases to identify the land as suitable or potentially suitable for that description of development.**]**

SCHEDULE 14

Section 259.

PROCEDURE FOR FOOTPATHS AND BRIDLEWAYS ORDERS

Annotations:

Modifications etc. (not altering text)

C420 Sch. 14 applied (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), reg. 2(1), **Sch. Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

PART I

CONFIRMATION OF ORDERS

1 (1) Before an order under section 257 or 258 is submitted to the Secretary of State for confirmation or confirmed as an unopposed order, the authority by whom the order was made shall give notice in the prescribed form—

(a) stating the general effect of the order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order;

(b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge and copies of it may be obtained at a reasonable charge at all reasonable hours; and

(c) specifying the time (which must not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.

(2) Subject to sub-paragraphs (6) and (7), the notice to be given under sub-paragraph (1) shall be given—

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(a) by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated; and

(b) by serving a similar notice on—

(i) every owner, occupier and lessee (except tenants for a month or a period less than a month and statutory tenants within the meaning of the [M223]Rent Act 1977) of any of that land; and

(ii) every council, the council of every [F1033]. . . parish **[**[F1034]or community**]** and the parish meeting of every . . . parish not having a separate council, being a council or parish whose area includes any of that land; and

[[F1035](iia) any National Park authority for a National Park which includes any of that land; and**]**

(iii) any statutory undertakers to whom there belongs, or by whom there is used, for the purposes of their undertaking, any apparatus under, in, on, over, along or across that land; and

(iv) every person on whom notice is required to be served in pursuance of sub-paragraph (4); and

(v) such other persons as may be prescribed in relation to the area in which that land is situated or as the authority may consider appropriate; and

(c) by causing a copy of the notice to be displayed in a prominent position—

(i) at the ends of so much of any footpath **[**[F1036], bridleway or restricted byway**]** as is to be stopped up, diverted or extinguished by the order;

(ii) at council offices in the locality of the land to which the order relates; and

(iii) at such other places as the authority may consider appropriate.

(3) In sub-paragraph (2)—

"council" means a county council, **[**[F1037]a county borough council**]** a district council, a London borough council **[**[F1038], the London Fire and Emergency Planning Authority,**][**[F1039]a joint authority established by Part 4 of the Local Government Act 1985, an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009 or a combined authority established under section 103 of that Act;**]**

"council offices" means offices or buildings acquired or provided by a council or by the council of a parish or community or the parish meeting of a parish not having a separate parish council.

(4) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give him notice of all such orders under section 257 or 258 as are made by the authority during a specified period, are of a specified description and relate to land comprised in a specified area.

(5) In sub-paragraph (4) "specified" means specified in the requirement.

(6) Except where an owner, occupier or lessee is a local authority **[**[F1040]National Park authority**]** or statutory undertaker, the Secretary of State may in any particular case direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i).

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(7) If the Secretary of State gives a direction under sub-paragraph (6) in the case of any land, then—

(a) in addition to publication the notice shall be addressed to "the owners and any occupiers" of the land (describing it); and

(b) a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.

(8) Sub-paragraph (2)(b) and (c) and, where applicable, sub-paragraph (7) shall be complied with not less than 28 days before the expiry of the time specified in the notice.

(9) A notice required to be served by sub-paragraph (2)(b)(i), (ii), (iii) or (v) shall be accompanied by a copy of the order.

(10) A notice required to be displayed by sub-paragraph (2)(c)(i) at the ends of so much of any way as is affected by the order shall be accompanied by a plan showing the general effect of the order so far as it relates to that way.

Annotations:

Amendments (Textual)

F1033 Words in Sch. 14 para. 1(2)(b)(ii) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. VI**

F1034 Words in Sch. 14 para. 1(2)(b)(ii) inserted (1.10.1995) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(17)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/2490, art. 4(1), **Sch. 2**

F1035 Sch. 14 para. 1(2)(b)(iia) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(17)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F1036 Words in Sch. 14 para. 1(2)(c)(i) substituted (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177, **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

F1037 Words in definition of "council" in Sch. 14 para. 1(3) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(17)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F1038 Words in the definition of "council" in Sch. 14 para. 1(3) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 Pt. I para. 58** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(h)**

F1039 Sch. 14 para. 1(3): words in definition of "council" substituted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 119, 148, 149, **Sch. 6 para. 82(3)**; S.I. 2009/3318, **art. 2**

F1040 Words in Sch. 14 para. 1(6) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(17)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

Modifications etc. (not altering text)

C421 Sch. 14 para. 1(3) amended (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 5**

Marginal Citations

M223 1977 c. 42.

2 If no representations or objections are duly made, or if any so made are withdrawn, the authority by whom the order was made may, instead of submitting the order to the Secretary of State, themselves confirm the order (but without any modification).

3 (1) This paragraph applies where any representation or objection which has been duly made is not withdrawn.

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(2) If the objection is made by a local authority **[**[F1041]or a National Park authority**]** the Secretary of State shall, before confirming the order, cause a local inquiry to be held.

(3) If the representation or objection is made by a person other than a local authority the Secretary of State shall, before confirming the order, either—

(a) cause a local inquiry to be held; or

(b) give any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.

(4) After considering the report of the person appointed under sub-paragraph (2) or (3) to hold the inquiry or hear representations or objections, the Secretary of State may confirm the order, with or without modifications.

(5) In the case of an order under section 257, if objection is made by statutory undertakers on the ground that the order provides for the creation of a public right of way over land covered by works used for the purpose of their undertaking, or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

(6) Notwithstanding anything in the previous provisions of this paragraph, the Secretary of State shall not confirm an order so as to affect land not affected by the order as submitted to him, except after—

(a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (which must not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made;

(b) holding a local inquiry or giving any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose; and

(c) considering the report of the person appointed to hold the inquiry or, as the case may be, to hear representations or objections.

(7) In the case of an order under section 257, if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a public right of way over land covered by works used for the purposes of their undertaking or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

Annotations:

Amendments (Textual)

F1041 Words in Sch. 14 para. 3(2) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(17)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2950, **art. 2(1)**

4 (1) A decision of the Secretary of State under paragraph 3 shall, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be made by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.

(2) A decision made by a person so appointed shall be treated as a decision of the Secretary of State.

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(3) The Secretary of State may, if he thinks fit, direct that a decision which, by virtue of sub-paragraph (1) and apart from this sub-paragraph, falls to be made by a person appointed by the Secretary of State shall instead be made by the Secretary of State.

(4) A direction under sub-paragraph (3) shall—

(a) state the reasons for which it is given; and

(b) be served on the person, if any, so appointed, the authority and any person by whom a representation or objection has been duly made and not withdrawn.

(5) Where the Secretary of State has appointed a person to make a decision under paragraph 3 the Secretary of State may, at any time before the making of the decision, appoint another person to make it instead of the person first appointed to make it.

(6) Where by virtue of sub-paragraph (3) or (5) a particular decision falls to be made by the Secretary of State or any other person instead of the person first appointed to make it, anything done by or in relation to the latter shall be treated as having been done by or in relation to the former.

(7) Regulations under this Act may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.

5 (1) The Secretary of State shall not confirm an order under section 257 which extinguishes a right of way over land under, in, on, over, along or across which there is any apparatus belonging to or used by statutory undertakers for the purposes of their undertaking, unless the undertakers have consented to the confirmation of the order.

(2) Any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

(3) The consent of statutory undertakers to any such order shall not be unreasonably withheld.

(4) Any question arising under this paragraph whether the withholding of consent is unreasonable, or whether any requirement is reasonable, shall be determined by whichever Minister is the appropriate Minister in relation to the statutory undertakers concerned.

6 Regulations under this Act may, subject to this Part of this Schedule, make such provision as the Secretary of State thinks expedient as to the procedure on the making, submission and confirmation of orders under sections 257 and 258.

PART II

PUBLICITY FOR ORDERS AFTER CONFIRMATION

7 (1) As soon as possible after an order under section 257 or 258 has been confirmed by the Secretary of State or confirmed as an unopposed order, the authority by whom the order was made—

(a) shall publish, in the manner required by paragraph 1(2)(a), a notice in the prescribed form—

(i) describing the general effect of the order,

(ii) stating that it has been confirmed, and

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(iii) naming a place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge and copies of it may be obtained at a reasonable charge at all reasonable hours;

(b) shall serve a similar notice on any persons on whom notices were required to be served under paragraph 1(2)(b) or (7); and

(c) shall cause similar notices to be displayed in a similar manner as the notices required to be displayed under paragraph 1(2)(c).

(2) No such notice or copy need be served on a person unless he has sent to the authority a request in that behalf, specifying an address for service.

(3) A notice required to be served by sub-paragraph (1)(b) on—

(a) a person on whom notice was required to be served by paragraph 1(2)(b)(i), (ii) or (iii); or

(b) in the case of an order which has been confirmed with modifications, a person on whom notice was required to be served by paragraph 1(2)(b)(v),

shall be accompanied by a copy of the order as confirmed.

(4) As soon as possible after a decision not to confirm an order under section 257 or 258, the authority by whom the order was made shall give notice of the decision by serving a copy of it on any persons on whom notices were required to be served under paragraph 1(2)(b) or (7).

8 Where an order under section 257 or 258 has come into force otherwise than—

(a) on the date on which it was confirmed by the Secretary of State or confirmed as an unopposed order; or

(b) at the expiration of a specified period beginning with that date,

then as soon as possible after it has come into force the authority by whom it was made shall give notice of its coming into force by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated.

SCHEDULE 15

Section 302(5).

PRELIMINARY

1 In this Schedule an application under section 302(3) and a determination given on such an application are referred to respectively as "a compliance determination application" and "a compliance determination".

Making of compliance determination applications

2 (1) A compliance determination application may be made with respect to any land—

(a) by the owner or occupier of the land, or

(b) by any person who proves that he has or intends to acquire an interest in the land which will be affected by a compliance determination or that he has borne any of the cost of carrying out works on the land during the war period.

(2) In the case of land owned or occupied by or on behalf of the Crown, or leased to, or to a person acting on behalf of, the Crown, or land with respect to which it is proved

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that there is held, or intended to be acquired, by or on behalf of the Crown an interest in the land which will be affected as mentioned in sub-paragraph (1) or that any of the cost there mentioned has been borne by the Crown, a compliance determination application may be made by any person acting on behalf of the Crown.

3 A compliance determination application shall be accompanied by such plans and other information as are necessary to enable the application to be determined.

4 (1) The authority to whom a compliance determination application is made shall within 14 days from the receipt of the application publish notice of it in one or more local newspapers circulating in the area in which the land is situated and serve notice of it on any person appearing to the authority to be specially affected by the application.

(2) The authority shall take into consideration any representations made to them in connection with the application within 14 days from the publication of the notice.

Determination of applications

5 (1) Where a compliance determination application is made to an authority the authority shall determine whether the works or use in question fail to comply with any planning control which the authority are responsible for enforcing and, if so, shall specify the control in question.

(2) Where the authority determine that works or a use fail so to comply they shall further determine whether having regard to all relevant circumstances the works or use shall, notwithstanding the failure, be deemed so to comply, either unconditionally or subject to such conditions as to the time for which the works or use may be continued, the carrying out of alterations, or other matters, as the authority think expedient.

Appeals against compliance determinations or failure to make such determinations

6 (1) Where the applicant is aggrieved by a compliance determination, or where a person by whom representations have been made as mentioned in paragraph 4 is aggrieved by such a determination, he may appeal to the Secretary of State.

(2) The applicant may also appeal if he is aggrieved by the failure of the authority to determine the application within two months from the last day on which representations under paragraph 4 may be made and has served notice on the authority that he appeals to the Secretary of State.

(3) An appeal under this paragraph must be made within the period of 28 days after the applicant has notice of the determination or, in the case of an appeal under sub-paragraph (2), after the applicant has served notice on the authority of the appeal, or within such extended period as the Secretary of State may allow.

7 (1) On such an appeal the Secretary of State may give, in substitution for the determination, if any, given by the authority, such determination as appears to him to be proper having regard to all relevant circumstances, or, if he is satisfied that the applicant was not a person entitled to make the application, may decide that the application is not to be entertained.

(2) At any stage of the proceedings on such an appeal to him the Secretary of State may, and shall if so directed by the High Court, state in the form of a special case for the opinion of the High Court any question of law arising in connection with the appeal.

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8 Subject to paragraph 9 and to any determination or decision of the Secretary of State on an appeal under paragraph 7, any compliance determination shall be final and any such failure to give a determination as mentioned in paragraph 6(2) shall be taken on the service of the notice there mentioned as a final refusal by the authority to entertain the application, and any determination or decision of the Secretary of State on an appeal under paragraph 7 shall be final.

Fresh applications where alteration in circumstances

9 Where a compliance determination has been given that works on land or a use of land shall not be deemed to comply with planning control or shall be deemed to comply with it subject to conditions, then if a person entitled to make a compliance determination application with respect to the land satisfies the authority or on appeal the Secretary of State that there has been a material change of circumstances since the previous application was determined, he may make a subsequent application and on such an application the authority or on appeal the Secretary of State may substitute for the compliance determination such determination as appears proper having regard to all relevant circumstances.

References of application to Secretary of State

10 (1) If it appears to the Secretary of State that it is expedient, having regard to considerations affecting the public interest (whether generally or in the locality concerned), that any compliance determination application to an authority or any class or description of such applications, should instead of being determined by the authority be referred to him for decision, he may give directions to the authority requiring that application, or applications of that class or description, to be so referred.

(2) This Schedule shall apply to any such reference as if it were an appeal under paragraph 6(2) following failure of the authority to entertain the application.

Information

11 The Secretary of State may give directions to any authority responsible for enforcing planning control requiring them to furnish him with such information with respect to compliance determination applications received by them as he considers necessary or expedient in connection with the exercise of his functions under this Schedule.

Opportunity for hearing

12 On any compliance determination application or any appeal under this Schedule the applicant or, in the case of an application referred to the Secretary of State for decision or an appeal to the Secretary of State, the applicant or the authority responsible for enforcing the planning control in question, may require the authority by whom the application is to be determined or, as the case may be, the Secretary of State to give him or them an opportunity before the application or appeal is determined of appearing before and being heard by a person appointed by the authority or, as the case may be, the Secretary of State for the purpose.

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Notice of proposed enforcement

13 (1) This paragraph applies where before the relevant date any person proposes to take steps for enforcing a planning control in the case of such works or such a use as mentioned in subsection (1) of section 302.

(2) Subject to sub-paragraph (4), unless a compliance determination application has been made in relation to the land which has not been finally determined, that person shall serve on every owner and occupier of the land not less than 28 days' notice of the proposal, and if within that period any person makes such an application in relation to the land and within seven days of making it serves on the person proposing to take steps as aforesaid notice that the application has been made, no steps for enforcing the control shall be taken until the final determination of the application.

(3) If such an application has been made which has not been finally determined, no such steps shall be taken until the final determination of it.

(4) No notice shall be required under sub-paragraph (2) if steps for enforcing a planning control in the case of any works on land are begun within 28 days of the final determination of a compliance determination application in relation to the land.

(5) For the purpose of this paragraph a compliance determination application shall be treated as having been finally determined notwithstanding that a subsequent application may be made under paragraph 9.

Power of entry

14 (1) At any time before the relevant date any officer of an authority responsible for enforcing planning control shall, on producing, if so required, some duly authenticated document showing his authority to act for the purposes of this paragraph, have a right, subject to the provisions of this paragraph, to enter any premises at all reasonable hours—

(a) for the purpose of ascertaining whether there are on the premises any works carried out during the war period which do not comply with planning control, or whether a use of the premises continues which was begun during that period and does not comply with it;

(b) where a compliance determination application has been made to the authority, for the purpose of obtaining any information required by the authority for the exercise of their functions under section 302 and this Schedule in relation to the application.

(2) Admission to any premises which are occupied shall not be demanded as of right unless 24 hours' notice of the intended entry has been served on the occupier.

(3) Any person who wilfully obstructs any officer of an authority acting in the exercise of his powers under this section shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(4) If any person who in compliance with this paragraph is admitted into a factory, workshop or workplace, discloses to any person any information obtained by him in it with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding three months.

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Service of notices

15 (1) Any notice or other document required or authorised to be served under this Schedule may be served on any person either by delivering it to him, or by leaving it at his proper address or by post.

(2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.

(3) For the purposes of this paragraph and of section 7 of the [M224]Interpretation Act 1978, the proper address of any person upon whom any such document is to be served is—

(a) in the case of the secretary or clerk of any incorporated company or body, that of the registered or principal office of the company or body, and

(b) in any other case, the last known address of the person to be served.

(4) If it is not practicable after reasonable enquiry to ascertain the name or address of an owner or occupier of land on whom any such document is to be served, the document may be served by addressing it to him by the description of "owner" or "occupier" of the premises (describing them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Annotations:

Marginal Citations

M224 1978 c. 30.

Supplementary provisions

16 Parts XIV and XV do not apply to section 302 and this Schedule.

SCHEDULE 16

Sections 314 to 319.

PROVISIONS OF THE PLANNING ACTS REFERRED TO IN SECTIONS 314 TO 319

PART I

[[F1042]Section 1(1) to (3), (5) and (6)**]**.

Annotations:

Amendments (Textual)

F1042 Words in Sch. 16 Pt. I substituted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(18)** (with ss. 54(5)(6), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Section 2.

Section 9.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Section 55.

Section 57.

Section 59.

Section 60 except subsection (4).

Sections 61 **[**[F1043]and 62**]**.

Annotations:

Amendments (Textual)

F1043 Words in entry in Sch. 16 Pt. I relating to ss. 61-64 substituted (2.1.1992 so far as relating to the omission of the reference to s. 63 otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(2)(a)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1**; S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Section 69(1), (2) and (5).

Section 70.**[**[F1044]Section 70A.**]**

Annotations:

Amendments (Textual)

F1044 Entry in Sch. 16 Pt. 1 inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(2)(b)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Section 72(1) to (4).**[**[F1045]Section 73A.**]**

Annotations:

Amendments (Textual)

F1045 Entry in Sch. 16 Pt. I inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(2)(c)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

Section 74.

Section 75.

Section 77 with the omission in subsection (4) of the reference to sections 65 [F1046]. . ..

Annotations:

Amendments (Textual)

F1046 Words in the entry in Sch. 16 Pt. I relating to s. 77 repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, Sch. 7 para. 57(2)(d), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

Sections 78 and 79(1) to (5) [F1047]. . ..

Status: *This version of this Act contains provisions that are prospective.*
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Annotations:

Amendments (Textual)

F1047 Words in the entry in Sch. 16 Pt. I relating to ss. 78-79 repealed (17.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, Sch. 7 para. 57(2)(e), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

Section 90(1), (3) and (4).

Sections 96 to 98 except subsection (5) of section 97.

Section 100.

Sections 102 to 104 except subsection (8) of section 102.

[[F1048]Sections 106 to 106B.**]**

Annotations:

Amendments (Textual)

F1048 Entry in Sch. 16 Pt. I substituted (9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(2)(f)** (with s. 84(5)); S.I. 1992/2831, **art. 2**

Section 107.

Section 108.

[[F1049]Section 115**]**

Annotations:

Amendments (Textual)

F1049 Entry in Sch. 16 Pt. I substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31(4), **Sch. 6 para. 41(a)** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Sections 117 and 118.

Section 137 except subsections (6) and (7).

Section 138.

Section 139(1) to (4).

Sections 140 and 141.

Sections 143 and 144.

Section 148.

Section 175(5).

[[F1050]Section 175(7)**]**

Status: *This version of this Act contains provisions that are prospective.*
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Annotations:

Amendments (Textual)

F1050 Words inserted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, **8(a)** (which temp. insertion falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of S.I. 1991/2698, **art. 3** and S.I. 2009/849, **art. 2** (with art. 3))

Sections 178 to 182

Section 185.

Section 186(6) and (7).

Section 188.

Section 189.

Section 190 (in so far as it applies to orders under section 102).

[[F1051]Section 192.**]**

Annotations:

Amendments (Textual)

F1051 Entry in Sch. 16 Pt. I inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(2)(g)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

[[F1050]Section 196(8)**]**

[[F1052]Sections 196A to 196C.**]**

Annotations:

Amendments (Textual)

F1052 Entry in Sch. 16 Pt. I inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(2)(g)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

Sections 198 to 200.

Sections 202 and 203.

Section 205.

Section 208(10).

[[F1050]Section 208(11)**]**

Section 209(6).

Section 210.

Section 211(4).**[**[F1053]Sections 214A to 214D.**]**

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Annotations:

Amendments (Textual)

F1053 Entry in Sch. 16 Pt. I inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(2)(h)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

Sections 215 to 224.

Section 227.

Sections 229 to 233.

Sections 235 to 247.

Sections 251 and 252.

Sections 254 to 256.

Section 260.

Section 263.

Section 265(1) and (4).

Sections 266 to 272.

Sections 274 to 278.

Section 279 except subsection (4).

Section 280 except subsections (6) and (8)(b).

Sections 281 to 283.

Section 284(1) except paragraphs (e) and (f).

Section 285 **F1054**. . ..

Annotations:

Amendments (Textual)

F1054 Words in entry in Sch. 16 Pt. I relating to s. 285 repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 57(2)(i), **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1991/2905, art. 3, Schs. 1, **2** (subject to art. 5)

Section 287.

Section 289.

Section 292 with the omission in subsection (2) of the references to section 288.

Section 293(1) to (3).

Section 294(1).

Section 296(1) (the reference in paragraph (c) to Part III not being construed as referring to **[**[F1055]section 65**]**), and (2) to (4).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Amendments (Textual)

F1055 Words in the entry in Sch. 16 Pt. I relating to s. 296 substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(2)(j)**(with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

Section 297.

Sections 305 and 306.

Section 314.

Section 315.

[[F1056]Sections 316 and 316A.**]**

Annotations:

Amendments (Textual)

F1056 Entry in Sch. 16 Pt. I substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(2)(k)** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

Section 318 except subsections (2)(a), (4) and (5).

Section 324(1), (3) and (5) to (9).

Section 325.

Section 330.

Section 334.

Paragraphs 13 and 20(3) of Schedule 1.

Schedule 3.

Paragraphs 1 to 3 of Schedule 4.

Schedule 17.

Any other provisions of the planning Acts in so far as they apply, or have effect for the purposes of, any of the provisions specified above.

PART II

Sections 30 to 49.

Section 50(5).

Section 51.

Sections 53 and 54.

Section 56(2) to (6) with the omission in subsection (3) of the references to sections 85, 86(6) and 87(4).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[[F1057]Section 65.**]**

Annotations:

Amendments (Textual)

F1057 Entry in Sch. 16 Pt. II substituted (17.7.1992) for entries relating to ss. 65 and 68 by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(3)(a)** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

Section 69(3) and (4).

Section 79(6) **[**[F1058]to**]** (7).

Annotations:

Amendments (Textual)

F1058 Word in Sch. 16 Pt. II substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(3)(b)**(with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

Sections 91 to 93.

Section 94(1)(a) and (2) to (6).

Section 95.

Section 99.

Section 101.

Section 137(6) and (7).

Section 142.

Section 157(1) and (2).

Sections 162 and 163.

Section 166.**[**[F1059]Sections 171A to 171D.**]**

Annotations:

Amendments (Textual)

F1059 Entry in Sch. 16 Pt. II inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch 7 para. 57(3)(c)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)

Sections 172 to 174.

Section 175(1) to (4) and (6).

Sections 176 and 177.

Sections 183 and 184.

Section 186(1) to (5).

[[F1060]Sections 187 to 187B.**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Amendments (Textual)

F1060 Entry in Sch. 16 Pt. II substituted (2.1.1992 except so far as relating to s. 187A which exception is 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(3)(d)**(with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Sections 191 to 196.

Section 208(9).

Section 226.

Section 228(1), (3), (4) and (7).

Sections 248, 249 and 250.

Section 253.

Section 257.

Section 258(1).

Section 259.

Section 261.

Section 264(1) to (6).

Section 273.

Section 279(4).

Section 280(6) and (8)(b).

Section 304.

Section 307.

Section 331.

Paragraphs 3 to 12 of Part II of Schedule 2, Part III of Schedule 2, Schedules 6 and 14.

PART III

[[F1061]Sections 109 to 112.**]**

Annotations:

Amendments (Textual)

F1061 Entry in Sch. 16 Pt. III substituted (25.9.1991) for the first three entries by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(4)(a)**(with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Section 298.

Sections 308 to 310.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F1062 . . .

Annotations:

Amendments (Textual)

F1062 Entries in Sch. 16 Pt. III repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 57(4)(b), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1991/2067, art. 3, **Sch. 1** (subject to art. 4)

Section 318(4) and (5).

. . .

[F1063Section 328.**]**

Annotations:

Amendments (Textual)

F1063 Entry in Sch. 16 Pt. III substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(4)(c)** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

F1064 . . .

Annotations:

Amendments (Textual)

F1064 Entry in Sch. 16 Pt. III repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 41(b), **Sch. 19 Pt.II** (with s. 84(5)); S.I. 1991/2067, **art.3** (subject to art. 4)

Any other provisions of the planning Acts in so far as they apply, or have effect for the purposes of, any of the provisions specified above.

F1065PART IV

Annotations:

Amendments (Textual)

F1065 Sch. 16 Pt. IV repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 57(5), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, **2** (with art. 3(1))

F1066PART V

Annotations:

Amendments (Textual)

F1066 Sch. 16 Pt. V repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, Sch. 7 para. 57(5), **Sch. 19 Pt.I** (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, **2**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

PART VI

Section 60(4).

[[F1067]Section 65.**]**

Annotations:

Amendments (Textual)

F1067 Entries in Sch. 16 Pt. VI substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(6)(a)**(with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

Section 71(1) **[**[F1068](2) and (2A)**]**.

Annotations:

Amendments (Textual)

F1068 Words in entries in Sch. 16 Pt. VI substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(6)(b)(d)**(with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**

Sections 149 to 151.

Section 153(1) to (7).

Sections 154 to 156.

Section 161(1) in so far as it relates to provisions mentioned in this Part of this Schedule.

Section 164.

Sections 168 to 171.

Section 284 except subsection (1)(a) to (d).

Section 285(5) and (6).

Section 288.

[[F1069]Section 291.**]**

Annotations:

Amendments (Textual)

F1069 Entries in Sch. 16 Pt. VI substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 57(6)(c)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

Section 292(2).

Section 296(1) (construed as if the reference to Part III were a reference only to **[**[F1068]section 65**]**) and (5).

Section 318(2) except paragraph (b).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F1070 . . .

Annotations:

Amendments (Textual)

F1070 Entry in Sch. 16 Pt. VI repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 41(b), **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

In Schedule 13, paragraphs 1 to 4, 12 to 16 and 20 to 22.

Any other provisions of this Act in so far as they apply, or have effect for the purpose of, any of the provisions specified above.

SCHEDULE 17

Section 333(6).

ENACTMENTS EXEMPTED FROM SECTION 333(6)

1 F1071

Annotations:

Amendments (Textual)

F1071 Sch. 17 para. 1 repealed by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 16 Pt. III**

2 The following provisions of the M225 Highways Act 1980—

section 73(1) to (3), (6) and (9) to (11)

section 74 (except subsection (6))

F1072 . . .

section 241

section 261(5) and, so far as it relates to it, section 261(6)

section 307(5) and (7)

Schedule 9.

Annotations:

Amendments (Textual)

F1072 Words in Sch. 17 para. 2 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 84(6), **Sch. 19 Pt. V** (with s. 84(5) and subject to saving in s. 81(2)); S.I. 1991/2067, **art.3** (subject to art. 4)

Marginal Citations

M225 1980 c. 66.

3 The following further provisions of the Highways Act 1980—

[F1073(a) sections 187 and 200(1) so far as applicable for the purposes of section 188 of that Act;**]**

(b) section 247(6) so far as applicable for the purposes of section 241 of that Act;

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(c) in section 307—

(i) subsections (1) to (3) so far as applicable for the purposes of section 73 of that Act;

(ii) subsections (1), (3) and (6) so far as applicable for the purposes of section 74 of that Act;

(iii) . . . . . .

(d) section 311 so far as applicable for the purposes of section 74 of that Act.

Annotations:

Amendments (Textual)

F1073 Sch. 17 para. 3(a)(c)(iii) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 84(6), **Sch. 19 Pt.V** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)

4 Section 279 of the Highways Act 1980 so far as the purposes in question are the purposes of the exercise by a county council **[**F1074, county borough council**]** or metropolitan district council in relation to roads maintained by that council of their powers under section 73(1) to (3), (6) and (9) to (11) or section 241 of that Act.

Annotations:

Amendments (Textual)

F1074 Words in Sch. 17 para. 4 inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(19)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

5 Any enactment making such provision as might by virtue of any Act of Parliament have been made in relation to the area to which the order applies by means of a byelaw, order or regulation not requiring confirmation by Parliament.

6 Any enactment which has been previously excluded or modified by a development order, and any enactment having substantially the same effect as any such enactment.

TABLE OF DERIVATIONS

Notes:

1 The following abbreviations are used in this Table:—

1946 c. 35 =	The Building Restrictions (War-Time Contraventions) Act 1946
1951 c. 60 =	The Mineral Workings Act 1951
1953 c. 49 =	The Historic Buildings and Ancient Monuments Act 1953
1958 c. 69 =	The Opencast Coal Act 1958
1969 c. 22 =	The Redundant Churches and Other Religious Buildings Act 1969

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1969 c. 48. =	The Post Office Act 1969
1971 c. 78 =	The Town and Country Planning Act 1971
1972 c. 5 =	The Local Employment Act 1972
1972 c. 42 =	The Town and Country Planning (Amendment) Act 1972
1972 c. 70 =	The Local Government Act 1972
1973 c. 26 =	The Land Compensation Act 1973
1973 c. 37 =	The Water Act 1973
1973 c. 41 =	The Fair Trading Act 1973
1974 c. 7 =	The Local Government Act 1974
1974 c. 32 =	The Town and Country Amenities Act 1974
1974 c. 36 =	The Mines (Working Facilities and Support) Act 1974
1975 c. 24 =	The House of Commons Disqualification Act 1975
1975 c. 10 =	The Statute Law (Repeals) Act 1975
1975 c. 71 =	The Housing (Consequential Provisions) Act 1975
1975 c. 76 =	The Local Land Charges Act 1975
1977 c. 29 =	The Town and Country Planning (Amendment) Act 1977
1977 c. 38 =	The Administration of Justice Act 1977
1977 c. 40 =	The Control of Office Development Act 1977
1977 c. 45 =	The Criminal Law Act 1977
1977 SI/293 =	The Local Authorities Etc. (Miscellaneous Provisions) Order 1977
1978 c. 30 =	The Interpretation Act 1978
1979 c. 46 =	The Ancient Monuments and Archaeological Areas Act 1979
1980 c. 43 =	The Magistrates' Courts Act 1980
1980 c. 65 =	The Local Government, Planning and Land Act 1980
1980 c. 66 =	The Highways Act 1980
1981 c. 36 =	The Town and Country Planning (Minerals) Act 1981

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1981 c. 38 =	The British Telecommunications Act 1981
1981 c. 41 =	The Local Government and Planning (Amendment) Act 1981
1981 c. 43 =	The Disabled Persons Act 1981
1981 c. 54 =	The Supreme Court Act 1981
1981 c. 64 =	The New Towns Act 1981
1981 c. 66 =	The Compulsory Purchase (Vesting Declarations) Act 1981
1981 c. 67 =	The Acquisition of Land Act 1981
1981 c. 69 =	The Wildlife and Countryside Act 1981
1982 c. 16 =	The Civil Aviation Act 1982
1982 c. 21 =	The Planning Inquiries (Attendance of Public) Act 1982
1982 c. 30 =	The Local Government (Miscellaneous Provisions) Act 1982
1982 c. 48 =	The Criminal Justice Act 1982
1982 c. 52 =	The Industrial Development Act 1982
1982 SI/86 =	The Town and Country Planning (Minerals) Act 1981 (Commencement No 1) Order 1982
1983 c. 47 =	The National Heritage Act 1983
1984 c. 10 =	The Town and Country Planning Act 1984
1984 c. 12 =	The Telecommunications Act 1984
1984 c. 32 =	The London Regional Transport Act
1985 c. 9 =	The Companies (Consequential Provisions) Act 1985
1985 c. 19 =	The Town and Country Planning (Compensation) Act 1985
1985 c. 51 =	The Local Government Act 1985
1985 c. 52 =	The Town and Country Planning (Amendment) Act 1985
1985 c. 71 =	The Housing (Consequential Provisions) Act 1985
1986 c. 31 =	The Airports Act 1986
1986 c. 63 =	The Housing and Planning Act 1986
1986 c. 44 =	The Gas Act 1986

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1986 SI/452 =	The Local Government Reorganisation (Miscellaneous Provision) (No 4) Order 1986
1987 c. 3 =	The Coal Industry Act 1987
1988 c. 4 =	The Norfolk and Suffolk Broads Act 1988
1988 c. 40 =	The Education Reform Act 1988
1988 c. 50 =	The Housing Act 1988
1989 c. 15 =	The Water Act 1989
1989 c. 29 =	The Electricity Act 1989
1989 c. 34 =	The Law of Property (Miscellaneous Provisions) Act 1989
1989 c. 42 =	The Local Government and Housing Act 1989
1989 c. 43 =	The Statute Law (Repeals) Act 1989
1990 SI/465 =	The Town and Country Planning (Blight Provisions) Order 1990
1990 SI/776 =	The Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1990

2 The Table does not show the effect of transfer of functions orders.

3 The letter R followed by a number indicates that the provision gives effect to the Recommendation bearing that number in the Law Commission's Report on the Consolidation of Certain Enactments relating to Town and Country Planning (Cmnd.958).

4 The entry "drafting" indicates a provision of a mechanical or editorial nature only affecting the arrangement of the consolidation.

1(1)	1971 c.78 s.1(1)(a), (2A); 1985 c.51 s.3(1); 1986 c.63, Sch.11 para. 14.
(2)	1971 c.78 s.1(1)(b), (c); 1985 c.51 s.3(1).
(3)	1972 c.70 s.182(2); 1985 c. 51 s.3(5).
(4)	1971 c.78 s.1(2B); 1985 c. 51 s.3(3).
(5)(a)	1971 c.78 s.1(6); 1972 c.70 Sch.16 para. 43(b); 1988 c.4 s.2(5), Sch.3 para. 8.
(b)	1971 c.78 s.1(1).
(c)	1972 s.182(2).
2(1),(2)	1971 c.78 s.1(2); 1972 c.70 s.182(1).
(3)	1971 c.78 s.1(4).

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(4), (5)	1971 c.78 Sch.1 paras. 1, 2 .
(6)	1971 c.78 Sch.1 para. 3; 1972 c.70 Sch.16 paras. 49,52; 1972 s.272(2).
(7)	1971 c.78 s.1(6); 1972 c.70 s.182(2) Sch.16 para. 43(b); 1988 c.4 Sch. 3 para. 8.
3 (1)	1985 c.51 s.5(1), drafting.
(2) to (4)	1985 c.51 s.5(2) to (4).
4(1)	1972 c.70 s.182(4); 1985 c. 51 s.7(1), Sch.3 para. 3(1).
(2)	1972 c. 70 s.182(5); 1985 c. 51 Sch.3 para. 3(1); R 1.
(3)	1972 c. 70 s.182(6).
(4)	1985 c. 51 s.7(1), Sch.3 para. 2(2) (part).
5(1)	1971 c.78 ss.212(10), 280(10)(b); 1984 c.10 s.6(5); 1988 c.4 Sch.3 paras. 21, 23, 32, 48; R 2.
(2),(3)	1971 c.78 ss.273A, 280(10)(a); 1972 c.70 Sch 16 para 10(5); 1988 c.4 Sch.3 paras. 7, 23, 28.
6(1)	1980 c.65 Sch.32 para. 5(7).
(2)	1980 c.65 Sch.32 para. 15(2)(b)(i).
(3)	1980 c.65 Sch.32 para. 20(1).
(4)	1980 c.65 Sch.32 para. 25(1)(c).
(5)	1980 c.65 Sch.32 para. 25(2).
7(1) to (4)	1980 c.65 s. 149(1) to (4).
(5)	1980 c.65 s.149(11).
8(1)	1988 c.50 s.67(1).
(2)	1988 c.50 s.67(3).
9	1971 c.78 s.1(5)
10	1985 c.51 s.4(1), Sch.3 para. 2(2)(part).
11	1985 c.51 Sch.1 para. 1.
12(1)	1985 c.51 Sch.1 para. 2(1).
(2) to (4)	1985 c.51 Sch.1 para. 2(2).
(5) to (9)	1985 c.51 Sch.1 para. 2(3) to (7).
13(1), (2)	1985 c.51 Sch.1 para. 3(1).
(3), (4)	1985 c.51 Sch.1 para. 3(2).

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(5) to (7)	1985 c.51 Sch.1 para. 3(3) to (5).
14	1985 c.51 Sch.1 para. 4.
15	1985 c.51 Sch.1 para. 5.
16(1) to (3)	1985 c.51 Sch.1 para. 6(1).
(4), (5)	1985 c.51 Sch.1 para. 6(2), (3).
17(1)	1985 c.51 para. 6A; 1986 c.63 Sch. 10 Pt. II para. 2.
(2)	1985 c.51 para. 6A; 1986 c.63 Sch. 10 Pt. II para. 2.
18(1), (2)	1985 c.51 Sch.1 para. 7(1).
(3), (4)	1985 c.51 Sch.1 para. 7(2), (3).
19	1985 c.51 Sch.1 para. 8.
20	1985 c.51 Sch.1 para. 9.
21(1)	1985 c.51 Sch.1 para. 10(1).
(2)	1985 c.51 Sch.1 para. 10(2); 1986 c.63 Sch.10 Pt.II para. 3.
(3)	1985 c.51 Sch.1 para. 10(3).
22	1985 c.51 Sch. 1 para. 10A; 1986 c.63 Sch. 10 Pt. II para. 4.
23(1)	1985 c.51 Sch.1 para. 12(1), and (7) (part).
(2)	1985 c.51 Sch.1 para. 12(3).
(3), (4)	1985 c.51 Sch.1 para. 12(2).
(5), (6)	1985 c.51 Sch.1 para. 12(4).
(7), (8)	1985 c.51 Sch.1 para. 12(5), (6).
(9)	1985 c.51 Sch.1 para. 12(7)(a); 1986 c.63 Sch.11 para. 26.
(10)	1985 c.51 Sch.1 para. 12(7)(b),(7A); 1986 c.63 Sch.11 para. 26.
(11)	1985 c.51 Sch.1 para. 12(8).
24	1985 c.51 Sch.1 para. 11.
25	1985 c.51 Sch. 1 para. 13.
26(1)	1985 c.51 Sch.1 para. 14(1).
(2)	1985 c.51 Sch.1 para. 14(1); R 3.
(3), (4)	1985 c.51 Sch.1 para. 14(2), (3).
27	1985 c.51 Sch.1 para. 15.
28(1),(2)	1985 c.51 s.4(1), Sch. 3, para 2(2)(part).

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(3)	1985 c.51 s.4(2), Sch.1 para. 18(1),20(2)(part) drafting.
(4)	1985 c.51 s.103(1)(part).
29	Drafting.
30(1)	1971 c.78 s.6(1)(part), (2).
(2)	1971 c.78 s.6(3).
(3)	1971 c.78 s.6(5)(part).
(4)	1971 c.78 s.6(4).
31(1)	Drafting.
(2)	1971 c.78 s.7(1A); 1980 c.65 s.89, Sch.14 para. 2(a).
(3)	1971 c.78 s.7(6); 1980 c.65 s.89, Sch.14 para. 2(c).
(4)	1971 c.78 s.7(4); 1982 c.30. Sch 6 para 7.
(5)	1971 c.78 s.7(7)(part).
32(1), (2)	1971 c.78 s.10(1); 1980 c.65 Sch.14 para. 5.
(3) to (7)	1971 c.78 s.10(2) to (6); 1980 c.65 Sch.14 para. 5.
33(1),(2)	1971 c.78 ss.8(1),10(7); 1980 c.65 Sch.14 para. 3(a).
(3),(4)	1971 c.78 s.8(2); 1980 c.65 Sch.14 para. 3(b).
(5)	1971 c.78 s.8(3).
(6), (7)	1971 c.78 s.8(4).
(8) to (10)	1971 c.78 s.8(5) to (7).
34(1)	1971 c.78 s.10B(1); 1972 c.42 s.2; R 4.
(2)	1971 c.78 s.10B(1); 1972 c.42 s.2; R 4.
(3)	1971 c.78 s.10B(2); 1972 c.42 s.2; R 4.
(4), (5)	1971 c.78 s.10B(3); 1972 c.42 s.2; R 4.
35(1)	1971 c.78 ss.9(1),10(7).
(2)	1971 c.78 s.9(2).
(3)	1971 c.78 s.9(3); 1972 c.42 s.3(1).
(4)	1978 c.78 s.10(8)
(5)	1971 c.78 s.9(4); 1972 c.42 s.3(1).
(6), (7)	1971 c.78 s.9(5); 1972 c.42 s.3(1).

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(8) to (10)	1971 c.78 s.9(6) to (8); 1972 c.42 s.3(1).
36(1) to (3)	1971 c.78 s.11(1) to (3); 1986 c.63 Sch.10.
(4) to (5)	1971 c.78 s.11(5); 1986 c.63 Sch.10.
(6), (7)	1971 c.78 s.11(6),(7); 1986 c.63 Sch.10.
37	1971 c.78 s.11A; 1986 c.63 Sch. 10 Pt. I.
38	1971 c.78 s.11B; 1986 c.63 Sch. 10 Pt. I.
39(1)	1971 c.78 s.12(1); 1986 c.63 Sch.10.
(2), (3)	1971 c.78 s.12(2); 1986 c.63 Sch.10.
(4) to (6)	1971 c.78 s.12(3) to (5); 1986 c.63 Sch.10.
40(1) to (3)	1971 c.78 s.12A(1) to (3); 1986 c.63 Sch.10 Pt. I.
(4), (5)	1971 c.78 s.12A(4); 1986 c.63 Sch. 10 Pt. I.
41	1971 c.78 s.12B; 1986 c.63 Sch. 10 Pt. I.
42	1971 c.78 s.13; 1986 c.63 Sch. 10 Pt. I.
43	1971 c.78 s.14; 1986 c.63 Sch. 10 Pt. I.
44	1971 c.78 s.14A; 1986 c.63 Sch. 10 Pt. I.
45	1971 c.78 s.14B; 1986 c.63 Sch. 10 Pt. I.
46(1)	1971 c.78 s.11(4); 1986 c.63 Sch. 10 Pt. I.
(2) to (6)	1971 c.78 s.15; 1986 c.63 Sch. 10 Pt. I.
47(1), (2)	1971 c.78 s.15A(1); 1986 c.63 Sch.10.
(3) to (6)	1971 c.78 s.15A(2) to (5); 1986 c.63 Sch.10.
48	1971 c.78 s.15B; 1986 c.63 Sch. 10 Pt. I.
49	1971 c.78 s.16; 1980 c.66 Sch.24 para. 20(a).
50(1)	1972 c.70 Sch.16 para. 9(1); 1980 c.65 Sch.14 para. 17.
(2)	1972 c.70 Sch.16 paras. 8(3),9(2).

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(3)	1972 c.70 Sch.16 paras. 8(2),9(2); 1971 c.78 s.10(7); 1982 c.30 Sch.6 para. 7(a).
(4)	1972 c.70 Sch.16 paras. 8(4), 9; R 5.
(5)	1971 c.78 s.10B(1); 1972 (c.42) s.2.
(6)	1972 c.70 Sch.16 para. 10; 1986 c.63 Sch.11 para. 23.
(7)	1972 c.70 Sch.16 para. 11; 1986 c.63 Sch.11 para. 23.
(8)	1972 c.70 Sch.16 para. 12; 1986 c.63 Sch.11 para. 23.
(9)	1972 c.70 Sch.16 para. 13; R 6.
51(1)	1971 c.78 s.17(1); 1972 c.70 Sch.16 paras.4, 52.
(2), (3)	1971 c.78 s.17(2), (3).
(4)	1971 c.78 s.17(4), (5).
52(1), (2)	1980 c.65 Sch.32 para. 23(1), (2).
(3)	1980 c.65 Sch.32 para. 23(4).
53(1)(2)	1971 c.78 s.18(1), 1986 c.63 Sch.11 para. 15; 1972 c.70 Sch.16 paras.5, 52.
(3) to (5)	1971 c.78 s.18(2) to (4).
54(1)	1971 c.78 s.20(1); 1980 c.66 Sch.24 para. 20.
(2) to (5)	1971 c.78 s.20(3) to (5).
55(1)	1971 c.78 s.22(1).
(2)	1971 c.78 s.22(2); 1986 c.63 Sch. 11 para. 1.
(3)	1971 c.78 s.22(3).
(4)	1971 c.78 s.22(3A); 1981 c.36 s.1(1).
(5)	1971 c.78 s.22(4).
(6)	1971 c.78 s.22(5).
56(1)	1971 c.78 s.290(5).
(2), (3)	1971 c.78 ss. 24C(4), 24D(6), 24E(4), 43(1), 44(1); 1980 c.65 Sch.32 para. 26(1A); 1986 c.63 ss.25(1), 54 (2).
(4)	1971 c.78 s.43(2).
(5)	1971 c.78 s.43(3) (part).
(6)	1971 c.78 s.43(3) (part).
57(1)	1971 c.78 s.23(1).

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(2)	1971 c.78 s.23(5).
(3)	1971 c.78 s.23(8) (part).
(4)	1971 c.78 s.23(9); 1982 c.30 s.47(1), Sch. 6 para. 7.
(5)	1971 c.78 s.23(6), (8) (part).
(6)	1971 c.78 s.23(10).
(7)	1971 c.78 s.23(1).
58	1971 c.78 ss.24(1), (2), 24A(2), 40; 1980 c.65 Sch.32 para. 17.
59(1)	1971 c.78 s.24(1).
(2)	1971 c.78 s.24(2).
(3)	1971 c.78 s.24(3) (part); 1986 c.63 Sch. 11 para. 2.
60(1)	1971 c.78 s.24(4).
(2), (3)	1971 c.78 s.24(5).
(4)	1971 c.78 s.24(6).
61(1)	1971 c.78 s.24(3)(a); 1986 c.63 Sch. 11 para. 2.
(2)	1971 c.78 s.24(7).
(3)	1971 c.78 s.24(8); 1980 c.66 Sch. 24 para. 20(c).
62	1971 c.78 s.25
63(1), (2)	1971 c.78 s.32(1).
(3)	1971 c.78 s.32(2)(part).
(4)	1971 c.78 s.32(3).
(5)	1971 c.78 s.32(2).
64(1)	1971 c.78 s.53(1) (part), (2)(part); 1980 c.65 Sch. 32 para. 18(3); 1986 c.63 Sch. 6 Pt ll para. 3.
(2)	1971 c.78 s.53(1) (part).
(3)	1971 c.78 s.53(2).
65(1) to (4)	1971 c.78 s.26(1) to (4).
(5), (6)	1971 c.78 s.26(5).
(7), (8)	1971 c.78 s.26(6).
(9)	1971 c.78 s.26(7).
66(1)	1971 c.78 s.27(1)(a), (b), (c), (d); 1980 c.65 Sch. 15 para. 2.
(2), (3)	1971 c.78 s.27(2).

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(4), (5)	1971 c.78 s.27(3).
(6)	1971 c.78 s.27(4).
(7)	1971 c.78 s.27(7); 1978 c.30 s.17; 1980 c.65 Sch. 15 para. 3.
67(1)	Drafting.
(2)	1971 c.78 s.27(1A); 1981 c.36 s.4(2).
(3)	1971 c.78 s.27(1), (part)(1A); 1981 c.36 s.4(1).
(4)	1971 c.78 s.27(1B); 1981 c.36 s.4(2).
(5), (6)	1971 c.78 s.27(2) (part).
(7)	1971 c.78 s.27(2A); 1981 c.36 s.4(4).
(8), (9)	1971 c.78 s.27(2B); 1981 c.36 s.4(4).
(10)	1971 c.78 s.27(2C); 1981 c.36 s.4(4).
(11)	1971 c.78 s.27(2) to (4); drafting; R 7.
68(1)	1971 c.78 ss.26(8)(part), 27(5)(part).
(2)	1971 c.78 s.26(8) (part), s.27(5) (part); 1982 c.48 ss.38, 46.
(3)	1971 c.78 ss.26(9), 27(6) (part).
(4)	1971 c.78 s.27(6) (part).
69(1)	1971 c.78 s.34(1) (part).
(2)	1971 c.78 s.34(1) (part); 1986 c.63 Sch. 6, Pt II para. 1.
(3)	1971 c.78 s.34(2) (part).
(4)	1971 c.78 s.34(2) (part).
(5)	1971 c.78 s.34(3).
70(1)	1971 c.78 s.29(1) (part); 1986 c.63 Sch. 11 Pt I para. 16.
(2)	1971 c.78 s.29(1) (part).
(3)	1971 c.78 s.29(1) (part), drafting.
71(1)	1971 c.78 s.29(2).
(2)	1971 c.78 s.29(3); R 7.
(3)	1971 c.78 s.29(5).
(4)	1971 c.78 s.29(6).
72(1)	1971 c.78 s.30(1).
(2)	1971 c.78 s.30(2).
(3)	1971 c.78 s.30(3) (part).

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(4)	1971 c.78 s.30(3)(part); 1981 c.36 Sch.1 para. 1.
(5)	Drafting; 1971 c.78 s.30(2)(part); 1981 c.36 Sch.1 para. 1.
73(1)	1971 c.78 s.31A(1); 1986 c.63 Sch.11 para. 4.
(2)	1971 c.78 s.31A(3); 1986 c.63 Sch.11 para. 4.
(3)	1971 c.78 s.31A(2); 1986 c.63 Sch.11 para. 4.
(4)	1971 c.78 S.31A(4); 1986 c.63 Sch.11 para. 4.
74(1)	1971 c.78. s.31(1) (part); 1972 c.70 Sch. 16 para. 22; 1980 c.65 Sch. 15 para. 4(1).
(2)	1971 c.78 s.31(1) (part).
75(1)	1971 c.78 s.33(1).
(2), (3)	1971 c.78 s.33(2).
76(1)	1971 c.78 ss.29A(1) (part), 29B(1) (part); 1981 c.43 s.3; 1988 c.40 Sch.12 para. 70.
(2)	1971 c.78 ss.29A(1) (part), (2); 29B(1) (part); 1981 c.43 s.3; 1986 c.63 Sch.11 para. 3, Sch. 12 Pt. III.
(3)	1971 c.78 s.29B(1A); 1988 c.40 Sch.12 para. 70.
77(1) to (3)	1971 c.78 s.35(1) to (3).
(4)	1971 c.78 s.35(4)(part); 1981 c.36 Sch.1 para. 2; 1986 c.63 Sch.11 para. 17.
(5), (6)	1971 c.78 s.35(5).
(7)	1971 c.78 s.35(6).
78(1)	1971 c.78 s.36(1); 1980 c.65 Sch. 15 para. 4(2).
(2)	1971 c.78 s.37 (part); 1980 c.65 Sch. 15 para. 4(3).
(3)	1971 c.78 s.36(2) (part).
(4)	1971 c.78 ss.36(2) (part), 37 (part).
(5)	1971 c.78 s.37 (part); R 8(a), (c), (d).
79(1)	1971 c.78 ss.36(3), 37.
(2), (3)	1971 c.78 s.36(4).

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(4)	1971 c.78 s.36(5); 1981 c.36 Sch. 1 para. 3; 1986 c.63 Sch.11 para. 17.
(5)	1971 c.78 s.36(6).
(6)	1971 c.78 s.36(7); 1986 c.63 Sch. 11 para. 18.
(7)	1971 c.78 s.36(8).
80(1), (2)	1971 c.78 s.38(1), (2).
(3)	1971 c.78 s.38(4).
(4)	1971 c.78 s.38(3).
81(1), (2)	1971 c.78 s.39(1).
(3), (4)	1971 c.78 s.39(2), (3).
82	1971 c.78 s.24A(1) to (3); 1986 c.63 s.25(1).
83(1)	1971 c.78 s.24A(4)(a); 1986 c.63 s.25(1).
(2)	1971 c.78 s.24A(4)(b); 1971 c.78 Sch.8A para. 2(1); 1986 c.63 s.25(1).
(3)	1971 c.78 s.24A(5); 1986 c.63 s.25(1).
84(1), (2)	1971 c.78 s.24B(1); 1986 c.63 s.25(1).
(3), (4)	1971 c.78 s.24B(2) (part); 1986 c.63 s.25(1).
85	1971 c.78 s.24C(1), (2); 1986 c.63 s.25(1).
86(1) to (5)	1971 c.78 s.24D(1) to (5); 1986 c.63 s.25(1).
(6)	1971 c.78 s.24D(6) (part); 1986 c.63 s.25(1).
87(1)	1971 c.78 s.24E(1); 1986 c.63 s.25(1); 1988 c.4 Sch.3 para. 10.
(2), (3)	1971 c.78 s.24E(2), (3); 1986 c.63 s.25(1).
(4)	1971 c.78 s.24E(4) (part); 1986 c.63 s.25(1).
88(1)	1980 c.65 Sch.32 paras. 5(4)(a), 17(1).
(2)	1980 c.65 Sch.32 paras. 11(3), 17(2).
(3) to (6)	1980 c.65 Sch.32 para. 17(3) to (6).
(7)	1980 c.65 Sch.32 para. 25(1)(a), (b).
(8)	1980 c.65 Sch.32 para. 25(2).
(9), (10)	1980 c.65 Sch.32 para. 17(7), (8).

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89(1)	1980 c.65 Sch.32 para. 21; 1986 c.63 s.54(1).
(2)	1980 c.65 Sch.32 para. 22(1); 1986 c.63 s.54(1).
90(1)	1971 c.78 s.40(1)
(2)	1989 c.29 Sch. 8 para. 7(1).
(3)	1971 c.78 s.40(2); 1989 c.29 Sch. 8 para. 7(3).
(4)	1971 c.78 s.40(3)
(5)	1989 c.29 Sch. 8 para. 7(4).
91(1), (2)	1971 c.78 s.41(1).
(3)	1971 c.78 s.41(2).
(4)	1971 c.78 s.41(3); 1980 c.65 Sch.32 para. 18(2); 1981 c.36 s.6; 1986 c.63 Sch.6 Pt II para. 2.
92	1971 c.78 s.42
93	1971 c.78 s.43(4) to (7); 1989 c.29 Sch. 8 para 7(3).
94(1)	1971 c.78 ss.44(1), 24C(3); 1980 c.65 Sch. 32 para. 22(2); 1986 c.63 ss.25, 54(1).
(2), (3)	1971 c.78 s.44(2).
(4)	1971 c.78 s.44(3)(a).
(5), (6)	1971 c.78 s.44(6).
95(1), (2)	1971 c.78 s.44(3)(b).
(3)	1971 c.78 s.44(4).
(4), (5)	1971 c.78 s.44(5).
96(1), (2)	1971 c.78 s.276(5); 1981 c.41 Sch. para. 24.
(3)	1971 c.78 s.276(5) (part); 1981 c.41 Sch. para. 24.
97(1), (2)	1971 c.78 s.45(1).
(3)	1971 c.78 s.45(4) (part).
(4)	1971 c.78 s.45(4) (proviso).
(5)	1971 c.78 s.45(5); 1981 c.36 s.8.
98(1)	1971 c.78 s.45(2) (part).
(2) to (5)	1971 c.78 s.45(3).
(6)	1971 c.78 s.45(2) (part).

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99(1)	1971 c.78 s.46(1); 1974 c.7 Sch.6 para. 25(3), Sch.8.
(2)	1971 c.78 s.46(1)(part), (2)(part).
(3)	1971 c.78 s.46(3); 1974 c.7 Sch.8.
(4)	1971 c.78 s.46(2)(a)(part).
(5)	1971 c.78 s.46(2)(b)(part).
(6) to (8)	1971 c.78 s.46(4) to (6).
100(1) to (3)	1971 c.78 s.276(1); 1974 c.7 Sch. 6 para. 25(12), Sch. 8.
(4) to (6)	1971 c.78 s.276(4).
(7)	1971 c.78 s.276(2), (3).
(8)	1971 c.78 s.45(5); R 9.
101(1)	1971 c.78 ss.47(1), 48(1) (part).
(2)	1971 c.78 s.48(1).
(3)	1971 c.78 s.48(2).
(4)	1971 c.78 s.48(8); drafting.
(5)	1971 c.78 s.47(6) (part).
102(1)	1971 c.78 s.51(1).
(2), (3)	1971 c.78 s.51(2).
(4)	1971 c.78 s.51(3) (part).
(5)	1971 c.78 s.51(3) (part) and s.32(3).
(6)	1971 c.78 s.51(8).
(7)	1971 c.78 s.51(9).
(8)	1971 c.78 s.51(1A); 1981 c.36 s.9; drafting.
103(1)	1971 c.78 s.51(4).
(2)	1971 c.78 s.51(5).
(3) to (6)	1971 c.78 s.51(6).
(7)	1971 c.78 s.51(7).
(8)	1971 c.78 s.51(9).
104(1)	1971 c.78 s.276(1) (part), (2) (part).
(2), (3)	1971 c.78 s.276(1) (part).
(4) to (7)	1971 c.78 s.276(4) (part).
(8)	1971 c.78 s.276(2),(3).
105(1)	1971 c.78 s.264A(1); 1981 c.36 s.3.
(2)	1971 c.78 s.264A(2); 1981 c.36 s.3.

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106(1)	1971 c.78 s.52(1) (part).
(2)	1971 c.78 s.52(1) (part).
(3), (4)	1971 c.78 s.52(2), (3).
107(1)	1971 c.78 s.164(1); 1974 c.7, Sch. 6 para. 25(11), Sch. 8;1981 c.36 ss.12, 34, Sch. 1 para. 4.
(2) to (5)	1971 c.78 s.164(2) to (5).
108(1)	1971 c.78 s.165(1),(2) (part).
(2)	1971 c.78 s.165(1A).
(3)	1971 c.78 s.165(3); 1985 c.19 s.1(1).
109(1)	1971 c.78 s.166(1).
(2)	1971 c.78 ss.165(2) (part), 166(2).
(3), (4)	1971 c.78 ss.156(2),(3), 166(3).
(5)	1971 c.78 s.166(4).
(6)	1971 c.78 ss.165(2), 166(6).
110(1)	1971 c.78 s.166(5).
(2)	1971 c.78 ss.158(4) (part), 166(5); 1972 c.70 s. 179(3).
(3)	1971 c.78 ss.158(4) (part), 165(2) (part), 166(5).
(4)	1971 c.78 ss.158(5), 166(5).
(5)	1971 c.78 ss.158(6), 166(5).
111(1)	1971 c.78 ss.159(1), 168(1).
(2)	1971 c.78 ss.159(2), 168(1).
(3)	1971 c.78 ss.159(3), 168(1).
(4)	1971 c.78 ss.165(2), 168(1),(proviso).
(5)	1971 c.78 s.168(4).
112(1)	1971 c.78 ss.160(1), 168(1).
(2), (3)	1971 c.78 ss.160(2), 168(1).
(4)	1971 c.78 ss.160(3), 168(1).
(5)	1971 c.78 ss.160(4), 168(1).
(6)	1971 c.78 ss.160(5)(a), 168(1).
(7)	1971 c.78 ss.160(5)(a) (part), 168(1).
(8)	1971 c.78 ss.160(5)(b), 168(1).
(9), (10)	1971 c.78 ss.160(6), 168(1).
(11)	1971 c.78 s.168(2).

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(12)	1971 c.78 s.168(3).
(13)	1971 c.78 s.168(3),(proviso).
113	1971 c.78 ss. 165(2), 167.
114(1) to (3)	1971 c.78 s.169(1) to (3).
(4), (5)	1971 c.78 s.169(4) (part).
(6)	1971 c.78 s.169(6),(6A); 1985 c.19 s.1(2).
(7), (8)	1971 c.78 s.169(7),(8).
115(1)	1971 c.78 s.170(1); 1981 c.36 s.34, Sch. 1 para. 5.
(2)	1971 c.78 s.170(2); 1981 c.36 s.14.
(3), (4)	1971 c.78 s.170(3),(4).
(5)	1971 c.78 ss.170(1)(part), 170A (part); 1981 c.36 s.15, Sch. 1 para. 5; R 10.
(6)	1971 c.78 ss.170(1), 170A (part); 1981 c.36 s.15; R 10.
116	Drafting.
117(1)	1971 c.78 s.178(1).
(2)	1971 c.78 s.178(2); 1981 c.36 Sch. 1 para. 6.
(3)	1971 c.78 s.178(3).
118(1)	1971 c.78 s.179(1) (part).
(2)	1971 c.78 s.179(2) (part).
119(1)	1971 c.78 s.134(1), (2).
(2)	Drafting.
(3)	1971 c.78 s.134(3).
(4)	1971 c.78 s.134(4); 1972 c.70 Sch. 16 para. 33.
120	1971 c.78 s.146.
121(1)	1971 c.78 s.147(1).
(2), (3)	1971 c.78 s.147(2).
(4)	1971 c.78 s.147(3).
(5)	1971 c.78 s.147(4) (part).
(6)	1971 c.78 s.147(4),(proviso); 1973 c.37 Sch. 8 para. 94.
(7)	1971 c.78 s.147(5).
(8)	1971 c.78 s.147(6).

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122(1)	1971 c.78 s.148(1).
(2)	1971 c.78 s.148(1),(proviso).
(3)	1971 c.78 s.148(2).
(4)	1971 c.78 s.148(3).
123(1),(2)	1971 c.78 s.149(1),(2); 1987 c.3 s.1.
(3), (4)	1971 c.78 s.149(3); 1987 c.3 s.1.
(5)	1971 c.78 s.149(4): 1987 c.3 s.1.
124	1971 c.78 s.150.
125	1971 c.78 s.152.
126	1971 c.78 s.153.
127(1),(2)	1971 c.78 s.154(1),(2)(part).
(3)	1971 c.78 s.154(2),(proviso).
(4)	1971 c.78 s.154(3).
(5), (6)	1971 c.78 s.154(4).
(7), (8)	1971 c.78 s.154(5).
128	1971 c.78 s.155.
129	1971 c.78 s.156.
130	1971 c.78 s.157.
131	1971 c.78 s.158(1) to (3).
132(1),(2)	1971 c.78 s.158(4); 1972 c.70 s. 179(3), Sch. 30.
(3)	1971 c.78 s.158(5); 1975 c.76 Sch. 1.
(4)	1971 c.78 s.158(6).
133	1971 c.78 s.159.
134(1)	1971 c.78 s.160(1).
(2),(3)	1971 c.78 s.160(2).
(4),(5)	1971 c.78 s.160(3),(4).
(6) to (8)	1971 c.78 s.160(5).
(9),(10)	1971 c.78 s.160(6).
135	1971 c.78 s.162; R 11.
136(1)	1971 c.78 s.163(1) (part).
(2)	1971 c.78 s.163(1),(proviso).
(3)	1971 c.78 s.163(2).
137(1)(a)	1971 c.78 s.180(1), (part).
(b)	1971 c.78 s.188(1), (part).

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(c)	1971 c.78 s.189(1), (part).
(2)(a)	1971 c.78 ss.180(1)(part),(7), 188(1) (part),(2)(part); 1972 c.70 s. 179(3), Sch.30.
(b)	1971 c.78 s.189(1)(part),(2)(part); 1972 c.70 s. 179(3), Sch.30.
(3)	1971 c.78 ss.180(1)(part), 188(1)(part).
(4)	1971 c.78 s.189(1)(part).
(5)	1971 c.78 s.180(4); 1986 c.63 Sch.12 Pt.III.
(6)	1971 c.78 s.180(5); R 12.
(7)	1971 c.78 s.180(6); R 12, R 41.
(8)	1971 c.78 s.189(5).
138(1)	1971 c.78 ss.180(2) (part), 188(2) (part), 189(2) (part).
(2)	1971 c.78 ss.180(2) (part), 188(3) (part), 189(3) (part), 198(3) (part).
139(1)	1971 c.78 ss.181(1) (part), 188(2) (part), 189(2) (part); 1986 c.63 Sch.11 para. 5(1)(a).
(2)	1971 c.78 s.181(1) (part), s.188(2) (part); s.189(2) (part).
(3)	1971 c.78 s.181(2), s.188(2) (part) s.189(2) (part).
(4)	1971 c.78 s.181(3), s.188(2) (part); s.189(2) (part), 1986 c.63 Sch. 11 para. 5(1)(b).
(5)	1971 c.78 s.208.
140(1)	1971 c.78 ss.182(1), 188(2) (part), 189(2) (part).
(2)	1971 c.78 s.182(2), s.188(2) (part), s.189(2) (part); 1972 c.70 Sch. 16 paras. 37, 52.
(3),(4)	1971 c.78 s.182(3), s.188(2) (part), s.189(2) (part).
(5)	1971 c.78 s.182(4), s.188(2) (part), s. 189(2) (part).
141(1)	1971 c.78 ss.183(1), 188(2) (part), 189(2) (part), (3) (part); R 13(a).
(2)	1971 c.78 ss.183(2), 188(2) (part), (3) (part), 189(2) (part), (3) (part).

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(3) to (5)	1971 c.78 s.183(3) to (5), s.188(2) (part), s.189(2) (part).
142(1)	1971 c.78 ss.184(1), 188(2) (part), 189(2) (part); 1986 c.63 Sch. 11 para. 6(a); R 13(b).
(2)	1971 c.78 s.184(2).
(3)	1971 c.78 s.184(3); 1986 c.63 Sch. 11 para. 6(b).
143(1)	1971 c.78 ss.186(1), 188(2) (part), 189(2) (part).
(2),(3)	1971 c.78 ss.186(2),(3), 188(2) (part), 189(2) (part).
(4)	1971 c.78 ss.186(3A), 188(2) (part), 189(2) (part); 1986 c.63 Sch.11 para. 7(1).
(5),(6)	1971 c.78 ss.186(4), 188(2) (part), 189(2) (part).
(7)	1971 c.78 ss.186(5), 188(2) (part), 189(2) (part).
(8)	1971 c.78 s.208.
144(1)	1971 c.78 ss.187(1), 188(2) (part), 189(2) (part).
(2)	1971 c.78 s.187(2), s.188(2) (part), s.189(2) (part).
(3),(4)	1971 c.78 ss.187(3), 188(2) (part), 189(2) (part).
(5),(6)	1971 c.78 ss.187(4),(5), 188(2) (part), 189(2) (part).
(7)	1971 c.78 s.189(4).
145(1),(2)	1973 c.26 s.53(1), (5).
(3),(4)	1973 c.26 s.53(3),(4); 1981 c. 66 Sch. 3 para. 1.
(5)	1973 c.26 s.53(2)
(6)	1973 c.26 s.53(1),(2).
(7)	1973 c.26 s.53(6).
146(1),(2)	1973 c.26 s.54(1).
(3)	1973 c.26 s.54(2).
(4),(5)	1973 c.26 s.54(3).
(6),(7)	1973 c.26 s.54(4),(5).
(8),(9)	1973 c.26 s.54(6).

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(10),(11)	1973 c.26 s.54(7),(8).
147(1)	1973 c.26 s.84(2).
(2)	1973 c.26 s.87(1).
148(1)	1971 c.78 ss.181(4), 186(6), 191A; 1984 c.12 Sch. 4 para. 53(5).
(2)	R 13(c).
149(1)	1971 c.78 s.192(1) (part), drafting.
(2)	1971 c.78 s.192(3),(4)(part),(5)(part).
(3)	1971 c.78 s.192(4) (part); 190 SI/465.
(4)	1971 c.78 s.192(4) (part), (5) (part).
(5)	1971 c.78 s.192(6); 1973 c.26 s.82(2).
150(1)	1971 c.78 s.193(1); 1973 c.26 s.77.
(2),(3)	1971 c.78 s.193(2).
(4)	1971 c.78 s.193(4)
151(1),(2)	1971 c.78 s.194(1)
(3)	1971 c.78 s.194(5) (part).
(4)	1971 c.78 s.194(2); 1980 c.65 Sch.15 paras. 18,19; 1985 c.51 Sch.1 para. 16(2).
(5)	1971 c.78 s.194(4); 1973 c.26 s.75(3)(a).
(6)	1971 c.78 s.194(3).
(7)	1973 c.26 s.76(2).
(8)	1971 c.78 s.194(6); 1973 c.26 s.75(3)(b).
152(1)	1973 c.26 ss.68(6)(part), 69(3); 1985 c.51 Sch. 1 para. 17(4).
(2)	1973 c.26 s.68(6)(part).
153(1),(2)	1971 c.78 s.195(1).
(3) to (7)	1971 c.78 s.195(2) to (6).
(8)	1973 c.26 s.68(6) (part).
154(1),(2)	1971 c.78 s.196(1).
(3)	1971 c.78 s.196(2).
(4),(5)	1971 c.78 s.196(3).
(6)	1971 c.78 s.196(4).
155	1971 c.78 s.199.
156(1),(2)	1971 c.78 s.198(1).

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(3),(4)	1971 c.78 s.198(2),(3).
157(1),(2)	1971 c.78 s.197; 1981 c.67 Sch.4 para. 1; 1985 c.71 Sch.2 para. 22.
(3),(4)	1973 c.26 s.81(6),(7)(part).
158(1),(2)	1973 c.26 s.79(1).
(3)	1973 c.26 s.79(2).
159(1)	1973 c.26 s.80(1).
(2),(3)	1973 c.26 s.80(2).
(4) to (8)	1973 c.26 s.80(3) to (7).
160(1) to (5)	1973 c.26 s.81(1) to (5).
(6)	1973 c.26 s.81(7).
161(1)	1971 c.78 s.200; 1973 c.26 s.81(8); R 14.
(2)	1973 c.26 s.78(1).
(3) to (4)	1973 c.26 s.78(2).
(5)	1973 c.26 s.78(3).
162(1)	1971 c.78 s.201(1); 1973 c.26 s.77(1), (2).
(2),(3)	1971 c.78 s.201(2).
(4)	1971 c.78 s.201(3).
(5)	1971 c.78 s.201(6).
163(1)	1971 c.78 s.201(4); 1973 c.26 s.78(4).
(2)	1971 c.78 s.201(5); 1973 c.26 s.78(4).
164	1971 c.78 s.204.
165(1),(2)	1973 c.26 s.72(4); 1980 c.65 s.147(4).
(3)	1973 c.26 s.72(5); 1980 c.65 s.147(5); 1981 c.64 Sch.12para. 11.
166(1)	1971 c.78 s.202(1),(2) (part).
(2)	1971 c.78 s.202(2) (part).
167	1971 c.78 s.208.
168	1971 c.78 s.203.
169(1) to (3)	1971 c.78 s.205; 1984 c.12 Sch.4 para. 53(6).
(4)	1973 c.26 s.72(3) (part); 1980 c.65 s.147(3) (part).
(5)	1973 c.26 s.76(3) (part).
170(1)	1971 c.78 s.206(1).

(2)	1971 c.78 s.206(2); 1985 c.51 Sch.1 para 17(6) (part).
(3)	1973 c.26 s.68(10) (part); 1985 c.51 Sch.1 para. 17(6) (part).
(4)	1973 c.26 s.71(3).
(5)	1973 c.26 s.72(3) (part); 1980 c.65 s.147(3) (part).
(6)	1973 c.26 s.73(3); 1985 c.71 Sch.2 para. 24(8).
(7)	1973 c.26 s.76(3) (part); 1980 c.66 Sch.24 para. 23.
(8)	1973 c.26 s.70(3).
(9)	1971 c.78 s.206(3).
(10)	1971 c.78 s.206(4); 1980 c.66 Sch.24 para. 20.
(11),(12)	1971 c.78 s.206(5),(6).
171	1971 c.78 s.207; 1973 c.26 ss.82(5), 87(1); 1990 SI/465.
172(1) to (4)	1971 c.78 s.87(1) to (4); 1981 c.41 Sch. para. 1.
(5)	1971 c.78 s.87(13).
(6)	1971 c.78 s.87(5).
(7)	1971 c.78 s.87(14).
(8)	1971 c.78 s.87(15).
173(1)	1971 c.78 s.87(6).
(2)	1971 c.78 s.87(7).
(3)	1971 c.78 s.87(9).
(4)	1971 c.78 s.87(10).
(5)	1971 c.78 s.87(8).
(6)	1971 c.78 s.87(11).
(7)	1971 c.78 s.87(12).
(8)	1971 c.78 s.87(16).
174(1)	1971 c.78 s.88(1); 1981 c.41 Sch. para. 1; 1984 c.10 s.4(2).
(2) to (4)	1971 c.78 s.88(2) to (4), (5)(a).
(5)	1971 c.78 s.88(9).
(6)	1984 c.10 s.4(2).
175(1)	1971 c.78 s.88(5)(b) to (e).

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(2)	1971 c.78 s.88(5)(d).
(3)	1971 c.78 s.88(7).
(4)	1971 c.78 s.88(10).
(5)	1971 c.78 s.110(2).
(6)	1971 c.78 s.88(11).
176(1),(2)	1971 c.78 s.88A(1),(2); 1981 c.41 Sch.para. 1.
(3)	1971 c.78 s.88(6); 1981 c.41 Sch.para. 1.
(4)	1971 c.78 s.88(8); 1981 c.41 Sch.para. 1.
(5)	1971 c.78 s.88A(3); 1981 c.41 Sch.para. 1.
177(1)	1971 c.78 s.88B(1); 1981 c.41 Sch para 1.
(2)	1971 c.78 s.88B(2).
(3)	1971 c.78 s.88B(2); R 15.
(4)	1971 c.78 s.88B(2).
(5) to (8)	1971 c.78 s.88B(3).
178(1),(2)	1971 c.78 s.91(1),(2); 1981 c.41 Sch.para. 4.
(3)	1971 c.78 s.91(3),(4); 1974 c.7 Sch.8.
(4)	1971 c.78 s.91(3).
(5)	1971 c.78 s.91(5).
(6)	1971 c.78 s.111.
(7)	1971 c.78 ss.89(6),90(10),91(1); drafting.
179(1)	1971 c.78 s.89(1); 1981 c.41 Sch.para. 2(1).
(2)	1971 c.78 s.89(1); 1980 c.43 s.32(2); 1982 c.48 ss.46,74.
(3)	1971 c.78 s.89(2).
(4)	1971 c.78 s.89(3).
(5)	1971 c.78 s.89(4); 1986 c.63 Sch.11 para. 13.
(6)	1971 c.78 s.89(5).
(7), (8)	1971 c.78 s.89(5); 1980 c.43 s.32(2); 1982 c.48 ss.46,74; 1986 c.63 Sch.11 para. 13.

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180(1)	1971 c.78 s.92(1); 1981 c.41 Sch.para. 5
(2),(3)	1971 c.78 s.92(2),(3).
181(1)	1971 c.78 s.93(1); 1981 c.41 Sch.para. 7(1).
(2) to (4)	1971 c.78 s.93(2) to (4).
(5)	1971 c.78 s.93(5); 1981 c.41 Sch.para. 7(2); 1982 c.48 s.46.
182(1) to (3)	1971 c.78 s.276(5A); 1981 c.41 Sch.para. 24.
(4)	1971 c.78 s.276(5B)(part); 1981 c.41 Sch.para. 24; R 16.
183(1),(2)	1971 c.78 s.90(1); 1981 c.41 Sch.para. 3; 1977 c.29 s.1.
(3) to (5)	1971 c.78 s.90(2); 1977 c.29 s.1.
(6)	1971 c.78 s.90(5)(part); 1977 c.29 s.1.
(7)	1971 c.78 s.90(6)(part); 1977 c.29 s.1.
184(1)	1971 c.78 s.90(1)(part); 1977 c.29 s.1.
(2),(3)	1971 c.78 s.90(3); 1977 c.29 s.1.
(4),(5)	1971 c.78 s.90(4); 1977 c.29 s.1.
(6)	1971 c.78 s.90(5)(part); 1977 c.29 s.1.
(7)	1971 c.78 s.90(6)(part); 1977 c.29 s.1.
(8)	1971 c.78 s.90(9); 1977 c.29 s.1.
185	1971 c.78 s.276(5); 1981 c.41 Sch.para. 24.
186(1) to (5)	1971 c.78 s.177; 1977 c.29 s.2.
(6),(7)	1971 c.78 s.179.
187(1)	1971 c.78 s.90(7).
(2)	1971 c.78 s.90(7); 1986 c.63 Sch.11 para. 13
(3)	1971 c.78 s.90(8).
188(1)	1971 c.78 s.92A(1); 1981 c.41 Sch.para. 6; 1985 c.51 s.3(4).
(2)	1971 c.78 s.92A(3); 1981 c.41 Sch.para. 6; 1985 c.51 Sch.17.
(3)	1971 c.78 s.92A(4); 1981 c.41 Sch.para. 6.
189(1) to (3)	1971 c.78 s.108(1) to (3); 1981 c.36 s.11.

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(4),(5)	1971 c.78 s.108(6),(7); 1981 c.36 s.11.
190(1)	1971 c.78 s.108(4)(part); 1981 c.36 s.11.
(2)	1971 c.78 s.108(4)(part),(5)(part); 1981 c.36 s.11.
(3)	1971 c.78 s.108(4) (part); 1981 c.36 s.11.
(4)	1971 c.78 s.111; R 17.
(5)	1971 c.78 s.108(4)(part); 1981 c.36 s.11.
191	1971 c.78 s.94(1)
192(1) to (3)	1971 c.78 s.94(2).
(4)	1971 c.78 s.94(7); 1981 c.41 Sch.para. 8.
(5)	1971 c.78 s.95(1)(part).
(6)	1971 c.78 Sch.14 para. 6(part).
193(1)	1971 c.78 s.94(6); 1971 c.78 Sch.14 para. 1.
(2),(3)	1971 c.78 Sch.14 para. 3(1).
(4)	1971 c.78 Sch.14 para. 3(2); R 18.
(5)	1971 c.78 Sch.14 para. 3(2)(part); 1982 c.48 ss.46,74.
(6)	1971 c.78 s.94(8).
(7)	1971 c.78 s.94(8)(part); 1980 c.43 s.32;1982 c.48 ss.46,74.
194(1)	1971 c.78 ss.94(4), 95(1) (part).
(2)	1971 c.78 s.94(3).
(3)	1971 c.78 Sch.14 para. 4(a),(b).
(4)	1971 c.78 Sch.14 para. 4(c).
(5),(6)	1971 c.78 Sch.14 para. 2.
195(1)	1971 c.78 ss.94(5),95(2).
(2)	1971 c.78 s.95(2).
(3)	1971 c.78 s.95(2)(b).
(4)	1971 c.78 s.94(8); Sch.14 para 3(1).
(5)	R 8(a).
(6)	1971 c.78 s.95(7).
196(1)	1971 c.78 s.95(4).
(2)	1971 c.78 Sch.14 para. 5.

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(3)	1971 c.78 s.95(5).
(4)	1971 c.78 Sch.14 para. 6(part).
(5)	1971 c.78 s.95(3).
(6),(7)	1971 c.78 s.95(6).
197	1971 c.78 s.59.
198(1)	1971 c.78 s.60(1); 1980 c.65 Sch.15 para. 13(1)(a), (2).
(2)	1971 c.78 s.60(1)
(3)	1971 c.78 s.60(1); 1974 c.32 s.10(1).
(4)	1971 c.78 ss.60(2), 191(1).
(5)	1971 c.78 s.60(3).
(6)	1971 c.78 s.60(6); 1974 c.32 s.10(2)(a).
(7)	1971 c.78 s.60(10); 1986 c.63 Sch.12 Pt II.
199(1)	1971 c.78 s.60(4); 1980 c.65 Sch.15 para. 13(1)(c).
(2)	1971 c.78 s.60(5).
(3)	1971 c.78 s.60(5); 1980 c.65 Sch.15 para. 13(1)(d), (2), Sch.34 Pt X.
200(1)	1971 c.78 s.60(7).
(2)	1971 c.78 s.60(7); 1978 c.30 s.17(2)(a).
(3)	1971 c.78 s.60(8); 1978 c.30 s.17(2)(a).
(4)	1971 c.78 s.60(7),(9); 1978 c.30 s.17(2)(a).
201(1)	1971 c.78 s.61(1).
(2)	1971 c.78 s.61(2); 1980 c.65 Sch.15 para. 14, Sch.34 Pt X.
202(1),(2)	1971 c.78 s.276(1),(2)(c); 1974 c.7 s.35, Sch.6 para. 25(12).
(3)	1971 c.78 s.276(3).
203	1971 c.78 s.174.
204(1)(a)	1971 c.78 s.175(1).
(b)	1971 c.78 s.175(2); 1978 c.30 s.17(2)(a).
(2) to (4)	1971 c.78 s.175(2) to (4).
205	1971 c.78 s.179.
206(1),(2)	1971 c.78 s.62(1); 1974 c.32 s.10(2)(b); 1985 c.52 s.1(2).

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(3)	1971 c.78 s.62(1A);1985 c.51 s.1(3).
(4)	1971 c.78 s.62(2).
(5)	1971 c.78 s.62(3)(part).
207(1),(2)	1971 c.78 s.103(1).
(3),(4)	1971 c.78 s.103(2).
(5)	1971 c.78 s.62(3)(part).
208(1),(2)	1971 c.78 s.103(3); 1981 c.41 Sch. para. 12.
(3)	1971 c.78 s.103(3A); 1981 c.41 Sch. para. 12.
(4)	1971 c.78 s.103(3B); 1981 c.41 Sch. para. 12.
(5)	1971 c.78 s.103(3C); 1981 c.41 Sch. para. 12.
(6)	1971 c.78 s.103(3D); 1981 c.41 Sch. para. 12.
(7)	1971 c.78 s.103(3E); 1981 c.41 Sch. para. 12.
(8)	1971 c.78 s.103(3F); 1981 c.41 Sch. para. 12.
(9)	1971 c.78 s.103(4).
(10)	1971 c.78 s.110(2).
209(1)	1971 c.78 ss.103(5), 91(1); 1981 c.41 Sch. para. 4(a); 1972 c.70 Sch.16 paras. 29, 52.
(2)	1971 c.78 ss.103(5), 91(2); 1981 c.41 Sch. para. 4(b) (i), (ii).
(3), (4)	1971 c.78 ss.91(3),(4), 103(5); 1974 c.7 Sch.8.
(5)	1971 c.78 ss.91(5), 103(5).
(6)	1971 c.78 s.111.
210(1)	1971 c.78 s.102(1); 1974 c.32 s.10(3).
(2)	1971 c.78 s.102(1); 1974 c.32 s.10(3); 1980 c.43 ss.32(9), 143(1).
(3)	1971 c.78 s.102(1)(b); 1974 c.32 s.10(3).
(4)	1971 c.78 s.102(2); 1974 c.32 s.10(4); 1982 (c.48) s.46(1).
(5)	1971 c.78 s.102(3), 1974 c.32 s.10(5).

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211(1) to (3)	1971 c.78 s.61A(1) to (3); 1974 c.32 s.8.
(4)	1971 c.78 s.102(4); 1974 c.32 s.10(6).
212(1)	1971 c.78 s.61A(4); 1974 c.32 s.8.
(2), (3)	1971 c.78 s.61A(5); 1974 c.32 s.8.
(4)	1971 c.78 s.61A(6); 1974 c.32 s.8.
213(1),(2)	1971 c.78 s.61A(8); 1974 c.32 s.8.
(3)	1971 c.78 s.61A(9); 1974 c.32 s.8.
214	1971 c.78 s.61A(7); 1974 c. 32 s. 8.
215(1),(2)	1971 c.78 s.65(1),(2); 1986 c.63 s.46.
(3),(4)	1971 c.78 s.65(3); 1986 c.63 s.46.
216(1)	1971 c.78 s.104(1); 1981 c.41 Sch. para. 13.
(2)	1971 c.78 s.104(2); 1981 c.41 Sch. para. 13; 1982 c.48 ss.38, 46
(3)	1971 c.78 s.104(3); 1981 c.41 Sch. para. 13.
(4)	1971 c.78 s.104(4)(5); 1981 c.41 Sch. para. 13.
(5)	1971 c.78 s.104(6); 1981 c.41 Sch. para 13.
(6)	1971 c.78 s.104(7); 1981 c.41 Sch. para. 13; 1986 c.63 s.49(1), Sch.11 para. 13.
(7)	1971 c.78 s.104(8); 1981 c.41 Sch. para. 13.
217(1)	1971 c.78 s.105(1); 1986 c.63 s.49, Sch.11 para. 20.
(2) to (5)	1971 c.78 s.105(2) to (5).
(6)	1971 c.78 s.110(2).
218	1971 c.78 s.106; 1981 c.41 Sch. para. 14.
219(1)	1971 c.78 s.107(1); 1981 c.41 Sch. para. 15.
(2)	1971 c.78 s.107(2); 1981 c.41 Sch. para. 15.
(3) to (5)	1971 c.78 s.107(3).
(6)	1971 c.78 s.111.
220(1),(2)	1971 c.78 s.63(1),(2).

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(3)	1971 c.78 ss.63(2)(c), 191(1).
(4)	1971 c.78 s.63(7).
(5)	1971 c.78 s.63(7); R 19.
221(1)	1971 c.78 s.63(3); 1974 c.32 s.3(1); 1986 c.63 s.45.
(2)	1971 c.78 s.63(3A); 1986 c.63 s.45.
(3),(4)	1971 c.78 s.63(3B); 1986 c.63 s.45.
(5)	1971 c.78 s.63(4).
(6)	1971 c.78 s.63(5).
(7) to (9)	1971 c.78 s.63(6).
222	1971 c.78 s.64.
223(1)	1971 c.78 s.176.
(2)	1971 c.78 s.179(1); 1981 c.36 s.17.
(3)	1971 c.78 s.179(2).
224(1),(2)	1971 c.78 s.109(1).
(3)	1971 c.78 s.109(2); 1981 c.41 Sch. para 16; 1982 c.48 s.46; 1986 c.63 s.49(1), Sch.11 para. 13.
(4),(5)	1971 c.78 s.109(3).
225(1)	1971 c.78 s.109A(1),(6); 1982 c.30 s.36(a).
(2)	1971 c.78 s.109A(2); 1982 c.30 s.36(a).
(3)	1971 c.78 s.109A(3),(6); 1982 c.30 s.36(a).
(4),(5)	1971 c.78 s.109A(4),(5).
226(1) to (4)	1971 c.78 s.112(1)(1A) to (1C); 1980 c.65 s.91(1).
(5)	1971 c.78 s.112(2).
(6)	1971 c.78 s.112(3); 1972 c.70 s. 179(3), Sch. 30.
(7)	1971 c.78 s.112(4); 1981 c.67 Sch. 6 Pt. I; 1981 c.67 Sch. 4 para. 1.
(8)	1971 c.78 s.112(5); 1972 c.70 s. 179(3), Sch. 30.
227(1)	1971 c.78 s.119(1)(a); 1972 c.70 s. 179(3), Sch. 30.
(2)	1971 c.78 s.119(3).
228(1)	1971 c.78 s.113(1); 1980 c.65 s.122(2).

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(2)	1980 c.65 s.122(1).
(3)	1971 c.78 s.113(2).
(4)	1971 c.78 s.113(2) (proviso); 1981 c.67 Sch. 4 para. 1.
(5),(6)	1980 c.65 s.122(3).
(7)	1971 c.78 s.113(3); 1981 c.67 Sch. 4 para. 1, Sch. 6 Pt. I.
229(1)	1971 c.78 s.121(1).
(2)	1971 c.78 s.121(1); 1980 c.65 Sch. 34 Pt. XIII.
(3)	1971 c.78 s.121(2); 1981 c.67 Sch. 4, para. 21(6).
(4) to (6)	1971 c.78 s.121(4) to (6).
230	1971 c.78 s.120.
231(1)	1971 c.78 s.276(6)(a); 1972 c.70 s. 179.
(2)	1971 c.78 s.276(6)(b).
(3)	1971 c.78 s.276(7).
232(1)	1971 c.78 s.122(1).
(2) to (4)	1971 c.78 s.122(2)(2A)(2B); 1980 c.65 Sch. 23 para. 10.
(5),(6)	1971 c.78 s.122(4),(5); 1972 c.70 s.272(2).
233(1) to (4)	1971 c.78 s.123(1),(2),(2A); 1980 c.65 Sch. 23 para. 11,Sch. 34, Part XIII.
(5) to (7)	1971 c.78 s.123(7).
(8)	1971 c.78 s.123(9); 1972 c.70 s.272(2).
234	1980 c.65 s.122(6).
235(1)	1971 c.78 s.124(1), (5).
(2)	1971 c.78 s.124(2).
(3)	1971 c.78 s.124(1), (5).
(4)	1971 c.78 s.124(6); 1974 c.7 s.35, Sch. 6 para. 25(9).
(5)	1971 c.78 s.124(6) (proviso), (7).
(6)	1971 c.78 s.124(8); 1972 c.5 Sch. 3; 1982 c.52 s.19(1), Sch. 2 para. 7(2).
236(1)	1971 c.78 s.118(1).
(2)	1971 c.78 s.118(2); 1984 c.12 Sch. 4 para. 53(3).

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(3) to (5)	1971 c.78 s.118(3) to (5).
237(1),(2)	1971 c.78 s.127(1),(2).
(3)	1971 c.78 s.127(1) (proviso); 1984 c.12 Sch. 4 para. 53(4).
(4)	1971 c.78 s.127(3).
(5),(6)	1971 c.78 s.127(4).
(7)	1971 c.78 s.127(5).
238(1),(2)	1971 c.78 s.128(1) (part).
(3),(4)	1971 c.78 s.128(2).
(5)	1971 c.78 s.128(3).
(6)	1971 c.78 s.128(7) (part).
239(1),(2)	1971 c.78 s.128(4).
(3)	1971 c.78 s.128(7) (part).
240(1),(2)	1971 c.78 s.128(5), (6).
(3)	1971 c.78 s.128(8), (1) (part).
241	1971 c.78 s.129.
242	1971 c.78 s.130; 1973 c.26 Sch. 3; 1978 c.30 s.17(2)(a); 1989 c.42 Sch.11 para 19.
243(1)	1971 c.78 s.131(1).
(2),(3)	1971 c.78 s.131(2)
(4)	1971 c.78 s.131(3).
244(1)	1980 c.65 s.119(1); 1982 c.30 s.35(a).
(2)	1980 c.65 s.119(2); 1982 c.30 s.35(b).
(3)	1980 c.65 s.119(3); 1982 c.30 s.35(c)
(4)	1980 c.65 s.119(4); 1982 c.30 s.35(d).
245(1)	1971 c.78 s.132(1); 1981 c.67 Sch. 4 para. 21(7)(a).
(2)	1971 c.78 s.132(2); 1981 c.67 Sch. 4 para. 21(7)(b).
(3)	1971 c.78 s.132(3); 1981 c.67 Sch. 4 para. 21(7)(c).
(4)	1971 c.78 s.132(4).
246	1971 c.78 s.133.
247(1)	1971 c.78 s.209(1); 1980 c.65 Sch. 32 para. 18(4).
(2)	1971 c.78 s.209(2)(part).

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(3)	1971 c.78 s.209(2); 1972 c.70 Sch. 16 para. 39; 1980 c.66 Sch. 24 para. 20; 1985 c.51 Sch. 4 para. 50(a), Sch. 17.
(4)	1971 c.78 s.209(3).
(5)	1971 c.78 s.209(4).
(6)	1971 c.78 s.209(5); 1981 c.67 Sch. 4 para. 21(8).
248(1),(2)	1971 c.78 s.211(1).
(3)	1971 c.78 s.211(2); R 20.
249(1)	1971 c.78 s.212(1); 1974 c.7 Sch. 8.
(2)	1971 c.78 s.212(2); 1972 c.70 Sch.16 paras. 41(1),(2),52.
(3)	1971 c.78 s.212(3); 1972 c.70 Sch.16 paras.41(1),(3),52.
(4)	1971 c.78 s.212(3).
(5)	1971 c.78 s.212(4).
(6)	1971 c.78 s.212(8).
(7)	1971 c.78 s.212(8A); 1982 c.30 Sch.5 para. 2.
(8)	1971 c.78 s.212(2),(8); 1972 c.70 Sch.16 paras. 41(1),(5),52.
(9)	1971 c.78 s.212(9).
250(1),(2)	1971 c.75 s.212(5); 1972 c.70 Sch.16 paras.41(4),52.
(3)	1971 c.78 s.212(6); 1972 c.70 Sch.16 paras.41(4),52.
(4) to (7)	1971 c.78 ss.212(7), 178, 179; 1972 c.70 Sch.16 paras.41(4),52.
251(1)	1971 c.78 s.214(1)(a).
(2)	1971 c.78 s.214(2).
(3)	1971 c.78 s.214(3); 1988 c.4 Sch.3 para. 22.
252(1)	1971 c.78 s.215(1).
(2)	1971 c.78 s.215(2)(a), (7A)(part); 1986 c.44 Sch.7 para. 2(2)(c); 1989 c.15 Sch.25 para 42(1).
(3)	1971 c.78 s.215(2)(b).
(4),(5)	1971 c.78 s.215(3).
(6)	1971 c.78 s.215(4).

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(7)	R 21.
(8)	1971 c.78 s.215(5).
(9)	1971 c.78 s.215(6).
(10),(11)	1971 c.78 s.215(7).
(12)	1971 c.78 s.215(7A) (part),(8); 1972 c. 70 s.179(3); 1985 c.51 Sch.14 para. 48(a), Sch.17; 1988 c.40 Sch.13; 1988 c.50 Sch.17 para. 18; 1989 c.15 Sch.25 para 42(1); 1989 c.29 Sch.16 para 2(5)(b).
253(1)	1971 c.78 s.216(1)
(2)	1971 c.78 s.216(2); 1987 c.3 Sch.1 para. 19.
(3)	1971 c.78 s.216(3).
(4)	1971 c.78 s.216(4); 1972 c.70 Sch.30; 1985 c.51, Sch.4 para. 50(b); 1988 c.40 Sch.12 para 40.
(5)	1971 c.78 s.216(5).
254(1)	1971 c.78 s.218(1); R 22.
(2)	1971 c.78 s.218(2); 1981 c.67 Sch.4 para. 1, Sch.6 Pt.I.
255	1971 c.78 s.219.
256(1),(2)	1971 c.78 s.220(1); 1984 c.12 Sch.4 para. 53(7).
(3),(4)	1971 c.78 s.220(2); 1984 c.12 Sch.4 para. 53(7).
(5)	1971 c.78 s.220(6); 1984 c.12 Sch.4 para. 53(7).
(6)	1971 c.78 s.220(7); 1984 c.12 Sch.4 para. 53(7).
257(1) to (3)	1971 c.78 s.210(1) to (3).
(4)	1971 c.78 s.210(4); 1972 c.70 Sch.16 para. 40.
258(1)	1971 c.78 s.214(1).
(2)	1971 c.78 s.214(2).
(3)	1971 c.78 s.214(3); 1988 c.4 Sch.3 para. 22.
259	1971 c.78 s.217.
260(1)	1971 c.78 s.220(3)(part),(4);1984 c.12 Sch.4 para. 53(7).

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(2)	1971 c.78 s.220(4)(part); 1984 c.12 Sch.4 para. 53(7), drafting.
(3)	1971 c.78 s.220(3)(a); 1984 c.12 Sch.4 para 53(7).
(4)	1971 c.78 s.220(3)(b); 1984 c.12 Sch.4 para. 53(7).
(5)	1971 c.78 s.220(3)(c); 1984 c.12 Sch.4 para. 53(7).
(6)	1971 c.78 s.220(3)(d); 1984 c.12 Sch.4 para. 53(7).
(7)	1971 c.78 s.220 (3)(e); 1984 c.12 Sch.4 para. 53(7).
(8)	1971 c.78 s.220(5); 1984 c.12 Sch.4 para. 53(7).
(9)	1971 c.78 s.220(6),(7); 1984 c.12 Sch.4 para. 53(7).
261(1)	1951 c.60 s.32(1); 1971 c.78 s.221(1), (3).
(2)	1951 c.60 s.32(1); 1971 c.78 s.221(1), (3).
(3)	1951 c.60 s.32(2); 1971 c.78 s.221(1), (3).
(4)	1951 c.60 s.32(3); 1971 c.78 s.221(2), (3).
(5)	1958 c.69 s.13(5) 1986 c.63 Sch.8 para. 4.
262(1)	1971 c.78 s.290(1); 1986 c.31 Sch.2 para. 1(1); 1986 c.44 Sch.9; 1989 c.15 Sch.25 para. 42(3); 1989 c.29 Sch.18.
(2)	1971 c.78 s.290(1); 1986 c.31 Sch.2 para. 1(1).
(3) to (5)	1969 c.48 Sch.4 para. 93(1)(xxxiii), (4)(ii); 1980 c.65 Sch.33 para. 12; 1981 c.38 Sch.3 para. 10(2)(c); 1982 c.16 Sch.2 paras.4, 5(c); 1986 c.44 Sch.7 para. 2(1); 1986 c.63 Sch.7 para. 9; 1989 c.15 Sch.25 para. 1(2).
(6), (7)	1989 c.29 Sch.16 paras. 1(1)(xxii), (xxiv), (xxv), 2(2)(c), (4)(c).
263(1),(2)	1971 c.78 s.222.
(3), (4)	1969 c. 48 Sch.4 para. 93(4); 1982 c.16 Sch.2 para 5, Sch.13 Part III para. 1.
264(1)	1971 c.78 s.223(1).

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(2)	1971 c.78 s.223(1)(part), (2)(part); 1969 c.48 Sch.4 para. 89(1).
(3)	1971 c.78 s.223(2)(a).
(4)	1971 c.78 s.223(2)(b); 1984 c.32 Sch.6 para. 9; 1986 c.44; Sch.7 para. 12; 1986 c.31 Sch.4 para. 1; 1989 c.15 Sch.25 para. 42(2).
(5), (6)	1971 c.78 s.223(3).
(7)	1969 c.48 Sch.4 para. 89(2).
(8)	1982 c.16 Sch.2 para. 6(1).
265(1)	1971 c.78 s.224(1); 1986 c.31 Sch. 2 para. 1(2), Sch.6; 1986 c.44 Sch.7 para 2(1); 1989 c.15 Sch.27.
(2)	1986 c.44 Sch.7 para. 2(9); 1989 c.29 Sch.16 para. 3(1)(d).
(3)	1989 c.15 Sch.25 para. 1(9),(10).
(4)	1971 c.78 s.224(2).
266(1)	1971 c.78 s.225(1); 1981 c.41 Sch. para. 17.
(2)	1971 c.78 s.225(2).
(3)	1971 c.78 s.225(3).
(4)	1971 c.78 s.225(5).
(5)	1982 c.16 Sch.2 para. 6(2).
267	1971 c.78 s.225(4).
268(1)	1971 c.78 s.226(1).
(2)	1971 c.78 s.226(1).
(3)	1971 c.78 ss.40(3), 226(2).
269	1971 c.78 s.227; R 23.
270	1971 c.78 s.228; R 23; R 24.
271(1), (2)	1971 c.78 s.230(1).
(3)	1971 c.78 s.230(2).
(4)	1971 c.78 s.230(3).
(5)	1971 c.78 s.230(4).
(6)	1971 c.78 s.230(5).
(7)	1971 c.78 s.230(6).
(8)	1971 c.78 s.230(1)(part).
272(1)	1971 c.78 s.230(1),(7); 1984 c.12 Sch.4 para. 53(9).

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(2)	1971 c.78 s.230(1),(7); 1984 c.12 Sch.4 para. 53(9).
(3)	1971 c.78 s.230(2),(7); 1984 c.12 Sch.4 para. 53(9).
(4)	1971 c.78 s.230(3),(7); 1984 c.12 Sch.4 para. 53(9).
(5)	1971 c.78 s.230(4),(7); 1984 c.12 Sch.4 para. 53(9).
(6)	1971 c.78 s.230(5),(7); 1984 c.12 Sch.4 para. 53(9).
(7)	1971 c.78 s.230(6), (7); 1984 c.12 Sch.4 para. 53(9).
(8)	1971 c.78 s.230(1)(part),(7); 1984 c.12 Sch.4 para. 53(9).
273(1) to (6)	1971 c.78 s.232(1) to (6).
(7),(8)	1971 c.78 s.232(7); 1984 c.12 s.109, Sch.4 para. 53(10).
274	1971 c.78 ss.231, 230(7); 1984 c.12 Sch. 4 para. 53(9)
275	1971 c.78 s.233.
276(1), (2)	1971 c.78 s.234(1).
(3)	1971 c.78 s.234(2).
277(1), (2)	1971 c.78 s.235(1),(2).
(3),(4)	1971 c.78 s.235(3).
(5)	1971 c.78 s.235(4).
(6)	1971 c.78 s.235(5).
(7)	1971 c.78 s.235(6).
(8)	1971 c.78 s.235(7).
278(1) to (5)	1971 c.78 s.236(1) to (5).
(6),(7)	1971 c.78 s.236(6).
(8),(9)	1971 c.78 s.236(7).
(10)	1971 c.78 s.236(8).
(11)	1971 c.78 s.236(2) proviso.
279(1)	1971 c.78 s.237(1).
(2)	1971 c.78 s.237(2).
(3)	1971 c.78 ss.230(7), 237(2); 1984 c.12 Sch.4 para. 53(9).
(4)	1971 c.78 s.237(3).

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(5),(6)	1971 c.78 s.237(4).
(7)	1971 c.78 s.237(5); 1986 c.63 Sch.12 Pt.III.
280(1)	1971 c.78 ss.238(1), 230(7); 1981 c.36 Sch.1 para. 7; 1984 c.12 Sch.4 para. 53(9).
(2), (3)	1971 c.78 s.238(2); 1984 c.12, Sch.4 para. 53(9).
(4), (5)	1971 c.78 s.238(3); 1984 c.12 Sch.4 para. 53(9).
(6)	1971 c.78 s.238(4).
(7)	1971 c.78 s.238(5).
(8)	1971 c.78 s.238(6); 1981 c.67 Sch.4 para. 21(9).
281(1),(2)	1971 c.78 s.239(1).
(3)	1971 c.78 s.239(2).
(4)	1971 c.78 s.239(3).
282	1971 c.78 s.240.
283	1971 c.78 s.241.
284(1)	1971 c.78 s.242(1); 1985 c.51 Sch.1 para. 16(3); 1986 c.63 Sch.6 Pt.II para. 4.
(2)	1971 c.78 s.242(2); 1981 c.36 Sch.1 para. 8
(3)	1971 c.78 s.242(3); 1982 c.30 Sch.6 para. 7(b).
(4)	1971 c.78 s.242(4).
285(1)	1971 c.78 s.243(1); 1981 c.41 Sch.para. 18(1).
(2)	1971 c.78 s.243(2); 1981 c.41 Sch.para. 18(2).
(3)	1971 c.78 s.243(3).
(4)	1971 c.78 s.243(4).
(5),(6)	1971 c.78 s.243(5).
286(1)	1972 c.70 Sch.16 paras.51(1),54(6).
(2)	1972 c.70 Sch.16 para. 51(2); 1981 c.41 Sch.para. 28(d)
287(1)	1971 c.78 s.244(1),(6); 1985 c.51 Sch.1 para. 16(4).
(2)	1971 c.78 s.244(2).

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(3)	1971 c.78 s.244(3) to (7); 1986 c.63 Sch.6 Pt.II para. 5.
(4)	1971 c.78 s.244(1) (part).
(5)	1971 c.78 s.244(1),(3) to (7); 1986 c.63 Sch.6 Pt.II para. 5; R 25(a).
(6)	1971 c.78 s.244(7)(a); 1986 c.63 Sch.6 Pt.II para. 5.
288(1)	1971 c.78 s.245(1).
(2)	1971 c.78 s.245(2).
(3)	1971 c.78 s.245(1)(2); R 25(b).
(4)	1971 c.78 s.245(3)
(5),(6)	1971 c.78 s.245(4).
(7)	1971 c.78 s.245(5).
(8)	1971 c.78 s.245(6).
(9)	1971 c.78 s.245(7).
(10)	1971 c.78 s.245(7); 1972 c.70 Sch.16 para. 46; R 26.
289(1)	1971 c.78 s.246(1); 1981 c.41 Sch. para. 19.
(2)	1971 c.78 s.246(1A); 1981 c.41 Sch. para. 19.
(3)	1971 c.78 s.246(2).
(4)	1971 c.78 s.246(2); 1981 c.54 Sch.5.
(5)	1971 c.78 s.246(3).
(6)	1971 c.78 s.246(4); 1977 c.38 Sch.5 Pt.IV.
(7)	1971 c.78 s.246(5).
290	1971 c.78 s.247; R 8(b).
291	1971 c.78 s.248.
292	1971 c.78 s.249.
293(1) to (3)	1971 c.78 ss.266(7), 268(4); 1984 c.10 s.6(1), (2)
(4)	1984 c.10 s.4(1).
294(1)	1971 c.78 s.266(3); 1981 c.41 Sch. para 20(b).
(2)	1984 c.10 s.3(1).
(3)	1984 c.10 s.3(2).
(4)	1984 c.10 s.3(3).

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(5)	1984 c.10 s.3(4).
(6), (7)	1984 c.10 s.3(5).
295(1), (2)	1984 c.10 s.3(6).
(3), (4)	1984 c.10 s.3(7).
(5),(6)	1984 c.10 s.3(8).
296(1)	1971 c.78 s.266(1); 1985 c.51 Sch.1 para. 16(6).
(2)	1971 c.78 s.266(2); 1981 c.36 Sch.1 para. 9; 1981 c.41 Sch. para. 20(a).
(3), (4)	1971 c.78 s.266(5).
(5)	1971 c.78 s.266(6).
297(1), (2)	1971 c.78 s.267(1).
(3)	1971 c.78 s.267(2).
(4)	1971 c.78 s.267(3).
298	1971 c.78 s.268.
299(1) to (5)	1984 c.10 s.1(1) to (5).
(6)	1984 c.10 s.1(7).
(7)	1984 c.10 s.1(6)(part).
300(1)	1984 c.10 s.2(1).
(2)	1984 c.10. s.2(2).
(3), (4)	1984 c.10 s.2(3).
(5)	1984 c.10 s.2(4).
(6), (7)	1984 c.10 s.2(5).
301(1) to (4)	1984 c.10 s.5(1) to (4).
(5)	1984 c.10 s.5(6).
302(1), (2)	1946 c.35 ss.1(2), 7(6).
(3)	1946 c.35 s.2(1) to (3).
(4)	1946 c.35 s.4(1).
(5)	Drafting
(6)	1946 c.35 ss.1(2), (3), (5), 2(1), 4(1), 7(1), (6); 1989 c.43 Sch 2 para. 11.
(7)	1946 c.35 s.7(3).
(8)	1946 c.35 s.7(6).
303 (1)	1980 c.65 s.87(1).
(2)	1980 c.65 s.87(2)(a).
(3)	1980 c.65 s.87(3).

(4)	1980 c.65 s.87(4).
(5)	1980 c.65 s.87(6).
304	1971 c.78 s.253.
305	1971 c.78 s.254.
306(1)	1971 c.78 s.255(1); 1980 c.66 Sch.24 para. 20(g)
(2)	1971 c.78 s.255(2); 1985 c.51 Sch.1 para. 16(5); R 27(a) and (b).
(3)	1971 c.78 s.255(3).
(4)	1971 c.78 s.255(4).
(5)	1971 c.78 s.255(5).
307	1971 c.78 s.256; 1972 c.70 s. 179(3), Sch.30; 1980 c.65 Sch.15 para. 22.
308(1),(2)	1971 c.78 s.257(1),(2).
(3) to (6)	1971 c.78 s.257(3) to (6).
309(1) to (5)	1971 c.78 s.258(1) to (5).
(6),(7)	1971 c.78 s.258(6).
310	1971 c.78 s.259.
311	1971 c.78 s.260.
312(1)	1971 c.78 s.261(1).
(2)	1971 c.78 s.261(4).
313	1971 c.78 s.262; 1980 c.65 s.87(7).
314	1971 c.78 s.263(1); 1972 c. 70 Sch. 29 Pt. I para 3(b).
315(1)	1971 c.78 s.264(1).
(2)	1971 c.78 s.264(2)
(3)	1971 c.78 s.264(1) to (3).
(4)	1971 c.78 s.264(4); 1987 c.3 Sch.1 para. 19.
(5)	1971 c.78 s.264(4).
316(1)	1971 c.78 s.270(1).
(2)	1971 c.78 s.270(2); 1981 c.41 Sch. para. 21.
(3)	1971 c.78 s.270 (3).
(4)	1971 c.78 s.272.
(5)	1980 c.65 s.149(5); 1988 c.50 s.67(5).

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317(1), (2)	1971 c.78 s.273(1); 1974 S.I./692 art.2(1), 5(3), Sch.1 Pt.I; 1987 c.3 s.1, Sch.1 para. 19.
(3)	1971 c.78 s.273(2).
318(1)	1971 c.78 s.274(1); 1981 c.41 Sch. para. 23; 1981 c.67 Sch.4 para. 1.
(2)	1971 c.78 s.274(2).
(3)	1971 c.78 s.274(3).
(4)	1971 c.78 s.274(4).
(5)	1971 c.78 s.274(4).
(6)	1971 c.78 s.274(5).
319(1)	1971 c.78 s.269(1), (3); 1980 c.65 Sch.15 para. 23(1); 1981 c.36 s.18; 1984 c.10 s.6(3).
(2)	1971 c.78 s.269(2); 1972 c.70 s. 179(3); 1982 c.30 s.36(b).
(3)	1971 c.78 s.269(3); 1972 c.70 s. 179(3).
(4)	1971 c.78 s.269(1), (3).
(5)	1971 c.78 s.269(4).
320(1)	1971 c.78 s.282(1).
(2)	1971 c.78 s.282(2); 1986 c.63 Sch.11 para. 8(1).
321(1)	1982 c.21 s.1(5).
(2)	1982 c.21 s.1(1).
(3)	1982 c.21 s.1(2),(3).
(4)	1982 c.21 s.1(4).
322	1971 c.78 s.282A; 1986 c.63 Sch.11 para. 9(1).
323	1971 c.78 s.282B; 1986 c.63 Sch.11 para. 10.
324(1)	1971 c.78 s.280(1); 1981 c.41 Sch.para. 25; 1985 c.51 Sch.1 para. 16(7).
(2)	1971 c.78 s.280(4).
(3)	1971 c.78 s.280(4A); 1982 c.30 s.36(c).
(4)	1971 c.78 s.280(5).
(5)	1971 c.78 s.280(6).
(6)	1971 c.78 s.280(7).
(7)	1971 c.78 s.280(8).

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(8)	1971 c.78 s.280(9).
(9)	1971 c.78 s.280(10); 1985 c.51 Sch.2 para. 1(16).
325(1)	1971 c.78 s.281(1)
(2)	1971 c.78 s.281(2); 1982 c.48 s.46.
(3) to (5)	1971 c.78 s.281(3).
(6)	1971 c.78 s.281(4).
(7)	1971 c.78 s.281(5).
(8)	1971 c.78 s.281(6)(a).
(9)	1971 c.78 s.281(6)(b).
326(1)	1971 c.78 s.278(1).
(2)	1971 c.78 s.278(2).
(3)	1971 c.78 s.278(4).
(4)	1971 c.78 s.278(5).
327(1)	1971 c.78 s.279(1).
(2)	1971 c.78 s.279(2)(a).
(3)	1971 c.78 s.279(2)(b).
(4)	1971 c.78 s.279(3).
(5)	1971 c.78 ss.279(4); 258(5).
328(1)	1971 c.78 s.275(1).
(2)	1971 c.78 s.275(1).
329	1971 c.78 s.283.
330(1)	1971 c.78 s.284(1); 1977 c.29 s.3(1), (2); 1981 c.41 Sch. para. 26.
(2)	1971 c.78 s.284(1A); 1977 c.29 s.3(1), (3).
(3)	1971 c.78 s.284(1)(part); 1977 c.29 s.3(1),(2); 1981 c.41 Sch. para. 26.
(4)	1971 c.78 s.284(2); 1977 c.29 s.3(4); 1982 c.48 ss.38, 46.
(5)	1971 c.78 s.284(3); 1977 c.29 s.3(5); 1982 c.48 s.74.
331	1971 c.78 s.285.
332	1971 c.78 s.286.
333(1)	1971 c.78 s.287(1).
(2), (3)	1971 c.78 s.287(2).

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(4)	1971 c.78 s.287(4); 1985 c.51 s.103(1); 1986 c.63 Sch.6 Pt.II para. 6(a), Sch.9 para. 5(2)(a), Sch.12 Pt.III.
(5)	1971 c.78 s.287(5); 1985 c.51 s.103(2); 1986 c.63 Sch.6 Pt.II para. 6(b), Sch.9 para. 5(2)(b), Sch.12 Pt.III.
(6)	1971 c.78 s.287(6).
(7)	1971 c.78 s.287(3).
334	1971 c.78 s.288.
335	1971 c.78 s.289.
336(1)	1971 c.78 ss. 264(1A), 290(1); 1972 c.70 s. 179(3), Sch.30; 1977 S.I./293 art.4(4); 1980 c.65 Sch.32 para. 18(5); 1980 c.66 Sch.24 para. 20(h); 1981 c.36 s.1(2), Sch.1 para. 11; 1985 c.51 Sch.1 para. 16(8), Sch.17; 1986 c.63 Sch.6 Pt.II para. 7, Sch.7 Pt.I para. 7, Sch.12 Pt.III; 1988 c.4 Sch.3 para. 25; 1989 c.15 Sch.25 paras.1(11)(ii), 42(3); 1990 SI/776 Sch.3 para. 15; R 28.
(2), (3)	1971 c.78 s.290(2).
(4)	1971 c.78 s.290(3).
(5)	1971 c.78 s.290(4).
(6)	1971 c.78 s.290(5)(part).
(7)	1971 c.78 s.290(6); 1989 c. 34 s.2.
(8)	1971 c.78 s.290(7).
(9)	1971 c.78 s.290(8).
(10)	1971 c.78 ss.40(4) 181(5), 182(5), 280(10)(c), 284(4); 1988 c.4 Sch.3 paras. 11,19,20,23,24,25.
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Sch. 1 para. 1	1972 c.70 Sch. 16 paras. 32, 32A; 1980 c.65 s.86(4), Sch. 34 Pt X; 1981 c.36 s.2(1), Sch para 12.
para. 2	1972 c.70 s.183(1).
para. 3	1972 c.70 Sch. 16 para. 15; 1980 c.65 s.86(1), Sch. 34 Pt X.
para. 4	1972 c.70 Sch. 16 para. 16.
para. 5(1)	1972 c.70 Sch. 16 para. 17; 1980 c.66 Sch. 24 para. 22; 1986 c.63 Sch. 11 para. 2(2).
(2),(3)	1980 c.65 s.150.

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para. 6	1972 c.70 Sch. 16 para. 18.
para. 7	1972 c.70 Sch. 16 para. 19; 1980 c.65 s.86(2),(3); 1986 c.63 Sch. 11 para. 23(3); R 29.
para. 8	1972 c.70 Sch. 16 para. 20; 1986 SI/452.
para. 9(1)	1971 c.78 s.24A(6); 1986 c.63 s.25(1).
(2)	1971 c.78 Sch.8A para. 5(6); 1986 c.63 s.25(2).
(3)	1971 c.78 Sch.8A para. 6(6); 1986 c.63 s.25(2).
para. 10	1972 c.70 Sch. 16 para. 23.
para. 11	1972 c.70 Sch. 16 para. 24; 1981 c.36 s.2(4)(c); 1981 c.41 Sch. para. 28(a).
para. 12	1972 c.70 Sch. 16 para. 29; 1978 c.30 s.17(2)(a); 1981 c.41 Sch. para. 28(b).
para. 13	1971 c.78 s.60(1A); 1972 c.70 Sch. 16 para. 27; 1980 c.65 Sch.15 para 13; R 2.
para. 14	1971 c.78 ss.61A(3),(7), 65(4), 109A; 1972 c.70 Sch. 16 para. 25 (part); 1980 c.65 Sch. 34 Pt X; 1986 c.63 s.46.
para. 15	1972 c.70 Sch. 16 para. 26.
para. 16	1972 c.70 Sch. 16 paras. 34, 38.
para. 17	1972 c.70 Sch. 16 para. 35.
para. 18	1972 c.70 Sch. 16 para. 36.
para. 19	1972 c.70 Sch. 16 para. 54(1) to (5); 1985 c.51 s.3(5), Sch. 3 para. 4.
para. 20	1972 c.70 Sch. 16 paras. 45,47 (part); 1971 c.78 s.52(4).
para. 21	1972 c.70 Sch. 16 para. 52.
Sch. 2 Pt.I para. 1	1985 c.51 Sch. 1 para. 18 (part), drafting.
para. 2	1985 c.51 Sch. 1 para. 19; 1971 c.78 Sch. 4 para. 5.
para. 3(1)	1971 c.78 Sch.23 Pt.I; 1985 c.51 Sch. 1 para. 20(1), (2); 1986 c.63 Sch. 11 para. 27(1), (2).
(2)	1985 c.51 Sch. 1 para. 20(2A); 1986 c.63 Sch. 11 para. 27(1), (3).
(3)	1985 c.51 Sch. 1 para. 20(3A); 1986 c.63 Sch. 11 para. 27(1), (4) (part).

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(4)	1985 c.51 Sch. 1 para. 20(4).
(5)	R 30.
para. 4(1),(2)	1985 c.51 Sch. 1 para. 21(1)
(3)	1985 c.51 Sch. 1 para. 21(2)
para. 5	1985 c.51 Sch. 1 para. 22
para. 6	1985 c.51 Sch. 1 para. 23(3)
Sch. 2 Pt. II, para. 1	1971 c.78 Sch.4 para. 5(1); 1985 c.51 Sch. 1 para. 18.
para. 2	1985 c.51 Sch. 1 para. 19
para. 3(1)	1971 c. 78 Sch. 4 para. 7, Sch. 23 Pt.I; 1985 c.51 Sch. 1 para. 20(1), (2); 1986 c.63 Sch. 11 para. 27(1), (2)
(2)	1971 c.78 Sch. 4 para. 2; 1972 c.42 Sch. 1; 1985 c.51 Sch.1 para. 20(2).
(3)	1971 c.78 Sch. 4 para. 5(1); 1985 c.51 Sch. 1 para. 20, drafting.
(4)	1981 c.51 Sch. 1 para. 20(4).
(5)	R 30.
para. 4(1)	1971 c.78 Sch. 4 para. 8(3); 1972 c.42 Sch. 1
(2)	1971 c.78 Sch. 4 para. 8(5); 1972 c.42 Sch. 1
para. 5(1)	1971 c.78 Sch. 4 paras. 5(3), 8(1); 1972 c.42 Sch. 1
(2)	1971 c.78 Sch. 4 para. 9(1)(b); 1972 c.42 Sch. 1
(3)	1971 c.78 Sch. 4 para. 9(3); 1972 c.42 Sch. 1
para. 6	1971 c.78 Sch. 4 para. 10; 1972 c.42 Sch. 1
para. 7(1)	1971 c.78 Sch. 4 para. 11(1); 1972 c.42 Sch. 1; 1972 c.70 Sch. 30
(2)	1971 c.78 Sch. 4 para. 11(2); 1972 c.42 Sch. 1; 1980 c.65 Sch. 14 para. 13(1)
(3)	1971 c.78 Sch. 4 para. 11(3); 1972 c.42 Sch. 1; 1980 c.65 Sch. 14 para. 13(1)
(4),(5)	1971 c.78 Sch. 4 para. 11(4),(5); 1972 c.42 Sch. 1
para. 8(1)	1971 c.78 Sch. 4 para. 12(1); 1972 c.42 Sch. 1

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(2)	1971 c.78 Sch. 4 para. 12(2)(part); 1972 c.42 Sch. 1; 1980 c.65 Sch. 14 para. 13(1)
(3)	1971 c.78 Sch. 4 para. 12(3); 1972 c.42 Sch. 1; 1980 c.65 Sch. 14 para. 13(1)
para. 9(1)	1971 c.78 s.13(1); 1972 c.70 s.272(2)
(2)	1971 c.78 s.13(2)
(3)	1971 c.78 s.13(3); 1980 c.65 Sch. 14 para. 9
para. 10	1971 c.78 s.14 Sch.4 para. 14; 1980 c.65 Sch. 14 para. 10.
para. 11(1)	1971 c.78 Sch. 4 para. 14(2); 1972 c.42 Sch. 1; 1972 c.70 Sch. 30
(2)	1971 c.78 Sch. 4 para. 14(3); 1972 c.42 Sch. 1
para. 12(1),(2)	1971 c.78 s.15(1),(2)
(3)	1985 c.51 Sch. 1 para. 20(3); 1986 c.63 Sch. 11 para. 27(4)
(4)	1971 c.78 s.15(3), Sch. 4 para. 16(1); 1972 c.42 s.3(3), Sch. 1; 1972 c.70 Sch. 30.
para. 13(1)	1972 c.70 Sch. 16 para. 10(1); 1986 c.63 Sch. 12 Pt. III
(2)	1972 c.70 Sch. 16 para. 10(2) (as it applies in London); 1986 c.63 Sch. 12 Pt. III
(3)	1972 c.70 Sch. 16 para. 14(3)
(4),(5)	1972 c.70 Sch. 16 para. 14(5),(6)
para. 14	1972 c.70 Sch. 16 para. 11(1) (as it applies in London).
para. 15	1972 c.70 Sch. 16 para. 12; 1986 c.63 Sch. 12 Pt. III
para. 16	1972 c.70 Sch. 16 para. 13; R 6.
para. 17(1),(2)	1985 c.51 Sch. 1 para. 21(1)
(3)	1985 c.51 Sch. 1 para. 21(2)
para. 18	1985 c.51 Sch. 1 para. 22
Sch. 2 Pt. III, para. 1	Drafting
para. 2	1971 c.78 Sch. 7 para. 2; 1980 c.66 Sch. 24 para. 20(j)
para. 3	1971 c.78 Sch. 4 para 5, Sch. 7 para. 3; 1980 c.65 Sch. 14 para. 14

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para. 4	1971 c.78 Sch. 7 para. 4.
para. 5	1971 c.78 Sch. 7 para. 5
para. 6	1971 c.78 Sch. 7 para. 5A; 1980 c.65 Sch. 14 para. 15(1)
para. 7	1971 c.78 Sch. 7 para. 5B; 1980 c.65 Sch. 14 para. 15(1)
para. 8	1971 c.78 Sch. 7 para. 5C; 1980 c.65 Sch. 14 para. 15(1)
para. 9	1971 c.78 Sch. 7 para. 6
para. 10	1971 c.78 Sch. 7 para. 7; 1980 c.65 Sch. 14 para. 15(2); 1985 c.51 Sch. 17
Sch. 3 para. 1	1971 c.78 Sch. 8 para. 1 (part)
para. 2	1971 c.78 Sch. 8 para. 2.
para. 3	1971 c.78 Sch. 8 para. 3 (part)
para. 4 to 8	1971 c.78 Sch. 8 paras. 4 to 8.
para. 9	1971 c.78 Sch. 8 para. 10.
para. 10(1)	1971 c.78 Sch. 8 para. 9.
(2)	1971 c.78 Sch. 8 paras. 1 (part), 3 (part).
paras. 11 to 13	1971 c.78 Sch. 8 paras. 11 to 13.
para. 14(1)	1971 c.78 s.180(3).
(2)	1971 c.78 s.278(2), (3).
Sch. 4 paras. 1 to 3	1971 c.78 s.23(2) to (4).
para. 4	1971 c.78 s.23(7).
Sch. 5 para. 1	1971 c.78 s.44A; 1981 c.36 s.7; 1982 SI/86.
para. 2	1971 c.78 s.30A(1) to (8), (19) (part); 1981 c.36 s.5.
para. 3	1971 c.78 s.30A(9) to (12), (19); 1981 c.36 s.5.
para. 4	1971 c.78 s.30A(13) to (16), (19); 1981 c.36 s.5.
para. 5	1971 c.78 s.30A(17); 1981 c.36 s.5.
para. 6	1971 c.78 s.30A(18); 1981 c.36 s.5.
para. 7	1971 c.78 s.45(6); 1981 c.36 s.8.
para. 8	1971 c.78 s.45(7); 1981 c.36 s.8.
Sch. 6 para. 1	1971 c.78 Sch. 9 para. 1.

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para. 2	1971 c.78 Sch. 9 para. 2; 1981 c.41 Sch. para. 27.
para. 3	1971 c.78 Sch. 9 para. 3.
para. 4	1971 c.78 Sch. 9 para. 3A; 1986 c.63 Sch. 11 para. 11.
para. 5	1971 c.78 Sch. 9 para. 4.
para. 6	1971 c.78 Sch. 9 para. 5; 1972 c.70 s.272(2); 1986 c.63 Sch. 11 paras. 8(2), 9(2), 12.
para. 7	1971 c.78 Sch.9 para. 6.
para. 8	1971 c.78 Sch. 9 para. 7.
Sch. 7 para. 1	1971 c.78 Sch.8A para. 1; 1986 c.63 s.25(2).
para. 2	1971 c.78 Sch.8A para. 2(2); 1986 c.63 s.25(2).
para. 3,4	1971 c.78 Sch.8A paras. 3,4; 1986 c.63 s.25(2).
para. 5	1971 c.78 Sch.8A para. 5(1) to (5); 1986 c.63 s.25(2).
para. 6	1971 c.78 Sch.8A para. 6(1) to (5); 1986 c.63 s.25(2).
paras. 7 to 12	1971 c.78 Sch.8A paras. 7 to 12; 1986 c.63 s.25(2).
para. 13(1),(2)	1971 c.78 Sch.8A para. 13(1),(2); 1986 c.63 s.25(2); R 31.
(3)	1971 c.78 Sch.8A para. 13(3); 1978 c.30 Sch.1; 1986 c.63 s.25(2).
(4)	1971 c.78 Sch.8A para. 13(4); 1986 c.63 s.25(2).
Sch. 8 para. 1	1971 c.78 s.47(2) to (4),(6).
para. 2	1971 c.78 s.48(3) to (5).
para. 3.	1971 c.78 s.48(6),(7).
para. 4.	1971 c.78 s.49(1),(2),(7).
para. 5	1971 c.78 s.49(3) to (6); 1972 c.70 s.272(2).
para. 6.	1971 c.78 Sch.10 para. 1.
para. 7.	1971 c.78 Sch.10 para. 2.
Sch. 9 para. 1	1971 c.78 s.51(1) to (1C),(2) to (9); 1981 c.36 s.9.

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para. 2	1971 c.78 s.51(1D) to (1H); 1981 c.36 s.9.
para. 3	1971 c.78 s.51A(1) to (7); 1981 c.36 s.10.
para. 4	1971 c.78 s.51A(8) to (11); 1981 c.36 s.10.
para. 5	1971 c.78 s.51B(1) to (4); 1981 c.36 s.10.
para. 6	1971 c.78 s.51B(5); 1981 c.36 s.10.
para. 7	1971 c.78 s.51C; 1981 c.36 s.10.
para. 8	1971 c.78 s.51D; 1981 c.36 s.10.
para. 9	1971 c.78 s.51E; 1981 c.36 s.10.
para. 10	1971 c.78 s.51F; 1981 c.36 s.10.
para. 11	1971 c.78 s.276(1) to (4); 1974 c.7 Sch. 6 para. 25(12), Sch. 8; 1981 c.36 Sch. 1 para. 10; R 9.
Sch. 10	1971 c.78 Sch. 18.
Sch. 11 para. 1	1971 c.78 s.178A; 1981 c.36 s.16; 1981 c.36 Sch. 1 paras. 4 to 6.
para. 2	1971 c.78 s.164A(1); 1981 c.36 s.13.
para. 3	1971 c.78 s.170B(1); 1981 c.36 s.15.
para. 4	1971 c.78 s.164A(2)(b) to (4); 1981 c.36 s.13; 1982 SI/86.
para. 5	1971 c.78 s.170B(2); 1981 c.36 s.15.
para. 6	1971 c.78 s.170B(3); 1981 c.36 s.15.
para. 7	1971 c.78 s.170B(4); 1981 c.36 s.15.
para. 8	1971 c.78 s.170B(5); 1981 c.36 s.15.
para. 9	1971 c.78 s.170B(6); 1981 c.36 s.15.
para. 10	1971 c.78 s.178C(1),(2); 1981 c.36 s.16.
para. 11	1971 c.78 s.178C(3); 1981 c.36 s.16.
para. 12	1971 c.78 s.178B; 1981 c.36 s.16.
para. 13	1971 c.78 s.179(1) (part); 1981 c.36 s.17.
Sch. 12 para. 1	1971 c.78 s.135.
para. 2	1971 c.78 s.136.
para. 3	1971 c.78 s.137.
para. 4	1971 c.78 s.138, Sch. 15 para. 29 (part).

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para. 5	1971 c.78 Sch. 15 paras. 2 to 5.
para. 6	1971 c.78 Sch. 15 para. 1.
para. 7	1971 c.78 Sch. 15 paras. 6 to 10.
para. 8	1971 c.78 Sch. 15 paras. 11 to 16.
para. 9	1971 c.78 Sch. 15 paras. 17 to 22.
para. 10	1971 c.78 Sch. 15 paras. 23 to 25.
para. 11	1971 c.78 Sch. 15 paras. 26 to 28, 29 (part).
para. 12	1971 c.78 s.139.
para. 13	1971 c.78 ss.140, 161.
para. 14	1971 c.78 s.141.
para. 15	1971 c.78 Sch. 16.
para. 16	1971 c.78 s.142.
para. 17	1971 c.78 Sch. 17.
para. 18	1971 c.78 s.143.
para. 19	1971 c.78 s.144.
para. 20	1971 c.78 s.145.
Sch. 13 para. 1	1971 c.78 s.192(1)(a); 1984 c.12 Sch.4 para. 53(6); 1987 c.3 Sch.1 para. 19.
Notes (1)	1973 c.26 s.68(1); R 32(a).
(2)	1973 c.26 s.68(4); R 32(a).
(3)	1973 c.26 s.68(5) (part).
(4)	1973 c.26 s.68(7) (part).
(5)	1971 c.78 s.192(2).
(6)	1973 c.26 s.71(2).
(7)	1971 c.78 Sch. 4 para. 5; 1973 c.26 s.68(8); 1985 c.51, Sch. 1 para. 20(2).
para. 2	1971 c.78 s.192(1)(b).
Notes (1)	1973 c.26 s.68(2), (9); R 32(b).
(2)	1973 c.26 s.68(4) (part); R 32(b).
(3)	1973 c.26 s.68(5) (part)(9).
(4)	1973 c.26 s.68(7) (part).
(5)	1973 c.26 s.68(8).
para. 3	1971 c.78 s.192(1)(bb); 1985 c.51 Sch.1 para. 16(1).
Notes (1)	1985 c.51 Sch.1 para. 17(1) (part); R 32(c).

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(2)	1985 c.51 Sch.1 para. 17(2) (part).
(3)	1985 c.51 Sch.1 para. 17(3) (part).
(4)	1985 c.51 Sch.1 para. 17(5) (part).
para. 4	1971 c.78 s.192(1)(bc); 1985 c.51 Sch.1 para. 16(1).
Notes (1)	1985 c.51 Sch.1 para. 17(1) (part); R 32(c).
(2)	1985 c.51 Sch.1 para. 17(2) (part).
(3)	1985 c.51 Sch.1 para. 17(3) (part).
(4)	1985 c.51 Sch.1 para. 17(5) (part).
para. 5	1973 c.26 s.71(1)(a).
para. 6	1973 c.26 s.71(1)(b).
para. 7	1973 c.26 s.72(1)(a); 1981 c.64 Sch.12 para. 11.
Note	1973 c.26 s.72(2).
para. 8	1973 c.26 s.72(1)(b); 1981 c.64 Sch.12 para. 11.
para. 9	1980 c.65 s.147(1).
Note	1980 c.65 s.147(2).
para. 10	1973 c.26 s.73(1)(a); 1985 c.71 Sch.2 para. 24(8).
para. 11	1973 c.26 s.73(1)(b); 1985 c.71 Sch.2 para. 24(8).
para. 12	1971 c.78 s.192(1)(ha); 1989 c.42 Sch.11 para. 20.
para. 13	1971 c.78 s.192(1)(c).
para. 14	1971 c.78 s.192(1)(d); 1980 c.66 Sch.24 para. 20.
Notes (1)	1973 c.26 s.69(1)(a); 1980 c.66 Sch.24 para. 23.
(2)	1973 c.26 s.69(2).
(3)	1973 c.26 s.74(1); 1980 c.66 Sch.24 para. 23.
para. 15	1971 c.78 s.192(1)(e).
para. 16	1971 c.78 s.192(1)(f).
para. 17	1973 c.26 s.74(2)(a); 1980 c.66 Sch.24 para. 23.
para. 18	1973 c.26 s.74(2)(b).

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para. 19	1973 c.26 s.76(1); 1980 c.66 Sch.24 para. 23.
Note	1973 c.26 s.76(4).
para. 20	1971 c.78 s.192(1)(h); 1985 c.71 Sch.2 para. 22.
para. 21	1971 c.78 s.192(1)(i).
para. 22	1971 c.78 s.192(1)(g), (j); 1973 c.26 s.75(1),(2).
Notes (1)	1973 c.26 s.70(1); 1978 c.30 s.17(2)(a).
(2)	1973 c.26 s.70(2).
Sch. 14 para 1	1971 c.78 Sch.20 para 1; 1981 c.69 Sch.16 para. 1; 1985 c.51 Sch.14 para. 48.
para 2	1971 c.78 Sch.20 para. 2.
para 3	1971 c.78 Sch.20 para. 3.
para 4	1971 c.78 Sch.20 para. 3A; 1981 c.69 Sch.16 paras. 2,10.
para 5	1971 c.78 Sch.20 para. 4.
para 6	1971 c.78 Sch.20 para 5.
para 7	1971 c.78 Sch.20 para. 6; 1981 c.69 Sch.16 paras. 3, 10; R 33.
para 8	1971 c.78 Sch.20 para. 7, 1981 c.69 Sch.16 paras. 4,10.
Sch. 15 para. 1	Drafting
para 2	1946 c.35 s.2(4),(5).
para. 3	1946 c.35 s.2(6).
para. 4	1946 c.35 s.2(7) (part).
para. 5	1946 c.35 s.2(2),(3).
para. 6	1946 c.35 s.2(8) (part), (7) (part).
para. 7	1946 c.35 s.2(8) (part).
para. 8	1946 c.35 s.2(9) (part).
para. 9	1946 c.35 s.2(9) proviso.
para. 10	1946 c.35 s.2(10).
para. 11	1946 c.35 s.2(11).
para. 12	1946 c.35 s.2(12).
para. 13	1946 c.35 s.3(1),(7).
para. 14	1946 c.35 s.5.
para. 15	1946 c.35 s.6.

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para. 16	Drafting.
Sch. 16	1971 c.78 Sch. 21.
Sch. 17	1971 c.78 Sch. 22; 1980 c.66 Sch.24 para. 20(k),(l),(m); 1985 c.51 Sch.4 para. 50.

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Changes and effects yet to be applied to :

- Pt. 3 applied by S.I. 2011/41 art. 47(1)
- Pt. 3 modified by S.I. 2011/1072 art. 36(2)
- s. 97 cross-heading words inserted by 2016 c. 22 Sch. 12 para. 24
- s. 97 heading words inserted by 2016 c. 22 Sch. 12 para. 25(2)
- s. 62 heading words inserted by 2016 c. 22 Sch. 12 para. 8(2)
- s. 65 heading words inserted by 2016 c. 22 Sch. 12 para. 9
- s. 106B heading words inserted by 2013 c. 27 Sch. 2 para. 5(2)
- Pt. 7 modified by S.I. 2011/2305 reg. 19(2)
- s. 188 heading words inserted by 2011 c. 20 s. 124(2)(e)
- Pt. 12 modified by S.I. 2011/1824 reg. 48(1) 59
- s. 298A heading word inserted by 2016 c. 22 Sch. 12 para. 35(2)
- s. 200 heading words inserted by S.I. 2013/755 Sch. 2 para. 199(4)
- s. 108 heading word inserted by 2016 c. 22 Sch. 12 para. 29(2)
- s. 108 heading words inserted by 2015 c. 7 Sch. 4 para. 15(2)
- s. 107 heading words inserted by 2016 c. 22 Sch. 12 para. 28(2)
- s. 323 heading word inserted by 2015 anaw 4 Sch. 5 para. 15(4)
- s. 1 excluded by S.I. 2015/1386 art. 44(1)
- s. 2(6B)(a) omitted by 2014 c. 2 Sch. 12 para. 25
- s. 2A(1)(a) words inserted by 2016 c. 22 Sch. 12 para. 2
- s. 2A(2) words inserted by 2013 c. 27 Sch. 1 para. 2(2)(a)
- s. 2B(8) omitted by 2013 c. 27 s. 28(2)
- s. 2C(1) words inserted by 2013 c. 27 Sch. 1 para. 2(2)(b)
- s. 3 repealed by 1999 c. 29 Sch. 34 Pt. 9
- s. 4A applied by S.I. 2015/770 art. 3
- s. 5(3) word substituted by 2013 c. 27 Sch. 2 para. 2
- s. 5(3) words inserted by 2011 c. 20 Sch. 9 para. 3(a)
- s. 5(3) words inserted by 2011 c. 20 Sch. 9 para. 3(b)
- s. 27 restricted by S.I. 2014/1873 Sch. 12 Pt. 1 para. 4(3)
- s. 55(2) excluded by SI 2012/801 art. 2A (as inserted) by S.I. 2015/1330 art. 4
- s. 56(3) words inserted by 2011 c. 20 Sch. 12 para. 2(a)
- s. 56(3) words substituted by 2011 c. 20 Sch. 12 para. 2(b)
- s. 56(5)(a) words substituted by 2015 c. 7 Sch. 4 para. 3
- s. 57(2) applied (with modifications) by S.I. 2013/648 art. 10(2)
- s. 57(2) applied (with modifications) by S.I. 2016/49 art. 8
- s. 57(3) words inserted by 2015 c. 7 Sch. 4 para. 4
- s. 57(3) words substituted by 2011 c. 20 Sch. 12 para. 3
- s. 58(1) words inserted by 2015 c. 7 Sch. 4 para. 5
- s. 58(1)(a) words substituted by 2011 c. 20 Sch. 12 para. 4
- s. 58(1)(b) words inserted by 2015 anaw 4 Sch. 4 para. 2(a)
- s. 58(1)(b) words inserted by 2015 anaw 4 Sch. 4 para. 2(b)
- s. 58(1)(b) words inserted by 2013 c. 27 Sch. 1 para. 3
- s. 59(2)(b) words inserted by 2015 anaw 4 Sch. 4 para. 3(a)
- s. 59(2)(b) words inserted by 2015 anaw 4 Sch. 4 para. 3(b)
- s. 59(2)(b) words inserted by 2013 c. 27 Sch. 1 para. 4
- s. 60(2) words inserted by 2016 c. 22 s. 152(2)
- s. 61B(1)-(7) excluded by 2013 c. 27 s. 5(2)
- s. 61B(1) words inserted by 2013 c. 27 s. 5(3)(a)

- s. 61B(6) words inserted by 2013 c. 27 s. 5(3)(b)
- s. 62(1) applied (with modifications) by S.I. 2016/54 art. 3(1)(a)
- s. 62(1) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(a)
- s. 62(1) words inserted by 2016 c. 22 Sch. 12 para. 8(2)
- s. 62(3) applied (with modifications) by S.I. 2016/54 art. 3(1)(b)
- s. 62(3) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(b)
- s. 65(1)(a) words inserted by 2016 c. 22 Sch. 12 para. 9
- s. 65(3) words inserted by 2016 c. 22 Sch. 12 para. 9
- s. 65(5) applied (with modifications) by S.I. 2016/54 art. 3(1)(c)
- s. 65(5) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(c)
- s. 65(5) words inserted by 2016 c. 22 Sch. 12 para. 9
- s. 65(8) words inserted by 2016 c. 22 Sch. 12 para. 9
- s. 69 applied (with modifications) by S.I. 2016/58 Sch. 7 para. 8(2)
- s. 69(1)(b) repealed by 2011 c. 20 Sch. 25 Pt. 18
- s. 69(2)(b) words inserted by 2011 c. 20 Sch. 12 para. 7(3)
- s. 69(2)(b) words inserted by 2015 c. 7 Sch. 4 para. 8(3)
- s. 70(1)(2) applied (with modifications) by S.I. 2016/54 art. 3(1)(d)(e)
- s. 70(1) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(d)
- s. 70(1)(a) words inserted by 2015 anaw 4 Sch. 4 para. 5
- s. 70(2) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(e)
- s. 70(2) words substituted by 2011 c. 20 s. 143(2)
- s. 70(2) words substituted by 2016 c. 22 Sch. 12 para. 11(2)
- s. 70(3) substituted by 2016 c. 22 s. 5(8)
- s. 70A(1)(2) applied (with modifications) by S.I. 2016/54 art. 3(1)(f)(g)
- s. 70A(1) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(f)
- s. 70A(1)(a) words substituted by 2015 anaw 4 Sch. 4 para. 6
- s. 70A(2) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(g)
- s. 70A(2) words inserted by 2013 c. 27 Sch. 1 para. 6
- s. 70A(5) words inserted by 2013 c. 27 s. 4(2)
- s. 70A(5)(b) words substituted by 2016 c. 22 s. 152(4)
- s. 70A(8) words substituted by 2016 c. 22 Sch. 12 para. 12(3)
- s. 70B(1) words inserted by 2016 c. 22 Sch. 12 para. 13(2)
- s. 70B(3) word inserted by 2013 c. 27 Sch. 1 para. 7
- s. 70B(4A) words inserted by 2016 c. 22 Sch. 12 para. 13(2)
- s. 70B(5) words omitted by 2016 c. 22 Sch. 12 para. 13(3)
- s. 71(1)(2) applied (with modifications) by S.I. 2016/54 art. 3(1)(h)(i)
- s. 71(1) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(h)
- s. 71(1) words inserted by 2016 c. 22 Sch. 12 para. 15
- s. 71(2) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(i)
- s. 71(4) words inserted by 2013 anaw 6 Sch. 4 para. 6(2) (This amendment is to be treated as not having effect until 1.10.2014 by virtue of S.I. 2014/11, art. 3(2))
- s. 71A(1) words inserted by 2016 c. 22 Sch. 12 para. 16
- s. 72 applied by S.I. 2014/1599 art. 35(1)
- s. 72(1) applied (with modifications) by S.I. 2016/54 art. 3(1)(j)
- s. 72(1) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(j)
- s. 73 applied by S.I. 2012/1914 art. 18(4)-(6)
- s. 73(2) applied (with modifications) by S.I. 2016/54 art. 3(1)(k)
- s. 73(2) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(k)
- s. 73(5) words inserted by 2015 anaw 4 s. 35(7)
- s. 73A applied by S.I. 2012/1914 art. 18(4)-(6)
- s. 73A(1) applied (with modifications) by S.I. 2016/54 art. 3(1)(l)
- s. 73A(1) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(l)
- s. 74(1) words inserted by 2016 c. 22 Sch. 12 para. 17(2)(a)
- s. 74(1)(a) words inserted by 2016 c. 22 Sch. 12 para. 17(2)(b)
- s. 74(1)(b) words inserted by 2016 c. 22 Sch. 12 para. 17(2)(c)
- s. 74(1)(c) words inserted by 2016 c. 22 Sch. 12 para. 17(2)(b)
- s. 74(1)(d) words inserted by 2016 c. 22 Sch. 12 para. 17(2)(b)
- s. 74(1)(f) words inserted by 2016 c. 22 Sch. 12 para. 17(2)(b)

- s. 74(1B) words omitted by 2016 c. 22 s. 149(2)(c)
- s. 74(1B)(a) words inserted by 2016 c. 22 Sch. 12 para. 17(3)(a)
- s. 74(1B)(a) words substituted by 2016 c. 22 s. 149(2)(a)
- s. 74(1B)(c) words inserted by 2016 c. 22 Sch. 12 para. 17(3)(b)
- s. 74(1B)(c) words substituted by 2016 c. 22 s. 149(2)(b)
- s. 77(1) words inserted by 2015 c. 7 Sch. 4 para. 11(b)
- s. 77(1) words inserted by 2016 c. 22 Sch. 12 para. 20(2)
- s. 77(1) words substituted by 2011 c. 20 Sch. 12 para. 10
- s. 77(1) words substituted by 2015 c. 7 Sch. 4 para. 11(a)
- s. 77(4) words substituted by 2016 c. 22 Sch. 12 para. 20(3)(a)
- s. 77(4) words substituted by 2016 c. 22 Sch. 12 para. 20(3)(b)
- s. 77(6) substituted by 2008 c. 29 Sch. 10 para. 2
- s. 78 amendment to earlier affecting provision S.I. 2007/783, reg. 17, Sch. 4 by S.I. 2013/2114 reg. 3
- s. 78 applied by S.I. 2012/2284 art. 35(a)
- s. 78 79 applied by S.I. 2013/1203 art. 6(1)
- s. 78 79 applied by S.I. 2013/1752 art. 5(1)(a)
- s. 78 79 applied by S.I. 2013/1873 art. 4(a)
- s. 78 applied by S.I. 2013/586 art. 4(1)
- s. 78 applied by S.I. 2014/2441 art. 4(1)
- s. 78 applied by S.I. 2014/2637 art. 40(1)(a)
- s. 78 applied by S.I. 2014/2950 art. 9(1)(a)
- s. 78 applied by S.I. 2014/3331 art. 32(a)
- s. 78 79 applied by S.I. 2015/1317 art. 7(1)(a)
- s. 78 79 applied by S.I. 2015/1347 art. 45(4)(a)
- s. 78 79 applied by S.I. 2015/1386 art. 48(1)(a)
- s. 78 79 applied by S.I. 2015/1592 art. 6(1)(a)
- s. 78 applied by S.I. 2015/318 art. 6(1)(a)
- s. 78 79 applied by S.I. 2016/17 art. 8(1)(2)
- s. 78 79 applied by S.I. 2016/297 art. 11(2)(a)
- s. 78 79 applied by S.I. 2016/772 art. 9(1)
- s. 78 applied by S.I. 2016/844 art. 33
- s. 78 applied (in part) by S.I. 2012/2635 art. 7(1)(a)
- s. 78 applied (with modifications) by S.I. 2013/2808 art. 39(1)(a)
- s. 78 applied (with modifications) by S.I. 2013/680 art. 4(1)(a)
- s. 78 applied (with modifications) by S.I. 2014/1796 art. 8
- s. 78 applied (with modifications) by S.I. 2014/1873 art. 6(1)(a)
- s. 78 applied (with modifications) by S.I. 2014/2846 art. 4(1)(a)
- s. 78 applied (with modifications) by S.I. 2014/2935 art. 58(1)(a)
- s. 78 applied (with modifications) by S.I. 2016/166 art. 4(1)(a)
- s. 78 79 applied (with modifications) by S.I. 2016/73 art. 42(1)(a)
- s. 78 applied in part by S.I. 2014/909 art. 45(1)(a)
- s. 78 applied in part (with modifications) by S.I. 2013/2809 art. 37
- s. 78 modified by S.I. 2014/1599 art. 35(3)
- s. 78 79 modified by S.I. 2014/3328 art. 3(3)
- s. 78(1) applied (with modifications) by S.I. 2014/1599 art. 35(2)
- s. 78(1) applied (with modifications) by S.I. 2014/3328 art. 3(2)
- s. 78(1)(c) words inserted by 2015 c. 7 Sch. 4 para. 12
- s. 78(1)(c) words substituted by 2011 c. 20 Sch. 12 para. 11
- s. 78(2) words inserted by 2013 c. 27 Sch. 1 para. 8
- s. 78(2)(aa) words inserted by 2011 c. 20 s. 123(3)
- s. 78(4B)-(4D) omitted by 2015 anaw 4 Sch. 7 para. 7(2)
- s. 78(5) words substituted by S.I. 2014/2773 Sch. 1 para. 3
- s. 78A(1) words inserted by 2016 c. 22 Sch. 12 para. 22(2)
- s. 78A(4) words substituted by 2016 c. 22 Sch. 12 para. 22(3)
- s. 79 amendment to earlier affecting provision S.I. 2007/783, reg. 17, Sch. 4 by S.I. 2013/2114 reg. 3
- s. 79 applied by S.I. 2012/2284 art. 35(a)

- s. 79 applied by S.I. 2012/2635 art. 7(1)(a)
- s. 79 applied by S.I. 2013/586 art. 4(1)
- s. 79 applied by S.I. 2014/2441 art. 4(1)
- s. 79 applied by S.I. 2014/2637 art. 40(1)(a)
- s. 79 applied by S.I. 2014/2950 art. 9(1)(a)
- s. 79 applied by S.I. 2014/3331 art. 32(a)
- s. 79 applied by S.I. 2014/909 art. 45(1)(b)
- s. 79 applied by S.I. 2015/318 art. 6(1)(a)
- s. 79 applied by S.I. 2016/844 art. 33
- s. 79 applied (with modifications) by S.I. 2013/2808 art. 39(1)(a)
- s. 79 applied (with modifications) by S.I. 2013/2809 art. 37
- s. 79 applied (with modifications) by S.I. 2013/680 art. 4(1)(a)
- s. 79 applied (with modifications) by S.I. 2014/1796 art. 8
- s. 79 applied (with modifications) by S.I. 2014/1873 art. 6(1)(a)
- s. 79 applied (with modifications) by S.I. 2014/2846 art. 4(1)(a)
- s. 79 applied (with modifications) by S.I. 2014/2935 art. 58(1)(a)
- s. 79 applied (with modifications) by S.I. 2016/166 art. 4(1)(a)
- s. 79 modified by S.I. 2014/1599 art. 35(3)
- s. 79(4) words inserted by 2016 c. 22 Sch. 12 para. 23(2)(b)
- s. 79(4) words substituted by 2016 c. 22 Sch. 12 para. 23(2)(a)
- s. 79(4) words substituted by 2016 c. 22 Sch. 12 para. 23(2)(c)
- s. 82(2) excluded by S.I. 2012/2679 art. 38(1)
- s. 82(2) restricted by S.I. 2013/1752 art. 6(1)
- s. 82(2) restricted by S.I. 2015/2044 art. 34(1)
- s. 82(2) restricted by S.I. 2016/73 art. 35(1)
- s. 83(1) repealed by 2004 c. 5 s. 45(1) Sch. 9
- s. 83(1A)-(1C) amendment to earlier affecting provision 2004 c. 5, s. 45(2) by 2011 c. 20 Sch. 8 para. 14(4)(5) Sch. 25 Pt. 16
- s. 83(1A)-(1C) inserted by 2004 c. 5 s. 45(2)
- s. 83(2)-(2B) amendment to earlier affecting provision 2004 c. 5, s. 45(3) by 2011 c. 20 Sch. 8 para. 14(4)(5) Sch. 25 Pt. 16
- s. 83(2)-(2B) substituted for s. 83(2) by 2004 c. 5 s. 45(3)
- s. 83(4) inserted by 2004 c. 5 s. 45(4)
- s. 83(5) repealed by 2011 c. 20 Sch. 25 Pt. 16
- s. 85(1) words substituted by 2004 c. 5 s. 45(5)
- s. 85(1A) inserted by 2004 c. 5 s. 45(6)
- s. 88(9) words inserted by 2015 c. 7 Sch. 4 para. 13
- s. 88(9) words substituted by 2011 c. 20 Sch. 12 para. 12
- s. 90(2A) modified by S.I. 2013/1967 art. 32
- s. 90(2A) modified by S.I. 2014/2027 art. 29
- s. 90(3) words inserted by 2015 anaw 4 s. 33(3)
- s. 91(1)(a) words substituted by 2015 anaw 4 s. 35(2)
- s. 91(3) words inserted by 2015 anaw 4 s. 35(3)(a)
- s. 91(3) words substituted by 2015 anaw 4 s. 35(3)(b)
- s. 91(3A) words inserted by 2015 anaw 4 s. 35(5)
- s. 91(4)(a) words inserted by 2015 c. 7 Sch. 4 para. 14
- s. 91(4)(a) words substituted by 2011 c. 20 Sch. 12 para. 13
- s. 92(1) words inserted by 2015 anaw 4 Sch. 4 para. 10
- s. 92(3) words inserted by 2015 anaw 4 s. 36(3)
- s. 92(4) words omitted by 2015 anaw 4 s. 36(5)
- s. 92(5) words inserted by 2015 anaw 4 s. 36(6)
- s. 93(1)(a) words inserted by 2015 anaw 4 Sch. 4 para. 11
- s. 96A(1) words omitted by S.I. 2014/1770 art. 2(2)
- s. 96A(5) words inserted by S.I. 2014/1770 art. 2(3)
- s. 96A(8) words inserted by S.I. 2014/1770 art. 2(5)
- s. 97(1) words substituted by 2016 c. 22 Sch. 12 para. 25(3)
- s. 97(3)(a)(b) words substituted by 2016 c. 22 Sch. 12 para. 25(4)
- s. 97(4) words substituted by 2016 c. 22 Sch. 12 para. 25(5)

- s. 99(8)(a) words inserted by 2015 anaw 4 Sch. 4 para. 12
- s. 99(8)(a) words inserted by 2016 c. 22 Sch. 12 para. 26
- s. 106 applied by S.I. 2015/1386 art. 43(1)
- s. 106 applied by S.I. 2015/1386 art. 43(2)
- s. 106-106B repealed by 2004 c. 5 Sch. 6 para. 5 Sch. 9 (This amendment not applied to legislation.gov.uk. Sch. 6 para. 5 repealed (26.1.2009) by Planning Act 2008 (c. 29), ss. 225(1)(b), 241(6), Schs. 13 (with s. 226))
- s. 106(1) words substituted by 2013 c. 27 Sch. 2 para. 3(2)
- s. 106(1) words substituted by 2016 c. 22 s. 158(3)
- s. 106(3) excluded by S.I. 2015/1386 art. 44(1)
- s. 106(9)(d) excluded by S.I. 2015/1386 art. 44(1)
- s. 106(12) words substituted by 2013 c. 27 Sch. 2 para. 3(3)
- s. 106A(1) word inserted by 2013 c. 27 Sch. 2 para. 4(2)(a)
- s. 106A(1) words inserted by 2013 c. 27 Sch. 2 para. 4(2)(b)
- s. 106A(8) words inserted by 2013 c. 27 Sch. 2 para. 4(3)
- s. 106A(11) words repealed by 2011 c. 20 Sch. 13 para. 77(2)(b) Sch. 25 Pt. 20
- s. 106A(11)(aa) words repealed by 2011 c. 20 Sch. 13 para. 77(2)(a) Sch. 25 Pt. 20
- s. 106B(1) words repealed by 2011 c. 20 Sch. 13 para. 77(3) Sch. 25 Pt. 20
- s. 106B(1)(b) words inserted by 2013 c. 27 Sch. 2 para. 5(3)
- s. 106C words repealed by 2011 c. 20 Sch. 13 para. 77(4) Sch. 25 Pt. 20
- s. 106C(1) words inserted by 2013 c. 27 Sch. 2 para. 6(2)
- s. 106C(1)(b) words inserted by 2015 c. 2 s. 92(2)(a)(ii)
- s. 106C(1)(b) words substituted by 2015 c. 2 s. 92(2)(a)(i)
- s. 106C(2) words inserted by 2013 c. 27 Sch. 2 para. 6(4)
- s. 106C(2)(b) words inserted by 2015 c. 2 s. 92(2)(b)(ii)
- s. 106C(2)(b) words substituted by 2015 c. 2 s. 92(2)(b)(i)
- s. 107(1) words inserted by 2016 c. 22 Sch. 12 para. 28(3)(a)
- s. 107(1) words substituted by 2016 c. 22 Sch. 12 para. 28(3)(b)
- s. 107(2)(3) words substituted by 2016 c. 22 Sch. 12 para. 28(4)
- s. 107(4) words substituted by 2016 c. 22 Sch. 12 para. 28(5)(a)
- s. 107(4) words substituted by 2016 c. 22 Sch. 12 para. 28(5)(b)
- s. 108 title words substituted by 2011 c. 20 Sch. 12 para. 15(6)
- s. 108(1) words inserted by 2015 c. 7 Sch. 4 para. 15(3)(b)
- s. 108(1) words substituted by 2011 c. 20 Sch. 12 para. 15(2)(b)
- s. 108(1)(a) words inserted by 2015 c. 7 Sch. 4 para. 15(3)(a)
- s. 108(1)(a) words substituted by 2011 c. 20 Sch. 12 para. 15(2)(a)
- s. 108(2) word inserted by 2015 c. 7 Sch. 4 para. 15(5)(b)
- s. 108(2) words inserted by 2015 c. 7 Sch. 4 para. 15(5)(a)
- s. 108(2) words substituted by 2011 c. 20 Sch. 12 para. 15(3)
- s. 108(2A)(a) words omitted by S.I. 2012/210 art. 2(a)
- s. 108(2A)(b) words omitted by S.I. 2012/210 art. 2(b)
- s. 108(3) words inserted by 2016 c. 22 Sch. 12 para. 29(4)
- s. 108(3A) inserted by 2004 c. 5 Sch. 6 para. 6
- s. 108(3B)(a) words inserted by 2016 c. 22 Sch. 12 para. 29(5)
- s. 108(3C)(a) words inserted by 2016 c. 22 Sch. 12 para. 29(5)
- s. 108(3C)(a) words omitted by S.I. 2012/210 art. 2(c)
- s. 108(3C)(b) word substituted by 2016 c. 22 Sch. 12 para. 29(6)
- s. 108(3C)(d) words inserted by 2016 c. 22 Sch. 12 para. 29(7)
- s. 108(3D)(a) omitted by S.I. 2012/210 art. 2(d)
- s. 108(6) words inserted by S.I. 2012/210 art. 2(e)
- s. 109(6) words inserted by 2015 c. 7 Sch. 4 para. 16
- s. 109(6) words substituted by 2011 c. 20 Sch. 12 para. 16
- s. 109(6) words substituted by 2016 c. 22 Sch. 12 para. 30
- s. 110 applied (with modifications) by S.I. 2011/2055 reg. 64
- s. 116(3) words inserted by 2015 anaw 4 Sch. 7 para. 4(2)(a)
- s. 116(4) words inserted by 2015 anaw 4 Sch. 7 para. 4(2)(b)(i)
- s. 116(4) words inserted by 2015 anaw 4 Sch. 7 para. 4(2)(b)(ii)
- s. 117 applied by S.I. 2011/2055 reg. 65

- s. 139 applied (with modifications) by S.I. 2012/2167 art. 7
- s. 139 applied (with modifications) by S.I. 2015/442 art. 7
- s. 139 applied (with modifications) by S.I. 2015/748 art. 5
- s. 140(2)(d) applied (with modifications) by S.I. 2012/2167 art. 7
- s. 140(2)(d) applied (with modifications) by S.I. 2015/442 art. 7
- s. 140(2)(d) applied (with modifications) by S.I. 2015/748 art. 5
- s. 141(4) applied (with modifications) by S.I. 2012/2167 art. 7
- s. 141(4) applied (with modifications) by S.I. 2015/442 art. 7
- s. 141(4) applied (with modifications) by S.I. 2015/748 art. 5
- s. 143(1)(b) applied (with modifications) by S.I. 2012/2167 art. 7
- s. 143(1)(b) applied (with modifications) by S.I. 2015/442 art. 7
- s. 143(1)(b) applied (with modifications) by S.I. 2015/748 art. 5
- s. 148 applied (with modifications) by S.I. 2012/2167 art. 7
- s. 148 applied (with modifications) by S.I. 2015/442 art. 7
- s. 148 applied (with modifications) by S.I. 2015/748 art. 5
- s. 166(1)(b) and word omitted by 2016 c. 22 s. 200(3)(a)
- s. 166(2) omitted by 2016 c. 22 s. 200(3)(b)
- s. 170(2) words inserted by 2015 anaw 4 s. 10(8)(a)
- s. 170(5) words inserted by 2011 c. 20 Sch. 22 para. 35(a)
- s. 170(5) words inserted by 2011 c. 20 Sch. 22 para. 35(b)
- s. 171G(6) words substituted by S.I. 2015/664 Sch. 4 para. 18(2)
- s. 171H(1)(a) words inserted by 2015 c. 7 Sch. 4 para. 17
- s. 171H(1)(a) words substituted by 2011 c. 20 Sch. 12 para. 17
- s. 174 applied (with modifications) by S.I. 2015/627 reg. 15 Sch. 4 Pt. 1
- s. 174(1)(2) applied (with modifications) by S.I. 2015/1597 reg. 16 Sch. 4 Pt. 1
- s. 174(3)-(6) applied (with modifications) by S.I. 2015/1597 reg. 16 Sch. 4 Pt. 1
- s. 175(3) applied (with modifications) by S.I. 2015/627 reg. 15 Sch. 4 Pt. 1
- s. 175(3) applied (with modifications) by S.I. 2015/1597 reg. 16 Sch. 4 Pt. 1
- s. 175(6) applied (with modifications) by S.I. 2015/627 reg. 15 Sch. 4 Pt. 1
- s. 175(6) applied (with modifications) by S.I. 2015/1597 reg. 16 Sch. 4 Pt. 1
- s. 175(7) words inserted by 2015 anaw 4 Sch. 5 para. 9
- s. 176 applied (with modifications) by S.I. 2015/627 reg. 15 Sch. 4 Pt. 1
- s. 176 applied (with modifications) by S.I. 2015/1597 reg. 16 Sch. 4 Pt. 1
- s. 177 applied (with modifications) by S.I. 2015/627 reg. 15 Sch. 4 Pt. 1
- s. 177 applied (with modifications) by S.I. 2015/1597 reg. 16 Sch. 4 Pt. 1
- s. 177(5) words substituted by 2011 c. 20 s. 123(6)
- s. 178-181 applied (with modifications) by S.I. 2015/627 reg. 15 Sch. 4 Pt. 2
- s. 178-181 applied (with modifications) by S.I. 2015/1597 reg. 18 Sch. 4 Pt. 2
- s. 179 amendment to earlier affecting provision S.I. 1992/656, Sch. 4 Pt. 2 by S.I. 2015/664 Sch. 4 para. 50
- s. 179(8) words substituted by S.I. 2015/664 Sch. 4 para. 18(3)
- s. 187(2) words substituted by S.I. 2015/664 Sch. 4 para. 18(4)
- s. 187A(12) words substituted by 2011 c. 20 s. 126(2)
- s. 188 applied (with modifications) by S.I. 2015/627 reg. 15 Sch. 4 Pt. 3
- s. 188(2)(a) word inserted by 2011 c. 20 s. 124(2)(b)(iii)
- s. 188(2)(a) words inserted by 2015 anaw 4 s. 43(4)(b)
- s. 188(2)(a) words inserted by 2011 c. 20 s. 124(2)(b)(i)
- s. 188(2)(a) words inserted by 2011 c. 20 s. 124(2)(b)(ii)
- s. 188(2)(b) words inserted by 2011 c. 20 s. 124(2)(c)
- s. 191(7)(a) words inserted by 2013 anaw 6 Sch. 4 para. 6(3) (This amendment is to be treated as not having effect until 1.10.2014 by virtue of S.I. 2014/11, art. 3(2))
- s. 195(1D)-(1F) omitted by 2015 anaw 4 Sch. 7 para. 7(3)
- s. 195(5) words inserted by S.I. 2014/2773 Sch. 1 para. 6
- s. 195(5) words substituted by 2008 c. 29 Sch. 10 para. 7
- s. 196(1A) inserted by 2008 c. 29 Sch. 10 para. 8(2)
- s. 196(2) words substituted by 2008 c. 29 Sch. 10 para. 8(3)
- s. 196(2) words substituted by S.I. 2014/2773 Sch. 1 para. 7(3)
- s. 196(8) words inserted by 2015 anaw 4 Sch. 5 para. 10

- s. 197 words inserted by 2011 c. 20 Sch. 12 para. 18
- s. 198(3) (4) repealed by 2008 c. 29 s. 192(2)(a) Sch. 13
- s. 198(6) repealed by 2008 c. 29 s. 192(2)(b) Sch. 13
- s. 198(7) words substituted by 2008 c. 29 Sch. 8 para. 8
- s. 198(8) (9) repealed by 2008 c. 29 s. 192(2)(c) Sch. 13
- s. 199 repealed by 2008 c. 29 s. 192(3) Sch. 13
- s. 200(1) words substituted by 2008 c. 29 Sch. 8 para. 9
- s. 200(1)(a) words inserted by S.I. 2013/755 Sch. 2 para. 199(2)
- s. 200(2) words inserted by S.I. 2013/755 Sch. 2 para. 199(3)(a)
- s. 200(2)(b) words inserted by S.I. 2013/755 Sch. 2 para. 199(3)(b)(i)
- s. 200(2)(b) words inserted by S.I. 2013/755 Sch. 2 para. 199(3)(b)(ii)
- s. 201 repealed by 2008 c. 29 s. 192(4) Sch. 13
- s. 202(2) words substituted by 2008 c. 29 Sch. 8 para. 10
- s. 202(3) repealed by 2008 c. 29 s. 192(5) Sch. 13
- s. 202A-202G inserted by 2008 c. 29 s. 192(7) (The amending provision is itself amended before it comes into force by S.I. 2009/1307, art. 5(1)(2), Sch. 1 para. 295)
- s. 202A(6)(7) omitted by 2015 anaw 4 Sch. 7 para. 4(3)
- s. 203-205 repealed by 2008 c. 29 s. 192(6) Sch. 13
- s. 203-205 repealed by 2008 c. 29 Sch. 13
- s. 204 words substituted by S.I. 2013/755 Sch. 2 para. 200(2)
- s. 204(1)(b) words substituted by S.I. 2013/755 Sch. 2 para. 200(3)
- s. 206(1) excluded by S.I. 2013/675 art. 35(2)(b)
- s. 206(1) excluded by S.I. 2014/1873 art. 38(2)(b)
- s. 206(1) excluded by S.I. 2014/3331 art. 28(2)(b)
- s. 206(1) excluded by S.I. 2015/1347 art. 36(3)
- s. 206(1) excluded by S.I. 2016/297 art. 38(2)(b)
- s. 206(1) excluded by S.I. 2016/844 art. 31(2)(b)
- s. 206(1) excluded by S.I. 2016/880 art. 34(4)
- s. 206(1) restricted by S.I. 2015/1592 art. 36(2)(b)
- s. 206(1) restricted by S.I. 2015/318 art. 36(2)(b)
- s. 206(1)(a) words substituted by 2008 c. 29 Sch. 8 para. 11(a)
- s. 206(1)(b) words substituted by 2008 c. 29 Sch. 8 para. 11(b)
- s. 207(1)(b) words substituted by 2008 c. 29 Sch. 8 para. 12
- s. 208(4B)(4C) omitted by 2015 anaw 4 Sch. 7 para. 4(4)
- s. 208(5A) inserted by 2008 c. 29 Sch. 10 para. 9(2)
- s. 208(6) words substituted by 2008 c. 29 Sch. 10 para. 9(3)
- s. 208(6) words substituted by S.I. 2014/2773 Sch. 1 para. 8(3)
- s. 208(11) omitted by 2015 anaw 4 Sch. 5 para. 11
- s. 210 sidenote word substituted by 2008 c. 29 Sch. 8 para. 13(4)
- s. 210(1) words substituted by 2008 c. 29 Sch. 8 para. 13(2)(a)
- s. 210(1)(a) word omitted by 2008 c. 29 Sch. 8 para. 13(2)(b)
- s. 210(2) words substituted by S.I. 2015/664 Sch. 4 para. 18(5)
- s. 210(4) words substituted by 2008 c. 29 Sch. 8 para. 13(3)
- s. 211 excluded by S.I. 2012/605 reg. 15
- s. 211(1) words substituted by 2008 c. 29 Sch. 8 para. 14(a)
- s. 211(4) words substituted by 2008 c. 29 Sch. 8 para. 14(b)
- s. 212(4) repealed by 2008 c. 29 Sch. 8 para. 15 Sch. 13
- s. 213(1)(b) words substituted by 2008 c. 29 Sch. 8 para. 16
- s. 217 title substituted by 2015 anaw 4 s. 48(1)
- s. 217(4) words inserted by 2015 anaw 4 s. 48(3)
- s. 217(5) words inserted by 2015 anaw 4 s. 48(4)
- s. 217(6) words omitted by 2015 anaw 4 s. 48(5)
- s. 218 title substituted by 2015 anaw 4 s. 48(7)
- s. 218 words inserted by 2015 anaw 4 s. 48(7)
- s. 221(7)-(9) repealed by 1991 c. 34 Sch. 19 Pt. 1
- s. 237 omitted by 2016 c. 22 Sch. 19 para. 9
- s. 237(1A) words omitted by S.I. 2015/1794 art. 5
- s. 238 239 applied (with modifications) by S.I. 2016/853 art. 20(15)

- s. 238(1)(b) modified by S.I. 2016/853 art. 20(15)
- s. 240(1) modified by S.I. 2016/853 art. 20(15)
- s. 240(3) modified by S.I. 2016/853 art. 20(15)
- s. 245(4)(a) omitted by 2016 c. 22 Sch. 19 para. 10
- s. 246(2) word substituted by 2016 c. 22 Sch. 19 para. 11
- s. 247(3)(b) words inserted by 2015 c. 7 Sch. 1 para. 104(2)(a)
- s. 247(3)(c) words inserted by 2015 c. 7 Sch. 1 para. 104(2)(b)
- s. 247(3A) words inserted by 2015 c. 7 Sch. 1 para. 104(3)(b)
- s. 248(1)(a) words inserted by 2015 c. 7 Sch. 1 para. 105
- s. 249 applied (with modifications) by S.I. 2012/2167 art. 7
- s. 249 applied (with modifications) by S.I. 2015/442 art. 7
- s. 249 applied (with modifications) by S.I. 2015/748 art. 5
- s. 251 applied (with modifications) by S.I. 2012/2167 art. 7
- s. 251 applied (with modifications) by S.I. 2015/442 art. 7
- s. 251 applied (with modifications) by S.I. 2015/748 art. 5
- s. 252(12) words inserted by S.I. 2016/53 reg. 16(4)
- s. 252(12) words substituted by 2011 c. 13 Sch. 16 para. 209
- s. 252(12)(i) words substituted by S.I. 2013/755 Sch. 2 para. 201
- s. 253(1)(b) and word omitted by 2013 c. 27 s. 11(2)
- s. 253(2) words substituted by 2013 c. 27 s. 11(4)(a)
- s. 253(2) words substituted by 2013 c. 27 s. 11(4)(b)
- s. 253(2)(c) words substituted by 2011 c. 20 Sch. 12 para. 19
- s. 253(4) words substituted by 2013 c. 27 s. 11(5)
- s. 253(5) words inserted by 2013 c. 27 s. 11(6)(b)
- s. 253(5) words substituted by 2013 c. 27 s. 11(6)(a)
- s. 254(1) words inserted by 2015 c. 7 Sch. 1 para. 106
- s. 256(3) word omitted by 2015 c. 7 Sch. 1 para. 107
- s. 257(4) word omitted by 2013 c. 27 s. 12(3)(a)
- s. 257(4)(a) words inserted by 2015 anaw 4 Sch. 4 para. 14(a)
- s. 258 applied (with modifications) by S.I. 2012/2167 art. 7
- s. 258 applied (with modifications) by S.I. 2015/442 art. 7
- s. 258 applied (with modifications) by S.I. 2015/748 art. 5
- s. 259(1) words substituted by 2015 anaw 4 s. 38(3)(a)
- s. 259(2) words substituted by 2015 anaw 4 s. 38(3)(a)
- s. 259(2) words substituted by 2013 c. 27 s. 12(5)
- s. 262 applied by S.I. 2013/343 art. 8(2)
- s. 262 modified by S.I. 2013/1203 art. 6(2)
- s. 262 modified by S.I. 2015/1386 art. 48(3)
- s. 262 modified by S.I. 2015/1592 art. 6(3)
- s. 262 modified by S.I. 2016/297 art. 11(4)
- s. 262(1) modified by S.I. 2013/3244 art. 19(2)
- s. 262(3) words substituted by S.I. 2013/755 Sch. 2 para. 202
- s. 264(3) applied by S.I. 2013/1873 art. 26
- s. 264(3) applied by S.I. 2014/2269 art. 31
- s. 264(3) modified by S.I. 2014/2441 art. 27
- s. 264(3) modified by S.I. 2014/3331 art. 29
- s. 264(3) modified by S.I. 2015/129 art. 35
- s. 264(3) modified by S.I. 2015/1592 art. 37
- s. 264(3) modified by S.I. 2016/166 art. 12
- s. 264(3) modified by S.I. 2016/684 art. 44
- s. 264(3)(a) applied by S.I. 2011/41 art. 47(3)
- s. 264(3)(a) applied by S.I. 2014/2637 art. 35
- s. 264(3)(a) applied by S.I. 2015/1570 art. 34
- s. 264(3)(a) applied by S.I. 2016/547 art. 38
- s. 264(3)(a) applied by S.I. 2016/73 art. 34
- s. 264(3)(a) applied by S.I. 2016/844 art. 32
- s. 264(3)(a) modified by S.I. 2011/1072 art. 36(1)
- s. 264(3)(a) modified by S.I. 2011/1829 art. 18

- s. 264(3)(a) modified by S.I. 2012/2284 art. 28
- s. 264(3)(a) modified by S.I. 2012/2679 art. 39
- s. 264(3)(a) modified by S.I. 2013/1203 art. 29
- s. 264(3)(a) modified by S.I. 2013/1933 art. 34
- s. 264(3)(a) modified by S.I. 2013/2587 art. 22
- s. 264(3)(a) modified by S.I. 2013/2808 art. 32
- s. 264(3)(a) modified by S.I. 2013/2809 art. 29
- s. 264(3)(a) modified by S.I. 2013/3200 art. 29
- s. 264(3)(a) modified by S.I. 2013/586 art. 14
- s. 264(3)(a) modified by S.I. 2013/648 art. 40
- s. 264(3)(a) modified by S.I. 2014/1052 art. 39
- s. 264(3)(a) modified by S.I. 2014/1599 art. 31
- s. 264(3)(a) modified by S.I. 2014/1873 art. 36
- s. 264(3)(a) modified by S.I. 2014/2434 art. 30
- s. 264(3)(a) modified by S.I. 2014/2846 art. 13
- s. 264(3)(a) modified by S.I. 2014/3328 art. 31
- s. 264(3)(a) modified by S.I. 2015/1347 art. 38
- s. 264(3)(a) modified by S.I. 2015/1386 art. 40
- s. 264(3)(a) modified by S.I. 2015/1561 art. 36
- s. 264(3)(a) modified by S.I. 2015/1832 art. 22
- s. 264(3)(a) modified by S.I. 2015/780 art. 37
- s. 264(3)(a) modified by S.I. 2016/1035 art. 23
- s. 264(3)(a) modified by S.I. 2016/297 art. 34
- s. 264(3)(a) modified by S.I. 2016/49 art. 37
- s. 264(3)(a) modified by S.I. 2016/545 art. 35
- s. 264(3)(a) modified by S.I. 2016/863 art. 37
- s. 264(4)(a) words inserted by S.I. 2012/1659 Sch. 3 para. 9
- s. 264(5)(b) words repealed by 2011 c. 20 Sch. 12 para. 20(a) Sch. 25 Pt. 18
- s. 265(3) word omitted by S.I. 2013/755 Sch. 2 para. 203
- s. 271-274 applied by S.I. 2012/1924 Sch. 2
- s. 271-274 applied by S.I. 2013/648 art. 35
- s. 271-274 applied by S.I. 2014/2027 Sch. 7 para. 1
- s. 271-274 applied by S.I. 2016/545 Sch. 4 para. 1
- s. 271-274 applied (with modifications) by S.I. 2011/1072 Sch. 11 para. 1
- s. 271-274 applied (with modifications) by S.I. 2011/41 Sch. 9 para. 1
- s. 271-274 applied (with modifications) by S.I. 2012/1867 Sch. 6 para. 1
- s. 271-274 applied (with modifications) by S.I. 2012/2679 Sch. 13 para. 1
- s. 271-274 applied (with modifications) by S.I. 2013/1933 Sch. 12 para. 1
- s. 271-274 applied (with modifications) by S.I. 2013/1967 Sch. 8 para. 1
- s. 271-274 applied (with modifications) by S.I. 2013/3244 Sch. 9 para. 1
- s. 271-274 applied (with modifications) by S.I. 2013/533 Sch. para. 1
- s. 271-274 applied (with modifications) by S.I. 2014/3102 Sch. 7
- s. 271-274 applied (with modifications) by S.I. 2015/1876 Sch. 7 para. 2-5
- s. 271-274 applied (with modifications) by S.I. 2015/2044 Sch. 10 para. 1
- s. 271-274 applied (with modifications) by S.I. 2016/684 Sch. 8 para. 1
- s. 271-274 applied (with modifications) by S.I. 2013/767 Sch. 4 para. 1
- s. 271 applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 1 para. 3 (as amended) by 2015 c. 7 Sch. 1 para. 65(2)
- s. 271 applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 1 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(a)
- s. 271 272 excluded by S.I. 2014/3328 Sch. 9 Pt. 3 para. 4(3)
- s. 271 272 excluded by S.I. 2014/3328 Sch. 9 Pt. 4 para. 4(4)
- s. 271 272 excluded by S.I. 2014/3331 Sch. 12 para. 14(3)
- s. 271 excluded by S.I. 2016/844 Sch. 12 Pt. 2 para. 4(3)
- s. 271 272 excluded by S.I. 2016/863 Sch. 9 para. 23(3)
- s. 271 excluded by S.I. 2016/880 Sch. 8 Pt. 5 para. 4(2)
- s. 271 excluded by S.I. 2016/880 Sch. 8 Pt. 2 para. 4(3)
- s. 271 272 exercise of powers excluded by S.I. 2013/3244 Sch. 11 para. 4(3)

- s. 271-274 modified by S.I. 2015/1684 Sch. 3 para. 1
- s. 271 restricted by S.I. 2014/1599 Sch. 9 Pt. 3 para. 4(3)
- s. 271 restricted by S.I. 2015/129 Sch. 8 para. 26(3)
- s. 271 272 restricted by S.I. 2015/1347 Sch. 13 para. 4(3)
- s. 271(5) applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 3 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(b)
- s. 272 applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 1 para. 3 (as amended) by 2015 c. 7 Sch. 1 para. 65(2)
- s. 272 applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 1 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(a)
- s. 272 applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 3 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(b)
- s. 272 excluded by S.I. 2016/844 Sch. 12 Pt. 2 para. 4(3)
- s. 272 excluded by S.I. 2016/880 Sch. 8 Pt. 5 para. 4(2)
- s. 272 excluded by S.I. 2016/880 Sch. 8 Pt. 2 para. 4(3)
- s. 272 restricted by S.I. 2014/1599 Sch. 9 Pt. 3 para. 4(3)
- s. 272 restricted by S.I. 2014/1873 Sch. 12 Pt. 1 para. 4(3)
- s. 272 restricted by S.I. 2015/129 Sch. 8 para. 26(3)
- s. 272(5)(b) transfer of functions by S.I. 2011/741 art. 3 Sch. 1
- s. 272(6)(b) transfer of functions by S.I. 2011/741 art. 3 Sch. 1
- s. 273 applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 5 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(d)
- s. 273(1) applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 4 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(c)
- s. 273(8)(b) transfer of functions by S.I. 2011/741 art. 3 Sch. 1
- s. 274 applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 1 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(a)
- s. 274(2)(3) applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 1 para. 3 (as amended) by 2015 c. 7 Sch. 1 para. 65(2)
- s. 274(2)(3) applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 3 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(b)
- s. 274(6) transfer of functions by S.I. 2011/741 art. 3 Sch. 1
- s. 275-278 modified by S.I. 2015/1876 Sch. 7 para. 2-5
- s. 279(2)-(4) applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 1 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(a)
- s. 279(2)-(4) modified by S.I. 2015/1876 Sch. 7 para. 2-5
- s. 280 applied (with modifications) by S.I. 2011/2055 reg. 66
- s. 280 applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 1 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(a)
- s. 280 modified by S.I. 2015/1876 Sch. 7 para. 2-5
- s. 282 applied (with modifications) by 1980 c. 66, Sch. 5 Pt. 2 para. 1 (as amended) by 2015 c. 7 Sch. 1 para. 65(3)(a)
- s. 282 modified by S.I. 2015/1876 Sch. 7 para. 2-5
- s. 284(1)(f) words inserted by 2015 anaw 4 Sch. 4 para. 15(2)
- s. 284(3) words inserted by 2015 anaw 4 Sch. 4 para. 15(3)(a)
- s. 284(3)(a) words substituted by 2015 anaw 4 Sch. 4 para. 15(3)(b)
- s. 284(3)(h) words inserted by 2015 anaw 4 Sch. 4 para. 15(3)(d)
- s. 284(3)(h)(i) words substituted by 2008 c. 29 Sch. 8 para. 17
- s. 284(3)(i) words inserted by 2016 c. 22 Sch. 12 para. 31
- s. 284(4) words inserted by 2015 anaw 4 Sch. 4 para. 15(4)
- s. 285 applied (with modifications) by S.I. 2015/627 reg. 19(1) Sch. 4 Pt. 4
- s. 285 applied (with modifications) by S.I. 2015/1597 reg. 20(1) Sch. 4 Pt. 3
- s. 286(1)(a) words inserted by 2016 c. 22 Sch. 12 para. 32
- s. 286(2) words inserted by 2016 c. 22 Sch. 12 para. 32
- s. 287 amended by 2008 c. 29 s. 186
- s. 287(3C)(4) omitted by 2015 c. 2 Sch. 16 para. 3(4)
- s. 287(5) words substituted by 2015 c. 2 Sch. 16 para. 3(5)
- s. 288(1)(b) applied by S.I. 2016/58 reg. 55

- s. 288(1)(b) words inserted by 2015 anaw 4 Sch. 4 para. 16(2)
- s. 288(2) words inserted by 2015 anaw 4 Sch. 4 para. 16(3)
- s. 288(2) words inserted by 2015 c. 2 Sch. 16 para. 4(3)(a)
- s. 288(2) words inserted by 2015 c. 2 Sch. 16 para. 4(3)(b)
- s. 288(2) words inserted by 2015 c. 2 Sch. 16 para. 4(3)(c)
- s. 288(3) omitted by 2015 c. 2 Sch. 16 para. 4(3)(c)
- s. 288(4) words inserted by 2015 anaw 4 Sch. 4 para. 16(4)
- s. 288(5)(a) words substituted by 2015 c. 2 Sch. 16 para. 4(6)(a)
- s. 288(5)(b) words substituted by 2015 c. 2 Sch. 16 para. 4(6)(b)
- s. 288(6) substituted by 2015 c. 2 Sch. 16 para. 4(7)
- s. 288(7) words inserted by 2015 c. 2 Sch. 16 para. 4(8)
- s. 288(9) substituted by 2015 c. 2 Sch. 16 para. 4(9)
- s. 288(10)(a) words substituted by 2015 anaw 4 Sch. 4 para. 16(5)(a)
- s. 288(10)(b) words inserted by 2015 anaw 4 Sch. 4 para. 16(5)(b)(i)
- s. 288(10)(b) words substituted by 2015 anaw 4 Sch. 4 para. 16(5)(b)(ii)
- s. 289 applied (with modifications) by S.I. 2015/627 reg. 19(1) Sch. 4 Pt. 4
- s. 289 title substituted by 2015 anaw 4 s. 48(8)
- s. 289(1) applied (with modifications) by S.I. 2015/1597 reg. 20(1) Sch. 4 Pt. 3
- s. 289(3)-(4A) applied (with modifications) by S.I. 2015/1597 reg. 20(1) Sch. 4 Pt. 3
- s. 289(4B) words inserted by 2015 anaw 4 s. 48(8)(b)
- s. 289(5)-(7) applied (with modifications) by S.I. 2015/1597 reg. 20(1) Sch. 4 Pt. 3
- s. 289(5) words inserted by 2015 anaw 4 s. 48(8)(c)
- s. 293(2A) words inserted by 2016 c. 22 Sch. 12 para. 33
- s. 293(5) words inserted by 2015 anaw 4 Sch. 7 para. 7(4)
- s. 293A(2) words inserted by 2016 c. 22 Sch. 12 para. 34(2)
- s. 293A(2) words omitted by 2015 anaw 4 Sch. 4 para. 17(2)
- s. 293A(3) words substituted by 2015 anaw 4 Sch. 4 para. 17(3)
- s. 293A(4)(a) words inserted by 2016 c. 22 Sch. 12 para. 34(3)
- s. 298A(1) words inserted by 2016 c. 22 Sch. 12 para. 35(3)
- s. 303(4) words inserted by 2016 c. 22 Sch. 12 para. 36
- s. 303(8) words inserted by 2015 anaw 4 Sch. 7 para. 4(5)(a)(i)
- s. 303(8) words omitted by 2015 anaw 4 Sch. 7 para. 4(5)(a)(ii)
- s. 303(9) omitted by 2015 anaw 4 Sch. 7 para. 4(5)(b)
- s. 303A(1A) words inserted by 2016 c. 22 s. 148(2)
- s. 303A(1B) words substituted by 2015 anaw 4 Sch. 2 para. 10(2)
- s. 303A(2) words inserted by 2015 anaw 4 Sch. 2 para. 10(4)
- s. 303A(3) words inserted by 2015 anaw 4 Sch. 2 para. 10(5)(a)
- s. 303A(3) words inserted by 2015 anaw 4 Sch. 2 para. 10(5)(b)
- s. 303A(6) words inserted by 2015 anaw 4 Sch. 2 para. 10(6)
- s. 303A(9A) substituted by 2016 c. 22 s. 148(3)
- s. 303A(9A) words inserted by 2015 anaw 4 Sch. 2 para. 10(7)(a)
- s. 303A(9A) words inserted by 2015 anaw 4 Sch. 2 para. 10(7)(b)
- s. 303ZA(6) words inserted by 2015 anaw 4 Sch. 7 para. 4(6)(a)(i)
- s. 303ZA(6) words omitted by 2015 anaw 4 Sch. 7 para. 4(6)(a)(i)
- s. 303ZA(7) omitted by 2015 anaw 4 Sch. 7 para. 4(6)(b)
- s. 305(1)(a) words inserted by 2015 c. 7 Sch. 4 para. 20
- s. 316(3) words inserted by 2015 anaw 4 s. 39(2)
- s. 316(4) words substituted by 2015 anaw 4 Sch. 4 para. 19(2)
- s. 316(5) words inserted by 2015 anaw 4 Sch. 4 para. 19(3)
- s. 316(6) words inserted by 2015 anaw 4 Sch. 4 para. 19(4)
- s. 316(7) substituted by 2016 c. 22 Sch. 12 para. 37
- s. 319A title substituted by S.I. 2014/2773 art. 2(1)
- s. 320(1) words inserted by 2015 anaw 4 Sch. 5 para. 12(2)(a)
- s. 320(1) words inserted by 2015 anaw 4 Sch. 5 para. 12(2)(b)
- s. 320(2) words substituted by 2015 anaw 4 Sch. 5 para. 12(3)
- s. 321B(6) omitted by 2015 anaw 4 Sch. 7 para. 4(7)
- s. 322 amendment to earlier affecting provision 1990 c. 10 s. 37 by 1990 c. 10 s. 37(4) (as inserted) by S.I. 2014/2773 Sch. 1 para. 28

- s. 322 amendment to earlier affecting provision 1990 c. 9 s. 89(1) by 1990 c. 9 s. 89(1ZB) (as inserted) by S.I. 2014/2773 Sch. 1 para. 21
- s. 322(2) words inserted by 2015 anaw 4 Sch. 5 para. 13(3)
- s. 322A amendment to earlier affecting provision 1990 c. 10 s. 37 by 1990 c. 10 s. 37(4) (as inserted) by S.I. 2014/2773 Sch. 1 para. 28
- s. 322A amendment to earlier affecting provision 1990 c. 9 s. 89(1) by 1990 c. 9 s. 89(1ZB) (as inserted) by S.I. 2014/2773 Sch. 1 para. 21
- s. 322A applied by S.I. 2011/934 reg. 18(3)
- s. 322A applied by S.I. 2011/925 reg. 18(3)
- s. 322A applied by 1981 c. 69 Sch. 13A para. 10(3) (as inserted) by 2015 c. 20 Sch. 7 para. 6
- s. 322A applied by 1981 c. 69 Sch. 14A para. 16(3) (as inserted) by 2015 c. 20 Sch. 7 para. 7
- s. 322A(1)(a) words inserted by 2015 anaw 4 Sch. 5 para. 14(2)
- s. 322B(1)(a) words inserted by 2016 c. 22 Sch. 12 para. 38(a)
- s. 322B(5) words inserted by 2013 c. 27 s. 2(4)(a)
- s. 322B(5) words inserted by 2013 c. 27 s. 2(4)(b)
- s. 322B(5) words inserted by 2016 c. 22 Sch. 12 para. 38(b)
- s. 322B(6) words inserted by 2016 c. 22 Sch. 12 para. 38(c)
- s. 323 amendment to earlier affecting provision 1990 c. 10 s. 37 by 1990 c. 10 s. 37(4) (as inserted) by S.I. 2014/2773 Sch. 1 para. 28
- s. 323 amendment to earlier affecting provision 1990 c. 9 s. 89(1) by 1990 c. 9 s. 89(1ZB) (as inserted) by S.I. 2014/2773 Sch. 1 para. 21
- s. 323(1) words inserted by 2015 anaw 4 Sch. 5 para. 15(2)
- s. 323(2) words substituted by S.I. 2014/2773 Sch. 1 para. 11(3)
- s. 323(3) words substituted by S.I. 2014/2773 Sch. 1 para. 11(3)
- s. 324(3) words inserted by 2011 c. 20 s. 127(3)
- s. 324(6) omitted by 2016 c. 22 Sch. 14 para. 19
- s. 327A(2) applied (with modifications) by S.I. 2016/54 art. 3(1)(m)
- s. 327A(2) applied (with modifications) by S.I. 2016/56 Sch. 7 para. 1(1)(m)
- s. 329(3B)(i) words substituted by 2008 c. 29 Sch. 8 para. 18
- s. 330 applied (with modifications) by S.I. 2012/2167 art. 7
- s. 330 applied (with modifications) by S.I. 2015/442 art. 7
- s. 330 applied (with modifications) by S.I. 2015/748 art. 5
- s. 332(1)(a) words inserted by 2016 c. 22 Sch. 12 para. 39
- s. 333(3) words inserted by 2011 c. 20 Sch. 12 para. 22(2)
- s. 333(4) word inserted by 2013 c. 27 Sch. 2 para. 8(2)
- s. 333(4) word inserted by 2015 c. 7 Sch. 4 para. 22(2)
- s. 333(4) words inserted by 2015 anaw 4 Sch. 7 para. 6(2)
- s. 333(5) word inserted by 2015 c. 7 Sch. 4 para. 22(3)
- s. 333(5)(a) words inserted by 2015 anaw 4 Sch. 7 para. 6(4)(a)
- s. 333(5)(b) words inserted by 2015 anaw 4 Sch. 7 para. 6(4)(b)(i)
- s. 333(5)(b) words inserted by 2015 anaw 4 Sch. 7 para. 6(4)(b)(ii)
- s. 333(5)(b) words omitted by 2015 anaw 4 Sch. 7 para. 6(4)(b)(iii)
- s. 333(6) words inserted by 2015 anaw 4 Sch. 7 para. 6(6)(a)
- s. 333(6) words inserted by 2015 anaw 4 Sch. 7 para. 6(6)(b)
- s. 336(1) words inserted by 2015 anaw 4 Sch. 2 para. 13
- s. 336(1) words inserted by 2008 c. 29 Sch. 8 para. 19
- s. 336(1) words inserted by 2015 c. 7 Sch. 1 para. 108(a)
- s. 336(1) words inserted by 2015 c. 7 Sch. 1 para. 108(b)
- s. 336(1) words inserted by 2015 c. 7 Sch. 4 para. 23
- s. 336(1) words inserted by 2016 c. 22 Sch. 12 para. 40(2)
- s. 336(1) words inserted by 2016 c. 22 Sch. 12 para. 40(3)
- s. 336(1) words substituted by 2011 c. 13 Sch. 16 para. 210
- s. 336(1) words substituted by 2011 c. 5 Sch. 12 para. 134(a)
- s. 336(1) words substituted by 2011 c. 5 Sch. 12 para. 134(b)
- s. 336(1) words substituted by S.I. 2011/988 Sch. 4 para. 2
- Sch. 1 para. 17 repealed by 2008 c. 29 Sch. 13

- Sch. 1 para. 7(2)(a) repealed by 2011 c. 20 Sch. 8 para. 1(a) Sch. 25 Pt. 15
- Sch. 1 para. 7(3) repealed by 2011 c. 20 Sch. 8 para. 1(a) Sch. 25 Pt. 15
- Sch. 1 para. 7(5)(a) repealed by 2011 c. 20 Sch. 8 para. 1(a) Sch. 25 Pt. 15
- Sch. 1 para. 7(9) repealed by 2011 c. 20 Sch. 8 para. 1(d) Sch. 25 Pt. 15
- Sch. 1 para. 7(10)(b) repealed by 2011 c. 20 Sch. 8 para. 1(d) Sch. 25 Pt. 15
- Sch. 1 para. 7(11) repealed by 2011 c. 20 Sch. 8 para. 1(d) Sch. 25 Pt. 15
- Sch. 1 para. 5(2) substituted by 2011 c. 20 Sch. 22 para. 36(2)
- Sch. 1 para. 7(10) word repealed by 2011 c. 20 Sch. 25 Pt. 15
- Sch. 1 para. 5(3) words inserted by 2011 c. 20 Sch. 22 para. 36(3)
- Sch. 1 para. 3(1)(a) words inserted by 2016 c. 22 Sch. 12 para. 41(2)
- Sch. 1 para. 4(2) words inserted by 2016 c. 22 Sch. 12 para. 41(3)
- Sch. 1 para. 7(1) words inserted by 2016 c. 22 Sch. 12 para. 41(4)
- Sch. 1 para. 8(1) words inserted by 2016 c. 22 Sch. 12 para. 41(4)
- Sch. 1 para. 8(2)(b)(i) words inserted by 2016 c. 22 Sch. 12 para. 41(4)
- Sch. 1 para. 11(1)(a) words inserted by 2016 c. 22 Sch. 12 para. 41(4)
- Sch. 1 para. 16(2)(a) words inserted by 2016 c. 22 Sch. 12 para. 41(4)
- Sch. 1 para. 18 words inserted by 2016 c. 22 Sch. 12 para. 41(4)
- Sch. 1 para. 7(7)(a) words substituted by 2011 c. 20 Sch. 8 para. 1(b)
- Sch. 1 para. 7(7)(b) words substituted by 2011 c. 20 Sch. 8 para. 1(c)
- Sch. 1 para. 7(8) words substituted by 2011 c. 20 Sch. 8 para. 1(c)
- Sch. 1A para. 9 repealed by 2008 c. 29 Sch. 13
- Sch. 3 para. 1(b) modified by S.I. 2011/2055 reg. 62(2)
- Sch. 4A para. 4 omitted by 2013 c. 27 s. 5(6)(a)
- Sch. 4A para. 5(1) words inserted by 2015 anaw 4 Sch. 2 para. 14
- Sch. 4A para. 1(3) words omitted by 2013 c. 27 s. 5(6)(b)
- Sch. 5 para. 4 words substituted by S.I. 2013/755 Sch. 2 para. 204(2)
- Sch. 5 para. 4(4) words substituted by S.I. 2013/755 Sch. 2 para. 204(3)
- Sch. 6 applied by S.I. 2012/605 reg. 19(5)
- Sch. 6 para. 8(1A) omitted by S.I. 2013/2042 Sch. para. 5(a)
- Sch. 6 para. 1(1) word inserted by 2013 c. 27 Sch. 2 para. 9(2)(a)
- Sch. 6 para. 6(4) words inserted by 2015 anaw 4 Sch. 5 para. 16(2)(a)
- Sch. 6 para. 6(5) words inserted by 2015 anaw 4 Sch. 5 para. 16(2)(c)
- Sch. 6 para. 8(1) words inserted by 2015 anaw 4 Sch. 5 para. 16(3)
- Sch. 6 para. 2(1)(aa) words inserted by 2013 c. 27 Sch. 2 para. 9(3)
- Sch. 6 para. 3(6) words inserted by S.I. 2014/2773 Sch. 1 para. 13(3)(c)
- Sch. 6 para. 6(2)(a) words inserted by S.I. 2014/2773 Sch. 1 para. 13(4)(b)
- Sch. 7 para. 12(1)-(1C) amendment to earlier affecting provision 2004 c. 5 s. 45(9) by 2011 c. 20 Sch. 8 para. 14(7)
- Sch. 7 para. 8(7) omitted by S.I. 2013/2042 Sch. para. 5(b)
- Sch. 7 para. 3 repealed by 2004 c. 5 s. 45(8) Sch. 9
- Sch. 7 para. 4 repealed by 2004 c. 5 s. 45(8) Sch. 9
- Sch. 7 para. 12(1)-(1C) substituted for Sch. 7 para. 12(1) by 2004 c. 5 s. 45(9)
- Sch. 7 para. 8(6) words inserted by 2015 anaw 4 Sch. 5 para. 17(a)
- Sch. 7 para. 2 words substituted by 2004 c. 5 s. 45(7)
- Sch. 8 para. 5(3A) omitted by S.I. 2013/2042 Sch. para. 5(c)
- Sch. 8 para. 5(3) words inserted by 2015 anaw 4 Sch. 5 para. 18(a)
- Sch. 8 para. 5(4) words inserted by 2015 anaw 4 Sch. 5 para. 18(c)
- Sch. 9 para. 3 modified by S.I. 2011/1824 reg. 52(3)
- Sch. 9 para. 3(1) modified by S.I. 2011/1824 reg. 52(4)
- Sch. 9 para. 3(2)(a)(b) modified by S.I. 2011/1824 reg. 52(5)
- Sch. 9 para. 4(7) modified by S.I. 2011/1824 reg. 52(6)
- Sch. 9 para. 3 modified by S.I. 2016/58 Sch. 7 para. 10(3)-(5)
- Sch. 9 para. 4(7) modified by S.I. 2016/58 Sch. 7 para. 10(6)
- Sch. 13 para. 1A Note (2A) inserted by 2011 c. 20 Sch. 12 para. 23(b)
- Sch. 13 para. 1A Note (6) inserted by 2011 c. 20 Sch. 12 para. 23(c)
- Sch. 13 para. 1B words inserted by 2015 anaw 4 s. 10(2)
- Sch. 13 para. 1B Note (2) words inserted by 2015 anaw 4 s. 10(4)(a)
- Sch. 13 para. 1B Note (2) words inserted by 2015 anaw 4 s. 10(4)(c)(i)

- Sch. 13 para. 1B note (3) words inserted by 2015 anaw 4 Sch. 2 para. 15
- Sch. 13 para. 1A words inserted by 2011 c. 20 Sch. 12 para. 23(a)
- Sch. 13 para. 18 words inserted by 2015 c. 7 Sch. 1 para. 109(3)(a)
- Sch. 13 para. 18 words inserted by 2015 c. 7 Sch. 1 para. 109(3)(b)
- Sch. 13 para. 18 words inserted by 2015 c. 7 Sch. 1 para. 109(3)(c)
- Sch. 13 para. 1B Note (4) words omitted by 2015 anaw 4 s. 10(5)(a)
- Sch. 13 para. 1B Note (1) words substituted by 2015 anaw 4 s. 10(3)
- Sch. 13 para. 1B Note (2) words substituted by 2015 anaw 4 s. 10(4)(b)
- Sch. 13 para. 1B Note (2) words substituted by 2015 anaw 4 s. 10(4)(c)(ii)
- Sch. 13 para. 1B Note (2) words substituted by 2015 anaw 4 s. 10(4)(d)(i)
- Sch. 13 para. 1B Note (2) words substituted by 2015 anaw 4 s. 10(4)(d)(ii)
- Sch. 13 para. 1B Note (4) words substituted by 2015 anaw 4 s. 10(5)(b)
- Sch. 13 para. 16 words substituted by 2015 c. 7 Sch. 1 para. 109(2)
- Sch. 15 para. 14(4) words repealed by 2003 c. 44 Sch. 37 Pt. 9
- Sch. 16 Pt. 1 words inserted by 2015 anaw 4 Sch. 4 para. 23(3)
- Sch. 16 Pt. 1 words inserted by 2015 anaw 4 Sch. 4 para. 23(4)
- Sch. 16 Pt. 1 words inserted by 2013 c. 27 Sch. 2 para. 10
- Sch. 16 Pt. 1 words substituted by 2015 anaw 4 Sch. 4 para. 23(2)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by S.I. 2015/780 Sch. 11 para. 1
- Act applied in part (Isles of Scilly) (with modifications) by S.I. 2013/2148 art. 3 Sch. 1 (Words "83, 84," in 1990 c. 9, s. 92(2)(a) repealed (7.6.2006) by 2004 c. 5, Sch. 9; S.I. 2006/1281, art. 2(f)(iv))
- Act modified by S.I. 2011/950 art. 22 Sch. para. 1(2) 2-6
- Act modified by S.I. 2016/54 art. 3(2)
- Act modified by S.I. 2016/56 Sch. 7 para. 1(2)
- Act modified in part by S.I. 2016/684 Sch. 8 para. 1
- Blanket amendment words substituted by S.I. 2011/1043 art. 3 4
- Blanket amendment words substituted by S.I. 2011/1043 art. 3 6

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 8 Ch. 4 5 inserted by 2011 c. 20 s. 127(2)
- s. 2A(1A) inserted by 2011 c. 20 Sch. 22 para. 31
- s. 2A(1B) inserted by 2013 c. 27 Sch. 1 para. 2(1)
- s. 2A(1B) words inserted by 2016 c. 22 Sch. 12 para. 2
- s. 2A(6)(aa) and word substituted for words by 2016 c. 22 s. 149(1)
- s. 7A inserted by 2011 c. 20 Sch. 22 para. 32
- s. 9(1) s. 9 renumbered as s. 9(1) by 2015 anaw 4 s. 42(2)
- s. 9(2) inserted by 2015 anaw 4 s. 42(3)
- s. 58A and cross-heading inserted by 2016 c. 22 s. 150(1)
- s. 59(4) inserted by 2015 anaw 4 Sch. 7 para. 5
- s. 59A inserted by 2016 c. 22 s. 150(2)
- s. 60(1A) inserted by 2016 c. 22 s. 152(1)
- s. 60(2A)-(2C) inserted by 2013 c. 27 s. 4(1)
- s. 60(2B) words substituted by 2016 c. 22 s. 152(3)
- s. 61B(7A) inserted by 2013 c. 27 s. 5(4)
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- S.I. 2011/2329 art. 2 3 commences (2011 c. 5)
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Manual for Streets 2



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Ministerial Foreword



Streets and roads make up around three-quarters of all public space – their design, appearance, and the way they function have a huge impact on the quality of people's lives. The Department for Transport is committed to high quality design in the public realm and our technical advice is evidence of that commitment.

In 2007 the Department published the Manual for Streets, replacing guidance which had been in use for 30 years. It completely changed the approach to the design and provision of residential and other streets. It enjoys an excellent standing and its success has generated a desire among professionals for technical advice to cover other streets and roads along similar lines.

Manual for Streets 2 – Wider Application of the Principles is the result – a product of highly collaborative working between the Department for Transport and industry. It is an excellent demonstration of what can be achieved when Government works in partnership with others.

I congratulate the Chartered Institution of Highways and Transportation and the team which made publication of Manual for Streets 2 possible and I commend the document to all those involved in designing the public realm. The challenge now is for them to embrace the advice and extend the advantages of good design to streets and roads outside residential areas.



NORMAN BAKER
Parliamentary Under Secretary of State
for Transport

Presidential Foreword



By Geoff Allister
CIHT President 2010-2011

In 2007 the Department for Transport published the Manual for Streets, a landmark document that is changing the face of our residential streets. The Manual for Streets (MfS1) did not set out new policy, it reinforced a philosophy that had been growing since the late 1990s to return our residential streets to the community by engineering them to create a greater sense of place, provide an environment that is accessible and safe for all, and one that improves the quality of life.

The Chartered Institution of Highways and Transportation's new guidelines builds on the advice contained in MfS1, exploring in greater detail how and where its key principles can be applied to busier streets and roads in both urban and rural locations up to, but not including, trunk roads. Manual for Streets 2 – Wider Application of the Principles will help to fill the perceived gap in design advice between MfS and the design standards for trunk roads set out in the Design Manual for Roads and Bridges.

Manual for Streets 2 is the result of a partnership between practitioners and policy makers from highway engineers and urban designers to transport planners. The quality of the advice it contains is a true testament to the knowledge and expertise of all those who have contributed to its preparation. I thank them all, particularly the members of the steering group and the editorial team for the considerable time and effort they have contributed to this project.

I would also like to thank the sponsors the Department for Transport, the Association of Directors of Environment, Economy, Planning and Transport, the Commission for Architecture and the Built Environment and the Homes and the Homes and Communities Agency who have made these guidelines possible.

On behalf of the Institution, I am pleased to commend Manual for Streets 2 – Wider Application of the Principles to all those who are involved in the planning, construction and improvement of our streets and roads. I am sure it will make a significant contribution to professional practice and, over time, to our communities and the places where people live, work and play.

Geoff Allister
President 2010-2011



Partnering Organisations Preface

Streets play a fundamental part in community life which is why CABE has been a long term supporter of the development of Manual for Streets. Our experience tells us that creative design can deliver more vibrant and inclusive streets. Happily we're not alone in this view. Policy makers, practitioners, and community members also identify well designed, civilising streets as critical to issues such as community cohesion, economic vitality, well-being and health. The key challenge in delivering these wider benefits is the ability to strike a more effective balance between the movement, meeting and exchange functions of our street network. Manual for Streets 2 will play an important role in supporting this agenda.



Richard Simmons
Chief Executive, CABE

ADEPT enthusiastically supports this important piece of work which will be an essential reference in the future. Local authorities are increasingly aware of the fundamental nature of well designed and maintained streets to the economic, social, educational and environmental well-being of local citizens and communities; and the harmful consequences of neglecting the places where we live and work.



George Batten
President of ADEPT

Status and Application

Manual for Streets 2: Wider Application of the Principles (MfS2) forms a companion guide to Manual for Streets (MfS1). Whilst MfS1 focuses on lightly-trafficked residential streets it also states that, *'a street is defined as a highway that has important public realm functions beyond the movement of traffic…. Most highways in built up areas can therefore be considered as streets.'* MfS1 also stated that, *'many of its key principles may be applicable to other types of streets, for example high streets and lightly trafficked lanes in rural areas'.*

MfS2 builds on the guidance contained in MfS1, exploring in greater detail how and where its key principles can be applied to busier streets and non-trunk roads, thus helping to fill the perceived gap in design guidance between MfS1 and the Design Manual for Roads and Bridges (DMRB).

DMRB is the design standard for Trunk Roads and Motorways in England, Scotland, Wales and Northern Ireland. The strict application of DMRB to non-trunk routes is rarely appropriate for highway design in built up areas, regardless of traffic volume.

MfS2 provides advice and does not set out any new policy or legal requirements.

The following definitions apply throughout this document:

MfS1 refers to Manual for Streets (2007).

MfS2 refers to this document.

MfS refers to both documents.

Section A

Context and Process



1_ Principles

1.1_ Introduction

1.1.1 MfS2 has been prepared for the Chartered Institution of Highways and Transportation (CIHT) by a multidisciplinary team of consultants. The document is endorsed by the Department for Transport (DfT), the Homes and Community Agency (HCA), the Welsh Assembly Government (WAG), Commission for Architecture and the Built Environment (CABE), the Association of Directors of Environment, Economy, Planning and Transport (ADEPT) and English Heritage. All of these organisations contributed to its development.

1.1.2 This new document does not supersede MfS1; rather it explains how the principles of MfS1 can be applied more widely. It draws on a number of sources including:

- The Department for Transport's 'Mixed Priority Route' research study[1];
- Interim findings from the ongoing Department for Transport research into Shared Space[2];
- Case Studies, including detailed research by CABE; and
- Further research into the relationship between junction visibility and collisions.

1.2_ MfS Principles

1.2.1 MfS1 changed the way we approach the design, construction, adoption and maintenance of urban streets. The principal changes to practice, as set out below, also form the basis of this document which considers the wider highway network.

- **Applying a user hierarchy** to the design process with pedestrians at the top. This means considering the needs of pedestrians first when designing, building, retrofitting, maintaining and improving streets.
- **Emphasising a collaborative approach** to the delivery of streets. Many busy streets and rural highways require a 'non-standard' approach to respond to context and this can be achieved by working as a multidisciplinary team and by looking at and researching other similar places that work well. It is important to include all skill sets required to meet scheme objectives. Many of these are included in MfS1, paragraph 1.2.1.
- **Recognising the importance of the community function** of streets as spaces for social interaction. Streets should integrate not segregate communities and neighbourhoods.
- **Promoting an inclusive environment** that recognises the needs of people of all ages and abilities. Designs must recognise the importance of way-finding and legibility, especially with regards to the sensory and cognitive perceptions of children, older people and disabled people.
- **Reflecting and supporting pedestrian and cyclist desire lines** in networks and detailed designs.





Both of these streets have about the same amount of carriageway space and carry around the same volume of vehicular traffic. The cross section and arrangement of buildings mean that the one in the upper photo segregates two communities whilst the one in the lower photo is at the centre of the community and offers retail and commercial opportunities.

- **Developing masterplans and preparing design codes** for larger scale developments, and using design and access statements for all scales of development.
- **Establishing a clear vision and setting objectives for schemes**, which respond to the more complex and competing requirements in mixed use contexts.
- **A locally appropriate balance should be struck between the needs of different user groups.** Traffic capacity will not always be the primary consideration in designing streets and networks.
- **Creating networks of streets that provide permeability and connectivity** to main destinations and choice of routes.
- **Moving away from hierarchies of standard road types** based on traffic flows and/or the number of buildings served.
- **Developing street character types** on a location-specific basis requiring a balance to be struck between place and movement in many of the busier streets.
- **Encouraging innovation** with a flexible approach to street layouts and the use of locally distinctive, durable and maintainable materials.
- **Using quality audit processes** that demonstrate how designs will meet objectives for the locality.
- **Designing to keep vehicle speed at or below 20mph** in streets and places with significant pedestrian

movement unless there are overriding reasons for accepting higher speeds.

- **Using the minimum of highway design features** necessary to make the streets work properly. The starting point for any well designed street is to begin with nothing and then add only what is necessary in practice.

1.3_ Scope of MfS

1.3.1 The following key areas of advice, derived from principles contained in MfS, can be applied based on speed limits, subject to a more detailed assessment of local context, as shown below in **Table 1.1.**

1.3.2 It is clear from **Table 1.1** that most MfS advice can be applied to a highway regardless of speed limit. **It is therefore recommended that as a starting point for any scheme affecting non-trunk roads, designers should start with MfS.**

Speed Limit	20mph	30mph	40mph	50+mph
User Hierarchy	●	●	●	●
Team Working	●	●	●	●
Community Function	●	●	●	●
Inclusive Design	●	●	●	●
Ped/Cycle Support	●	●	●	●
Master Plans/Design Codes	●	●	●	●
Stopping Sight Distance	●	●	●	●
Frontage Access	●	●	●	●
Minimise Signs and Street Furniture	●	●	●	●
Quality Audits	●	●	●	●
Connectivity/Permeability	●	●	●	●

Table 1.1 Application of key areas of MfS advice

Note: ● yes ● subject to local context

1.3.3 Where designers do refer to DMRB for detailed technical guidance on specific aspects, for example on strategic inter-urban non-trunk roads, it is recommended that they bear in mind the key principles of MfS, and apply DMRB in a way that respects local context. It is further recommended that DMRB or other standards and guidance is only used where the guidance contained in MfS is not sufficient or where particular evidence leads a designer to conclude that MfS is not applicable.

1.3.4 The application of MfS advice to all 30mph speed limits as a starting point is in keeping with MfS1.

1.3.5 Much of the research behind MfS1 for stopping sight distance (SSD) is limited to locations with traffic speeds of less than 40mph and there is some concern that driver behaviour may change above this level as the character of the highway changes. However, 40mph speed limits in built-up areas cover a wide range of contexts, from simple urban streets with on-street parking and direct frontage access to 2/3 lane dual carriageways. Furthermore, local context varies not only from street to street but also along the length of a street.
(See Figure 1.1.)

1.3.6 Where a single carriageway street with on-street parking and direct frontage access is subject to a 40mph speed limit, its place characteristics are more of a residential street or high street, with higher traffic flows, and may result in actual speeds below the limit. It is only where actual speeds are above 40mph for significant periods of the day that DMRB parameters for SSD are recommended. Where speeds are lower, MfS parameters are recommended. Where there may be some doubt as to which guidance to adopt, actual speed measurements should be undertaken to determine which is most appropriate. (See **Chapter 10** for SSD guidance.)

1.3.7 Similarly, in rural areas many parts of the highway network are subject to the national speed limit but have traffic speeds significantly below 60mph. (See **Figure 1.2**) Again in these situations where speeds are lower than 40mph, MfS SSD parameters are recommended.

1.3.8 Direct frontage access is common in all urban areas, including where 40mph speed limits apply, without evidence to suggest that this practice is unsafe. This is confirmed in TD41/95[3] (Annex 2 paragraph A2.10) which states that *'in the urban situation there is no direct relationship between access provision and collision occurrence'.* However, this is not true of rural roads (A2.5) where the research identified a *'statistically significant relationship for collisions on rural single carriageways with traffic flow, link length and farm accesses. On rural dual carriageways, the significant relationship extended to laybys, residential accesses and other types of access including petrol filling stations'* (See **Chapter 9** for further advice on direct frontage access.)

1.3.9 This approach demonstrates that the key MfS principles can be applied widely to improve the quality of highways and their application is not limited to low speed or lightly trafficked routes.

1.3.10 Any new design has to take account of local context, however adopting speed limits as a proxy to identify which elements of MfS apply provides a reasonable way forward. It is clear from Table 1.1 that for a particular context, even though some aspects of MfS may not apply, there are still many principles which affect design quality that do.

Single Lane, Frontage Access, On-Street Parking



Wide Single Lane, Frontage Access, On-Street Parking



2/3 Lane Dual Carriageway. No frontage access. No stopping.



Figure 1.1 Typical Range of Urban 40mph Speed Limits





Figure 1.2 National speed limits apply in rural lanes but actual speeds can be much lower

1.4_ The Benefits of Better Sreets

1.4.1 It is important to take into account multiple objectives when developing transport strategies and schemes, and not simply congestion reduction. These other priorities include economic regeneration, climate change, casualty reduction, reducing air and noise pollution, minimising the impact of transport on the natural environment, heritage and landscaping, and encouraging more sustainable and healthy patterns of travel behaviour.

1.4.2 Making appropriate provision for road-based public transport, cycling and walking can help to encourage modal shift from the private car, and so contribute to the sustainability and health agendas. Enhancing street environments through a high quality public realm incorporating local materials and historic street features, removal of clutter and pedestrian barriers, use of shared space where appropriate and enhanced street lighting can help to stimulate local economic activity, reduce street crime and encourage a sense of local community; this in turn encourages more local, shorter distance travel on foot or by cycle. This will be particularly important in conservation areas, national parks, World Heritage sites and other environmentally sensitive areas.

1.4.3 Local Transport Note 3/08, 'Mixed Priority Routes: Practitioners' Guide'[1], refers to ten schemes which were among the least safe of urban roads which were transformed into safer, friendlier, more attractive and inclusive streets as discussed in the box out below.

The ten MPR schemes:

1 Walworth Road, London
2 Wandsworth Road, London
3 Prince of Wales Road, Norwich
4 Newland Avenue, Hull
5 Nantwich Road, Crewe
6 Renshaw Street/ Berry Street, Liverpool
7 Wilmslow Road, Rusholme, Manchester
8 St Peter's Street/ Chequer Street, St Albans
9 The Parade/ Victoria Terrace, Leamington Spa
10 Cowley Road, Oxford

Mixed Priority Routes (MPR) demonstration project

Mixed Priority Routes are streets that carry high levels of traffic and also have:

- A mix of residential use and commercial frontages;
- A mix of road users, i.e. shoppers, cyclists, bus passengers, schoolchildren;
- A mix of parking and deliveries.

They are not just transport routes. Although dealing with transport and safety is a key element, other concerns associated with the local economy and local communities may also generate an interest in improving the area with economic regeneration and environmental improvements.

There are many benefits to be gained from enhancing the high street environment with an integrated approach. The investment is likely to contribute towards assisting the delivery of a range of local authority corporate objectives and targets including:

- Accessibility planning;
- Casualty reduction;
- Economic regeneration;
- Public service agreement;
- Quality of life; and
- Sustainability.

Outcomes

Early results across a number of different indicators show that all of the MPR demonstration schemes have been successful in meeting their stated objectives:

- Safety: all schemes have achieved a substantial casualty reduction of between 24% and 60%;
- Environment: noise and air quality measurements have shown improvements;
- Accessibility: pedestrian and cycling activity has increased, and children and mobility impaired users generally feel more confident; and
- Economy: improvements in the quality of streetscape have led to a reduction in vacant premises and a more vibrant local economy.



Prince of Wales Road, Norwich



Newland Avenue, Hull

1.4.4 These schemes have clearly demonstrated a range of benefits beyond just road safety. These include increased economic vitality due to additional visitors to local shops and services and increased investment in regeneration, through improvements in facilities and the environment.

1.4.5 Research into mixed-use high streets carried out by University of Westminster[4] has shown that they are well used and well liked by local people and encourage sustainable and inclusive patterns of living. Resolving the challenges of balancing the movement and place functions will result in these streets becoming the cornerstone of sustainable communities.

1.4.6 Both sets of research complement the studies carried out by CABE which found a clear link between street quality and property values - see Example below.

1.4.7 Green infrastructure, which provides a network of living green spaces, is important to the design of urban communities. Trees are one of the most visible components of green infrastructure and highway engineers and transport planners are well placed to help deliver this element of the natural environment. In the last few years a growing body of research has made it clear that trees bring a wide range of benefits both to the urban environment, individual people and to society as a whole. Further guidance on how to plan and design for street trees is given in **Chapter 12.**

1.4.8 A number of case studies that demonstrate the value of improving the public realm can be found in Section C.

CABE: Paved with Gold: the Real Value of Good Street Design (2007)[5]

Streets are public assets and, in common with other public realm features, assessing their value is a difficult undertaking. Broadly speaking streets are too often viewed in purely technical terms by the people designing and managing them on the one hand and their more aesthetic qualities by people funding economic redevelopment work on the other.

The truth lies somewhere in between - that streets which resolve competing demands and create places that people enjoy using can deliver in transport economic and social terms. CABE's research, 'Paved with Gold: the Real Value of Good Street Design' (2007), was designed as a demonstration project to show how to measure the impact of street design improvements on market prices as revealed through retail rents and residential prices.

London High Street case studies, outside the centre to avoid tourist effects, were identified in order to make them as comparable as possible. Streets with large shopping centres were excluded as their presence would skew results. A range of types of area and quality of streets was identified.

This work identified for the first time a direct causal link between street quality and market prices, which discounted all other factors. It established that prices are not totally explained by factors such as prosperity of the neighbourhood or public transport accessibility alone; a significant proportion of these prices are explained solely by the quality of the street.



2_ Networks, Contexts and Street Types

2.1_ Introduction

2.1.1 This section examines some common street types in different contexts to demonstrate how context and user needs inform a balanced approach to design, see **Figure 2.1.** It provides general advice on the application of the key MfS principles in **Section 1.2.** While the examples are not meant to be exhaustive, they will serve as a guide to other situations.

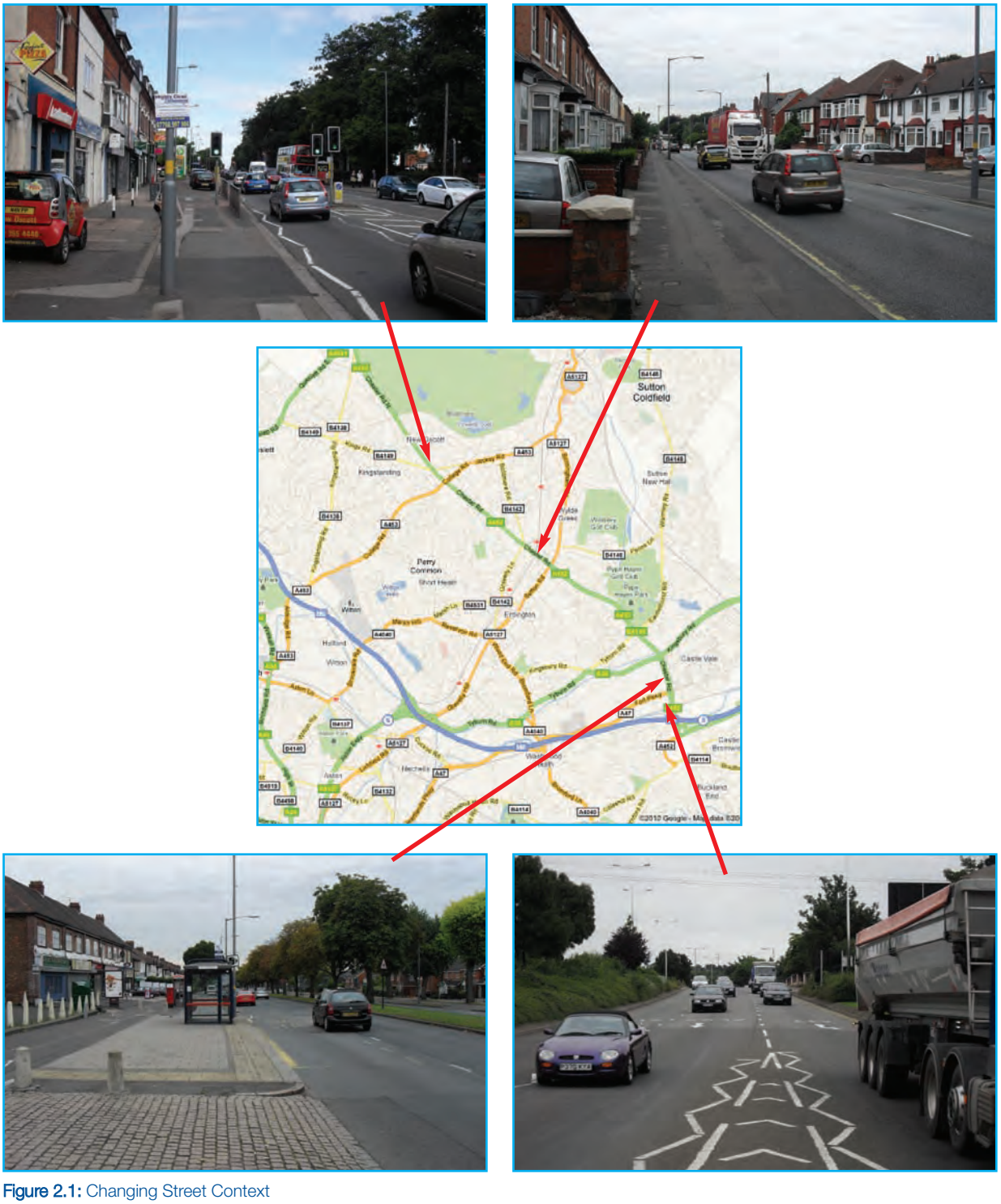


Figure 2.1: Changing Street Context

2.1.2 In **Figure 2.1,** the Movement function remains largely the same along the route, but the Place function varies according to the importance of that part of the street as a place and the predominant type of land use. As the Place function becomes more important, the relative weight given to the Movement function will be reduced when deciding on priorities and an appropriate street design.

2.1.4 A more formal approach to the determination of status level is given in the 'Link and Place' methodology[6], which provides definitions for different status levels, resulting in a 'matrix' of street types varying in their balance of Link and Place status, as shown in **Figure 2.3.** (In MfS, the term 'movement' is used rather than 'link', but the principle is the same.)



Figure 2.2

2.1.3 The balance between Place and Movement at any particular location can be expressed using the hierarchy diagram shown in **Figure 2.2.** A high street, for example, has both a relatively high Movement and Place status level.

2.1.5 A matrix similar to this has been used by the London Borough of Hounslow[7] to classify its entire street network into segments corresponding to the 25 cells in the matrix, while Transport for London has used a 2x6 matrix (i.e. two levels of Link and six levels of Place) for its categorisation of the 580km Transport for London Road Network.

2.1.6 The application of the movement/place diagram **Figure 2.2** does not depend on the detailed analytical

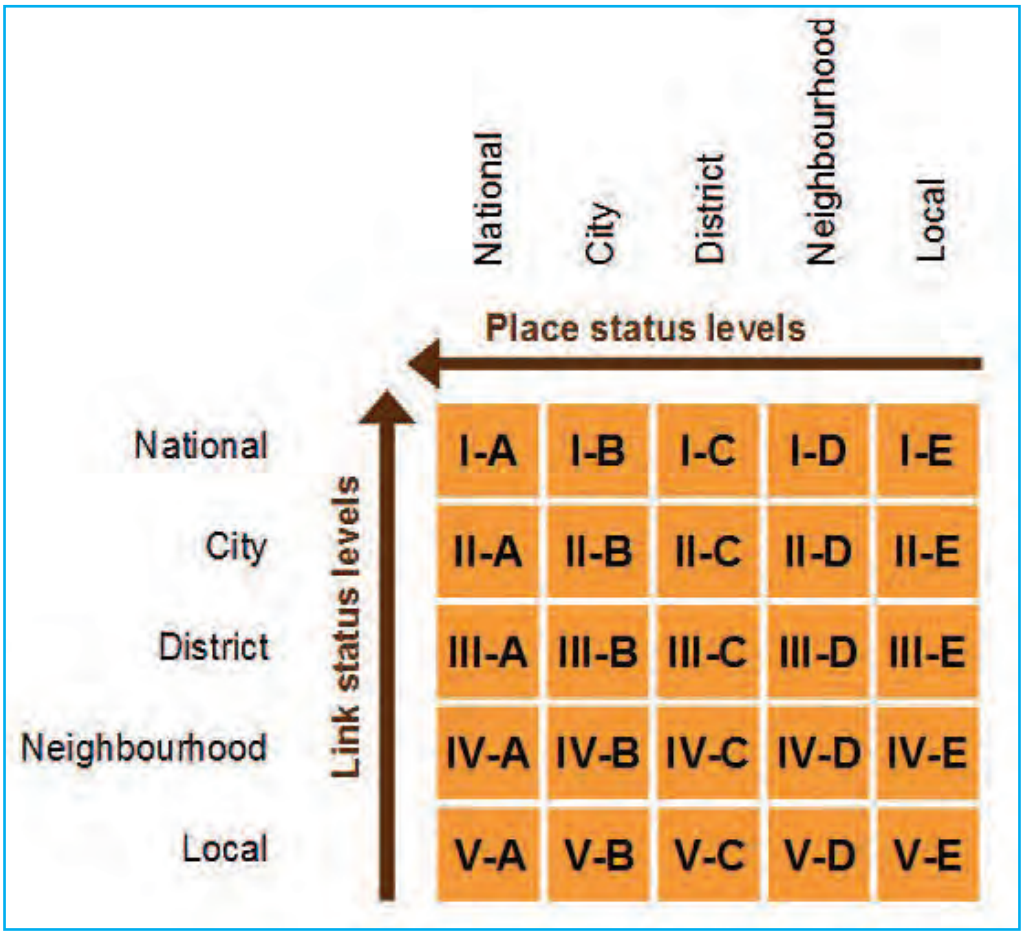


Figure 2.3: The Hierarchy Matrix from 'Link and Place'

approach as indicated in **Figure 2.3**. It can simply be used as a design philosophy that ensures a balanced approach is taken. Further advice on understanding the character of a place is given in Understanding Place: An Introduction and Associated Guidance on Historic Area Assessments[8] [9].

2.2_ Network

2.2.1 Highway networks interlace and connect residential, commercial, urban and suburban areas of cities, towns and villages. They fulfil many functions along their routes catering for many types of journey by different modes. Their interrelated nature means that changes to one part of the network can have implications for adjacent routes and therefore must be understood and taken into account when designing and implementing highway improvements.

2.2.2 Major routes in the highway network are most commonly classified by the volume of traffic they carry and are often known as Principal Routes, Distributor Roads, Ring Roads, or similar. These standard classifications remain constant for the whole route and this has often been used to inform the design and management criteria that are applied to different parts of the network. However, by failing to take account of the changing context along the route this classification system limits understanding of how improvements or maintenance should reflect the wider functions such routes serve.

2.3_ Context – Town and City Centres

2.3.1 Town and city centres are often the most important urban environments, forming a focus for economic vitality, public life and image of the town/city as a whole. They are where most exchange takes place, be it commercial, social, cultural or political. They are also likely to be the public places where people spend more time outdoors than anywhere else in the town/city, including parks and other green spaces.

2.3.2 Centres are the places that most people in a town or city are travelling to and from: they are at the heart of the local highway, bus and cycle networks; they will contain, or usually be close to, the main railway station and main bus station/hub; and they will experience far greater footfall than any other part of the urban area. They are, in themselves, transport interchanges.

2.3.3 A town or city's public image is shaped by the quality of its public realm. The beauty, safety and state of repair of its streets and spaces are very important to its success.



Walworth Road, London



Darlington

Common Street Types: Multifunctional Streets and Spaces

Typical Characteristics

2.3.4 Town and city centres are made up of a network of connected multifunctional streets and spaces, which in larger centres may historically have made up a series of distinct 'quarters' with different character and functions. Over the latter part of the 20th century, many centres became more uniformly focussed on retail. While centres may thrive during shopping hours, many are 'dead' once the shops shut.

Movement and Place Functions

2.3.5 Town and city centres should be, pre-eminently, places. However, many have been harmed either by attempts to protect their place status through eliminating some of the movement activity that made them the places they were, or by an emphasis on enabling traffic to get across them as easily as possible.

2.3.6 Centres should be the most walkable part of the network; they should accommodate public transport services, cycle routes and cycle parking, while remaining accessible by private car. As centres of public life, they must actively enable access by all in society, and they must also support efficient access by delivery, service and emergency vehicles. At the same time, they should be attractive places to shop, eat, drink, work, play, do business, meet, study, hang around in and look at.

2.3.7 There is barely a single movement or place function that a town/city centre may not need to accommodate, all of which represents a very considerable challenge to designers of streets, spaces and the broader public realm. But it is a challenge that must be met if urban life is to flourish.

Key Issues

2.3.8 Centres that have successfully balanced movement and place functions have done so by prioritising pedestrian and cycle movement within the core, while making it straightforward to get to the edge of the centre by other modes. This means that busier routes around the town centre must be easily crossed by pedestrians and cyclists and should not form a barrier.





Breaking the Concrete Collar In Birmingham

In Birmingham the Inner Ring Road was long seen as a constraint to extending the City's inner retail core and was a major barrier to pedestrians. This has now been broken with at-grade crossings provided for pedestrians who previously had to contend with detours via unpleasant subways. Elsewhere in Birmingham the Inner Ring Road has been lowered with a ground level pedestrian route provided in place of subways between the City Centre and Broad Street, helping to regenerate this area of the City.

2.3.9 Access restrictions by day and/or time of day may be appropriate in core areas. This means that the physical layout should cater for a number of patterns of use, rather than just one: for example, streets having a conventional carriageway and footway layout with a substantial kerb upstand between may be well suited for typical longitudinal movements by vehicles and pedestrians, but cause problems where many crossing movements take place or the space is being used for events, such as a street market.

2.3.10 Long-term adaptability should be a design principle for town and city streets. This can be achieved by adopting an area-wide public realm strategy and a streetscape manual to ensure that an harmonious public realm is achieved through consistent design choices, which the local authority is able to maintain to a high standard.

2.3.11 Where there are proposals to introduce vehicle restricted or pedestrianised areas, the starting position should be that cyclists are allowed to continue to use the streets concerned. If there are concerns about conflict between cyclists and pedestrians, the preferred approach is to allow cycling from the outset on the basis of an experimental traffic regulation order and only restrict access when and if the need has been demonstrated. If restrictions on cycling are shown to be necessary, they may only be required at certain times of day. The restriction periods can always be extended later if the need arises.

2.3.12 Advice on this issue is set out in TAL 9/93 'Cycling in Pedestrian Areas'[10]. This emphasises that, on the basis of research, there are no real factors to justify excluding cyclists from pedestrianised areas and that cycling can be widely permitted without detriment to pedestrians. This was confirmed by TRL report 583 'Cycling in Vehicle Restricted Areas' (2003)[11] which established that cyclists alter their behaviour according to the density of pedestrian traffic by modifying their speed or dismounting. Case studies contained within the report demonstrate that very few collisions actually occur between cyclists and pedestrians. It also showed that as pedestrian flows rise, the incidence of cyclists choosing to push their cycle also rises and those cyclists who continue to ride tend to do so at a lower speed.

2.3.13 The TRL research found that within pedestrianised areas most cyclists and pedestrians favour a marked cycle route. However, such a solution should be approached with caution as it can lead to higher cycle speeds and possibly more serious conflicts. Cyclists are also more likely to be obstructed by straying pedestrians using the defined cycle route and this can itself cause conflict.



Darlington



Birmingham

2.4_ Context – Urban and Suburban Areas

2.4.1 Town and city centres are surrounded by urban and suburban areas, the former being a mix of residential, employment and retail and the latter predominantly residential. Urban areas tend to be higher density and older development.

2.4.2 Suburban areas can be considered the urban extensions of yesterday and tend to be either fully interconnected with the surrounding area, a characteristic of pre World War II development, or less integrated, cul-de-sac development of the post WWII era. Interconnected suburbs are linked together by a network of residential and arterial routes which double as local high streets at certain points. Cul-de-sac suburbs are connected to the outside world by movement-focused distributor roads, relief roads and the arterial network. As noted in MfS1 this type of layout encourages movement to and from an area by car rather than other modes. English Heritage guidance on managing change and conserving the character of historic suburbs is set out in 'Suburbs and the Historic Environment'[12].

Common Street Types: Arterial Routes and High Streets

Typical Characteristics

2.4.3 Arterial routes form essential parts of the wider highway network acting as key links between towns, cities and local centres. They are usually a part of the core network for the town or city where it is not easy or appropriate to remove or redirect traffic, including HGVs and buses. The level of activity along these links varies depending on location. Along some sections of arterial routes the movement function will be most important; arterial routes are key to the functioning and economy of urban areas. However, along other sections of the routes the place function should be given greater weight.

2.4.4 Local high streets in interconnected urban and suburban locations often occur along arterial routes where they benefit from through traffic and proximity to adjacent neighbourhoods. In smaller towns and larger villages, high streets may also form the core of the settlement with little scope for removing through traffic. High streets will have a significant element of retail and commercial uses, often mixed with residential use that generates regular, high volume short-stay visits.

2.4.5 There are significant levels of pedestrian and cycle activity associated with the movement of people along the street and to local destinations. There are also high levels of kerbside activity generated by parking, loading and public transport. Provision for passing trade should take account of the needs of people travelling by all modes.

2.4.6 Essentially these streets are 'living' streets that act as both a significant local destination and as a corridor for movement through urban and suburban areas or into city, town or large village centres.



A207 Welling, Kent



Nottingham

Movement and Place Functions

2.4.7 High streets (and high street sections of arterial routes) are complex. They often cater for local retail, leisure and social needs as well as passing trade. High Streets can be centres of civic pride where important civic buildings, monuments and spaces are located. These functions need to be understood and incorporated in any redesign



Kinver High Street, Staffordshire

Key Issues

2.4.8 In the main, designers will be tackling problems in high streets that already exist. These streets will therefore frequently have significant and widespread physical constraints:

- fixed building lines;
- extensive statutory undertakers' equipment;
- shallow services;
- established balance of priority to motor vehicles creating difficulties for the reallocation of space due to wider area impacts;
- high cost of remodelling the street;
- demand for parking not in keeping with the physical space available;
- public aspiration in terms of the quality of the finish; and
- maintaining service access.

2.4.9 With these complex and competing demands, balancing the place and movement function is challenging and can only by resolved by taking a comprehensive and multidisciplinary approach to solutions that respect local context and user needs.

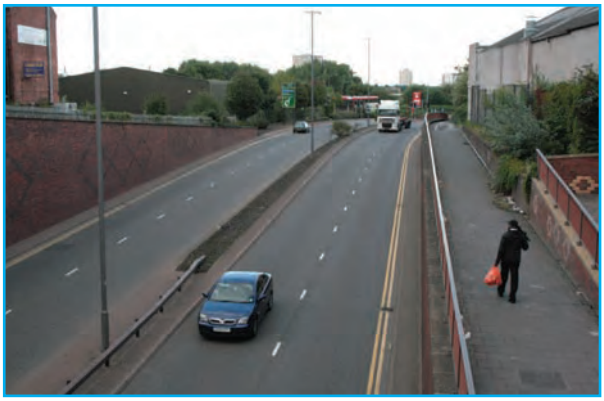
2.4.10 On larger new-build schemes it will often be appropriate to build new mixed-use high streets forming an active core to new communities and connecting them to the wider area. In the recent past distributor routes have taken traffic around the edge of a development. Taking this traffic through the centre will make the new high street an accessible, inclusive and active place.

Common Street Types: Relief Road/Ring Road

Typical Characteristics

2.4.11 The terms 'Relief Road' and 'Ring Road' are generally used to describe major roads whose primary function is to carry traffic around an urban centre. While 'Ring Road' implies the existence of a complete loop, the term is also applied to partial loops. 'Relief Roads' tend to be more linear in form.

2.4.12 Segregation of different user groups is the design philosophy which most clearly characterises Relief/Ring Roads. Another key characteristic is that many were built, all or in part, as new highways. While some may have been based on the alignment of existing highways, a significant amount of new construction was involved in turning them into the higher capacity traffic routes. Typically Relief/Ring Roads involved the loss of a significant amount of the existing urban fabric, and the alignment of the new highways were and remain at odds with the historic street structure of the area.



Birmingham Middle Ring Road

2.4.13 Relief/Ring Roads are typically multi-lane dual carriageways, often with speed limits of 40 or 50mph, with very little frontage development. Typical adjacent land uses are those that welcome excellent highway accessibility yet are not sensitive to the built environment quality (e.g. retail warehousing and other industrial uses) and/or to the backs of buildings whose fronts face inwards to the central streets from which traffic was diverted onto the Ring Road.

Movement and Place Functions

2.4.14 Relief/Ring Roads are predominantly about motor traffic movement and hardly at all about place, despite the fact that they are often on the edge of very active town centres. Many new routes were built without footways or provision for cycling despite their urban environment. They are likely to sever communities and disrupt pedestrian and cycle movement to town centres. Where they have been formed from existing streets, the previous place qualities have usually been given little thought and consequently have been considerably damaged.

Stourbridge Ring Road

Constructed in the 1960s, Stourbridge Ring Road creates a tight collar around the town's compact centre. Formed partly from existing roads and partly on new alignments, it is one-way and encourages high traffic speeds.







The Ring Road did not respect the existing urban form and exposes the rear of a number of historic buildings along the town's High Street. Many sections of the road are not well overlooked by buildings. It forms a barrier to pedestrians, with few at-grade crossings and is very intimidating for cyclists.

Key Issues

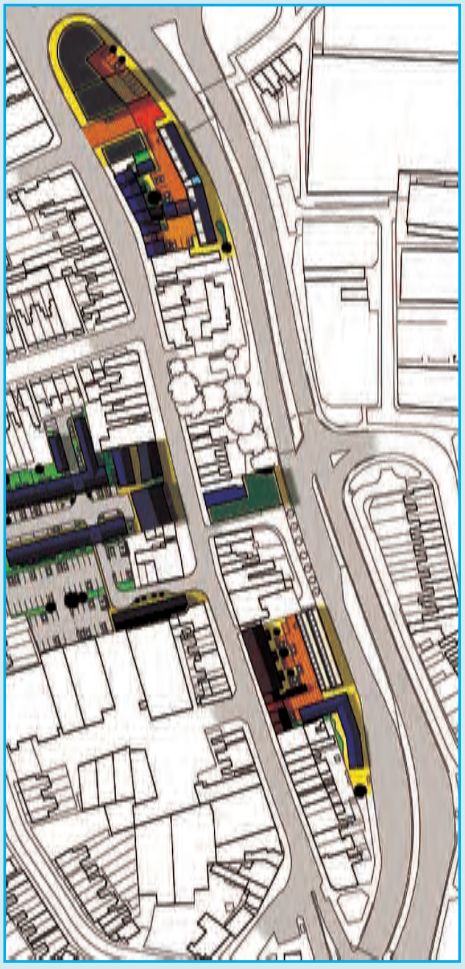
2.4.15 Where the roads are adversely constraining the development, growth and prosperity of the town/city, then consideration should be given to redressing the balance of movement and place. The scale of change required to transform Relief/Ring Roads from corridors for general traffic to balanced streets has major cost implications. Nevertheless, there are a small but growing number of examples where all or part of the ring road has been remodelled, e.g. Ashford, Nottingham, and Birmingham.

2.4.16 Some authorities have recognised that a piecemeal approach is all that can be achieved, and have therefore focused on improvements such as the replacement of poor quality subways by at-grade pedestrian crossings, introducing 'friction' features such as kerbside parking and loading bays, moving from one-way to two-way operation, reducing speed limits (with or without the addition of speed-limiting engineering elements), or measures to 'humanise' the roads such as simple decluttering or the widening and planting on median strips.

Sky Blue Way/Far Gosford Street, Coventry

Sky Blue Way is a major urban relief road, constructed in the 1980s, which relieved traffic from Far Gosford Street, a medieval street on the edge of the city centre. The road carved a broad swathe through the urban fabric, revealing the rear of buildings. There are few buildings overlooking the new route and it is a hostile environment for pedestrians and cyclists.





A scheme has now been developed by the City Council, working with developer partners, to heal the damage done by the road scheme. It introduces new buildings to front onto Sky Blue Way, making best use of the awkward plots of land. Changes to one of the terminal junctions are also proposed, simplifying the layout and removing extensive lengths of guardrailing.

Common Street Type: Boulevards

Typical Characteristics

2.4.17 Boulevards typically carry large volumes of traffic. 'The Boulevard Book'[13] describes three types of boulevard design: (a) streets with a wide central landscaped median, flanked on both sides by carriageways and footways; (b) a wider-than-usual street of conventional layout, with a central carriageway and broad, tree-lined footways (often also referred to as an 'avenue'); and (c) 'multiway boulevards' with a central carriageway for through traffic, tree-lined medians to each side, one-way access carriageways, beyond these medians, and then footways.

2.4.18 Boulevards are important in many countries. In Britain boulevards have not had such a large part to play in our towns and cities, but there are some UK streets that genuinely justify being defined in this way. London's Park Lane and Cheltenham's Promenade could qualify as could some interwar suburban development which adapted the boulevard typology to facilitate strategic and local traffic movements.



Promenade, Cheltenham



Park Lane, London

2.4.19 The boulevard typology can be highly appropriate for application to the conversion of some of the nation's widest urban roads from traffic-dominated corridors having no grandeur and a very poor public realm to much more multifunctional urban streets.

Movement and Place Functions

2.4.20 Multiple movement functions mixed with a very strong sense of place are at the heart of the boulevard typology.

2.4.21 Adjacent uses may be of almost any variety: retail, residential, civic, commercial, or a mix. However the grand sense of scale created by the wide street is also a vital place element in its own right. Wide, tree-lined footways are there for the convenience of pedestrians, and there may also be additional leisure space on the medians.

2.5_ Context - Urban Extensions

2.5.1 An urban extension is the significant growth of an existing town or city with development that ideally is well connected to, and adjacent to, the urban edge of the existing settlement. Urban extensions can provide important 'green infrastructure' links that connect urban open spaces with rural areas.

2.5.2 They should allow for the growth of our existing towns and cities to take place in a more sustainable way so that new residents and workers in the urban extension can benefit from the existing facilities in the town or city as well as those provided in the extension area. Practice that relies on limited access via distributor and relief roads limits the level of connectivity that can be delivered and is not recommended.

Common Street Types: High Streets, Residential Streets

Typical Characteristics

2.5.3 Many existing suburban areas are edged with culs-de-sac and low density development, which makes it very difficult to continue the growth of the settlement in a well-connected way particularly by public transport.

2.5.4 In order to achieve connected growth, urban extensions should link in to the surrounding network of local and strategic routes. Developments with only one or two means of access should be avoided as they segregate existing and new development, and do not provide for good walking and cycling connections.

2.5.5 The form of the urban extension should be made up of connected streets and urban blocks. The streets should be generally low speed and all, be well overlooked. There should also be a high quality, high frequency public transport system at the heart of the development. The walkable neighbourhood principle should be used to help structure the urban extension.



The Sherford New Community featured in MfS1. This urban extension, which will link well to the surrounding network, has now received planning consent and is moving towards implementation.

The Sherford New Community is structured around the walkable neighbourhood (a series of 5 minute walks) and a new high street that carries both strategic and development generated traffic which will aid the vitality of the place and viability of retail and commercial uses.

Movement and place functions

2.5.6 These will vary within an urban extension due to the variation in contexts from high streets to residential streets and squares to mews and courts. However, with all of these street types the consideration of place and the need to integrate communities must underpin design decisions.

Key Issues

2.5.7 Unfortunately many urban extensions have left unchanged strategic highway routes that run adjacent to or through the development rather than making it a focus for the development, possibly in the form of a high street.

2.5.8 Figure 2.4 illustrates development that ignores, and often backs onto existing highways, and provides few direct connections. The alternative on the right, illustrates how new development which embraces and connects with these routes, changing the form of them to reduce speed and make them more humane can help to deliver integrated growth.

2.5.9 Masterplans for urban extensions should also consider future growth and how the plan could develop further, over say a 50 or 100 year vision. Planning and highway authorities should require developers to provide future connections when further expansion is a possibility.

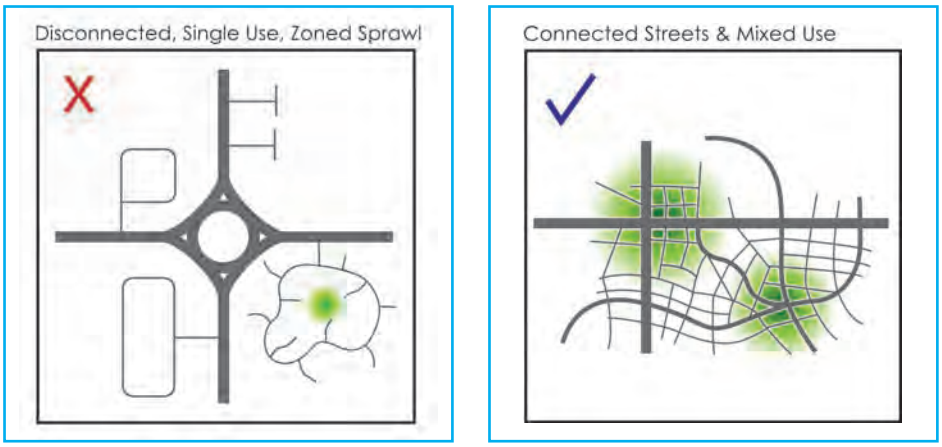


Figure 2.4 - Urban Extensions; Suburban Sprawl vs Connected Development

2.5.10 Taking this approach will mean that planning and highway authorities will have to accept that the character of rural routes will have to change fundamentally in these locations as they become part of the urban fabric. Local Development Frameworks or in Wales, Local Development Plans can stipulate that developers require sufficient land for adequate connections from new development to potential further expansion.

2.5.11 Existing routes that pass or run through urban extensions will change in character as development takes place bringing new place function as well as an increase in movement along and across the highway. Both need to be considered in the redesign of the route.

2.6_ Context - Interchanges

2.6.1 Whilst at one level interchange facilities can comprise major bus, tram and rail stations, at another they could simply refer to a high street or crossroads where two bus routes meet. Both extremes need to be carefully designed to cater for ease of pedestrian movement.

2.6.2 The need to provide integrated transport to enable different modes of transport to be used in a seamless manner to enable door-to-door travel is crucial. In particular the provision of adequate cycle parking at stations and bus stops can make a public transport journey a convenient and speedy choice.

2.6.3 Often an interchange is a traveller's first experience of a place, the gateway to a country or city. It will need to encapsulate a sense of arrival appropriate to its scale and location.

2.6.4 Transport integration covers not just the interchange facility but ticketing and the provision of passenger information. Ultimately, maximising passenger satisfaction, or user experience, is crucial to making public transport more attractive. The aim is to achieve:

- Seamless and efficient movement of pedestrians, cyclists and public transport;
- Increased pedestrian and cyclist satisfaction by making interchanges and their urban context more integrated and attractive to use;
- Improved good quality of information, cycle parking and wayfinding;
- Places that feel and are safe and secure.

Typical characteristics

2.6.5 An independent review on how to improve stations[14] recommended that, in the context of street design, improvements to station access should focus on providing a minimum level of provision dependent on the category of the interchange. Features should include:



Louth, Lincolnshire. A bus station that complements the town centre.

- Level access, particularly given the expected concentration of encumbered users in and around transport facilities;
- Clear and concise identification of transport facilities;
- Street direction signs, including cycle/pedestrian routes;
- The provision of cycle access, including secure storage and cycle hub facilities at the station with the development of convenient cycle routes;
- Improved bus access through closer partnerships with train operating companies, local authorities and bus operators; and
- Provision for taxis.

Movement and Place Functions

2.6.6 Any strategy to harmonise and integrate the design and function of streets and interchanges will have to work in conjunction with the physical layout of each place and under a range of operating environments.

2.6.7 Above all, any strategy aimed at enhancing transport integration will have to ensure that pedestrians and cyclists can be catered for and directed in a convenient manner. Success will be dependent upon co-ordination across a range of transport planning, management and operation disciplines.

2.6.8 The Pedestrian Environment Review Software (PERS)[15] is a well-established approach for auditing pedestrian networks and is recommended in several publications, including Transport for London's (TfL's) guidance 'Walking Good Practice' published in 2010[16].

2.6.9 One of the street audit frameworks developed in the PERS system is specifically concerned with Interchange Spaces. This was developed at the instigation of TfL and particularly recognises the specific requirements and challenges of designing public spaces in which interchange is the primary, or most significant, function. This prompts assessment of key elements of an interchange space such as the ability of people to orientate and navigate in the space or to move freely and safely.

2.7_ Context - Village Centres



Troutbeck, Cumbria

2.7.1 Villages are smaller isolated settlements in rural locations, and can vary from a scattering of dwellings to what could also be described as a small town.

2.7.2 Villages are the most numerous type of settlement in the UK. In 2001 there were over 4,200 settlements in England with more than 100 residents, and of these some 3,100 had fewer than 5,000 residents. While the majority of people reside in larger settlements, a total of 9.8 million people lived in rural England in November 2009[17].

2.7.3 The quality of the built environment in these settlements is obviously important to those who live there, but villages are also an essential part of the make-up of the UK and are vital to its image. Tourism is a major contributor to the rural economy and preserving the attractiveness of village centres is essential if this is to be maintained.



Abbotsbury, Dorset

Common Street Type: Village Streets

Typical Characteristics

2.7.4 Many villages have existed for centuries and are likely to have an historic centre with a street pattern that is unlikely to conform to a standardised highway layout but which it is desirable to conserve in the interests in maintaining the character of the area. Carriageways are often narrow, and footways may be narrow or non-existent and as a result speeds can be low. Street lighting may be below normal standards and may be entirely absent as a conscious decision of the local authorities.

Movement and Place Functions

2.7.5 Many historic buildings do not have off-street parking leading to significant demand for on-street parking in many village centres. This can be in conflict with movement functions, particularly where villages are on major routes. As in other situations, an appropriate balance needs to be struck between demand for on-street parking, road safety and visual amenity.

2.7.6 Village centres have all of the place functions of the centres of larger settlements, albeit on a smaller scale. Most centres will have some shops and one or more pubs, churches and community halls, and so the most important buildings will be located there. Village greens, ponds and other areas of open space will often form a key element within the centre, contributing to the sense of place. The relationship between these buildings, green spaces and the routes through a village is often a major part of its character.



Hallow Village Green, Worcestershire

2.7.7 Public transport is often limited in rural areas, but services will almost always stop in the village centre. With many villages being compact in size, the centre will be accessible to local residents on foot, and so the number of people on foot will be higher in the centre than in other parts of the settlement.

2.7.8 In movement terms, many village centres are the focus for street networks that carry low volumes of traffic, but there are also many that are on the route of one or more heavily trafficked highways, including trunk roads. In these cases there are often significant tensions between the movement function of these principal routes and the place function of the settlement.

2.7.9 Providing a bypass has long been the favoured means of reconciling this conflict, but such schemes are costly and take many years to deliver. Where this is not possible, the reduction in traffic speed through the sensitive redesign of the principal streets offers an alternative, as illustrated in the Clifton example below.

Key Issues

2.7.10 There are often concerns over the urbanising effect and visual intrusion of unsympathetic highway features such as traffic signs, road markings, street furniture and excessive carriageway width. These can be in conflict with local place functions. The opportunity for designers to employ 'natural' features should be considered, for example grass or grassy banks, appropriate trees and shrubs and also seating.

2.7.11 In the past highway authorities may have chosen to apply national road standards through rural villages on the basis that the streets are on a classified route. Unless the streets are part of the trunk road network, there is no requirement to apply DMRB standards, and a more place-sensitive approach should be used.

2.7.12 As with larger settlements, experience shows that a more sensitive approach can bring significant benefits.

Clifton Village Traffic Calming

The main street through Clifton village, Cumbria, is the A6, a former trunk road. Heavy traffic now uses the nearby M6. This left a wide road, with many signs and lines, carrying relatively light local traffic, although it is still used by some heavy vehicles.

Instead of a conventional traffic calming scheme with yet more signs and lines, a scheme was designed to introduce measures that protected and enhanced the appearance of the village, as well as reducing speed. The design concept was to show to drivers that they are not just driving down a road, but through a village where people live.

At regular intervals the footway was widened and the road narrowed to 6 metres, wide enough for two heavy vehicles to pass. These narrowings are spaced within sight of each other, to continually reinforce to drivers the message that they need to keep their speed down. Each of the locations where the footway was built out relates to an important building in the village, such as the school, the church and the pub. These are emphasised by specially designed plaques on planters. Centreline markings have been removed throughout the length of the village.

Following implementation of the scheme the all-vehicle traffic speed has reduced to 27mph (average) and 34mph (85th percentile).





George and Dragon Pub before; and after, showing carriageway narrowing and planters

2.8_ Context - Rural Areas

Common Street Type: Rural Roads and Lanes

2.8.1 Rural roads are an integral part of the landscape, often reflecting and preserving historic landscape features such as ancient routes or field boundaries and set within outstanding countryside. Elements such as hedges, verges, banks and fingerposts may contribute strongly to local character and historic significance.

Typical Characteristics

2.8.2 There is a considerable variation in the highway network running through rural areas from motorways to Green Lanes. The majority of other rural roads follow old pathways and boundaries and do not conform to present guidance on highway standards. Indeed to attempt to do so could be to the detriment of local character and lead to intrusion into some of our most outstanding landscapes.

In April 2008, Dorset County Council formally adopted a rural roads protocol setting out their new approach on how to manage the roads in Dorset's countryside. The protocol's main principle is to use the local setting and distinctiveness of the rural environment to guide their management decisions. All future work on rural roads and streets will:

- Balance the safety and access needs of users with care for the environment and the quality of our landscape and settlements
- Use local materials and design schemes to be sympathetic to the character of our rural settlements
- Consider the landscape adjacent to the road and address ecological and historical needs and interests
- Address sustainability and consider the potential impacts of climate change, ensuring that our management of rural roads and streets does not create or contribute to foreseeable environmental problems in the future
- Keep signs, lines and street furniture to the minimum needed for safety and remove intrusive roadside clutter
- Where signs and markings are needed, we will adapt standard designs wherever possible to make them the best possible fit with local surroundings
- Encourage and test innovative approaches and make full use of the flexibility in national regulations, standards and codes of practice

2.8.3 A number of local authorities have developed policies sensitive to local context. Dorset County Council's[18] approach to the design and management of rural highways is given in the Example below.

Movement and Place Function

2.8.4 Outside villages most rural roads connect small settlements and farms to local centres and the wider highway network. Their predominant function is movement, although there is often a leisure aspect to this; walking, cycling and equestrian. Some routes also attract car drivers on leisure routes such as in the National Parks.

2.8.5 Whilst these routes are largely subject to the national speed limit, their curvilinear nature can encourage speeds well below 60mph, the clear exception being the busier and more direct 'A' roads. However most of these routes are single carriageways where the speed of HGVs is limited to 40mph, and as a result they often act as a constraint on car speed.

2.8.6 On the more lightly trafficked rural lanes Devon County Council[19] offers the good practice advice in the Example overleaf.

There is a large network of minor roads in Devon. Most junctions are T-junctions or crossroads and on occasions, a road has a split junction, leaving a small grass area between the carriageways. Junction improvements are sometimes necessary on safety grounds or as a result of development in an area. Whilst legislation sometimes requires specific standards to be met, some regulations do allow flexibility. The design of any new scheme should use the existing topography, vegetation, buildings and other structures, so that they appear an integral part of the landscape and historic road pattern. Solutions should reinforce local identity by careful choice of detailing, materials and street furniture.

Roundabouts are normally associated with urban areas or major roads, where the volume of traffic means they are considered to be essential. Regulation requires lighting, mandatory signs and lines to a satisfactory standard at roundabouts and this can be inappropriate in rural areas. In view of this, other junction treatments are preferable.

Junction improvements will only be considered where there is a proven safety need and the introduction of a roundabout should only be considered as a last resort.

Wherever possible, the area of carriageway should be reduced and the road realigned rather than use large areas of hatching.

There should be a presumption of retaining trees, hedges and verges including any central grass areas.

If a traditional Devon hedge needs to be removed for the realignment of a road, the practicality of translocation/moving the hedgebank should be considered in the first instance. Where this is not feasible, the next option should be to carefully dismantle and reconstruct the hedge. Archaeological recording and supervision may be required.

Lighting will not be installed on roads outside settlement boundaries unless there is a proven and overriding safety reason which cannot be addressed by other means. Where considered necessary, the highway authority will consult with landscape managers during the design stage. The preferred option is to install high-reflective non-illuminated signs.

Signing will be kept to a minimum and will be located with a view to minimising the impact on the landscape and the rural character of the area, as well as with a view to safety and utility.

Detailing and choice of materials will respect the local environment and standard solutions or components will not always be appropriate. Kerbing of central grass areas should be avoided. Chevron blocks around the edge of the roundabout are not appropriate and should not be used.

2.9_ Context: Urban and Rural Settlements

Street Types: Shared Space



New Road, Brighton

Typical Characteristics

2.9.1 Shared Space is predominantly an approach to highway design and is introduced for a range of purposes including:

- improving the built environment;
- giving people freedom of movement rather than instruction and control;
- improving the ambience of places;
- enhancing social capital;
- enhancing the economic vitality of places; and
- safety.

2.9.2 Many local authorities' objectives can be addressed through pedestrianisation. However, for practical purposes and in some settings, Shared Space may be more desirable for a number of reasons.

2.9.3 A characteristic of many Shared Space schemes is the minimal use of traffic signs, road markings and other traffic management features. With less or no traffic management, or clear indication of priority, motorists are encouraged to recognise the space as being different from a typical road and to react by driving more slowly and responding directly to the behaviour of other users (including other motorists) rather than predominantly to the traffic management features. This approach takes place against a backdrop of concern at the proliferation of features such as pedestrian guardrailing, traffic signs and highway regulation which, it is argued, reduce users' understanding of the complexity of the street environment and their personal responsibility for safe and appropriate behaviour.

2.9.4 Some Shared Space schemes also feature a level surface. In these cases, kerbs are omitted and there is no level difference between pedestrians and vehicular traffic. The aim of reducing the definition of areas for pedestrians and vehicles is to indicate that the street is meant to be shared equally by all users of the highway. Indication of implied priority for motor vehicles is removed, as is a physical and psychological barrier to pedestrians which might discourage their using the full width of the highway. Ideally, people should be able to not only cross the street wherever they want to, but occupy the full width of the street too.

Movement and Place Functions

2.9.5 Shared Space can maintain access for public transport, cyclists, disabled people reliant on cars, passing trade, and delivery vehicles that might otherwise be excluded. It can also reduce the network impacts of entirely closing a link to traffic. Shared Space also addresses a particular problem which can affect some pedestrianisation schemes, where the absence of vehicular traffic can lead to them becoming lifeless places at night. This can give rise to personal security issues.

2.9.6 Several terms are currently in use aimed at describing Shared Space. At the time of publication the following definitions are used:

- **Shared Space:** a street or place accessible to both pedestrians and vehicles that is designed to enable pedestrians to move more freely by reducing traffic management features that tend to encourage users of vehicles to assume priority.
- **Level surface:** a particular type of Shared Space where the street surface is not physically segregated by kerbs into areas for particular uses. Not all parts of a level surface are necessarily shared as other features, such as street furniture, may physically prevent vehicles from occupying certain parts of the space (see next).
- **Comfort space:** space(s) within the scheme designed to discourage or prevent vehicular access so that pedestrians can choose whether to mix with vehicles or not.

2.9.7 In historically sensitive environments, creating a level surface may result in the loss of significant features such as historic kerb lines, and creating surfaces with contrasting tones may be visually intrusive. English Heritage's 'Streets for All: Practical Case Study 6: Tactile Paving'[20] illustrates how natural materials can be used to achieve contrast in sensitive areas.

Key Issues

2.9.8 A number of emerging design issues have been identified in the ongoing DfT research project on Shared Space[2]. These are summarised below:

- there is a need to take a comprehensive approach to the design of Shared Space schemes, with clear objectives as to what the scheme is meant to achieve;
- establishing a multidisciplinary team at an early stage in scheme development is important;
- there is a need for close and continued engagement with interested parties, including groups representing vulnerable users;
- achieving vehicle speeds of under 20mph is likely to be important to achieving the full potential benefit of schemes;
- it may be necessary to consider traffic network design to manage the flow of vehicles such that pedestrians are willing to use the space as intended;
- schemes need to be designed in three dimensions, as vertical features and cross sections can influence driver speed;
- Shared Space schemes seem likely to be most effective when they provide a comprehensive redesign of the space - just adding or removing specific design features without regard to context or integration of other design elements is unlikely to be satisfactory;
- transition zones or gateway treatments can be useful for indicating to motorists that they are entering a place where they need to drive at low speed and with caution, and for encouraging them to adjust their behaviour prior to encountering significant numbers of pedestrians;
- tactile features for blind or partially sighted people are required to enable them to navigate the space;
- control of parking needs to be considered in level surface schemes;
- with level surfaces designing for drainage needs particular care because of the lack of conventional carriageway cross falls and kerbs; and
- providing surfaces in contrasting tones can assist partially-sighted pedestrians in orientating themselves within a street. However colour fading, dirt, wet weather, low light etc. may affect the level of contrast.

2.9.9 These considerations will be reflected in the final design guidance which will result from the ongoing research, expected to be published by DfT in 2011.

3_ Highway Design, Risk and Liability

3.1_ The Need For Additional Clarification

3.1.1 MfS1 sought to assuage fears of some highway authorities, when considering more innovative designs at variance with established practice, concerning liability in the event of damage or injury. Whilst this was accepted by some it is clear that there is a need for more guidance on risk and liability.

3.1.2 Since the publication of MfS1, the UK Roads Board has published a second edition of Highway Risk and Liability Claims (HRLC)[21]. All those with an interest in highway design are strongly recommended to read this comprehensive document.

3.1.3 The document is quoted below more extensively than was its predecessor in MfS1 to raise awareness of the issues and demonstrate how few cases arise due to alleged defects in design and to give greater confidence to designers to respect local context and move away from a standardised, rigid approach.

3.1.4 The HRLC document sets out the legal uses and obligations of users of the highway.

Uses of the Highway

3.1.5 When discussing the rights to use a highway, reference should be made to the following:

"the public highway is a public place which the public may enjoy for any reasonable purpose, provided the activity in question does not amount to a public or private nuisance and does not obstruct the highway by unreasonably impeding the primary right of the public to pass and repass" Lord Chancellor, DPP v Jones 1999

3.1.6 This shows that the public highway is not merely a piece of infrastructure for moving from place to place. It is a place in its own right that can be used for any purpose that does not cause nuisance or obstruction.

3.1.7 The Highway Code[22] provides a guide to the use of the highway and confirms that users must behave reasonably, taking into account other people and local conditions.

3.1.8 Key guidance from the Highway Code states that people must not drive dangerously, without due care and attention or without reasonable considerations for other road users. It goes on to say:

'Adapt your driving to the appropriate type and condition of road you are on. In particular

- *do not treat speed limits as a target. It is often not appropriate or safe to drive at the maximum speed limit*
- *take the road and traffic conditions into account. Be prepared for unexpected or difficult situations, for example, the road being blocked beyond a blind bend. Be prepared to adjust your speed as a precaution*
- *where there are junctions, be prepared for road users emerging*
- *in side roads and country lanes look out for unmarked junctions where nobody has priority*
- *be prepared to stop at traffic control systems, road works, pedestrian crossings or traffic lights as necessary*
- *try to anticipate what pedestrians and cyclists might do. If pedestrians, particularly children, are looking the other way, they may step out into the road without seeing you'* (Highway Code Rule 146)

3.1.9 It is clear that the Highway Code requires drivers to have regard for other road users particularly children, which is confirmed in the case of Russell v Smith:

"The Highway Code requires motorists to take particular care in looking out for children in built up areas and to travel at an appropriate speed. In the case of Russell v. Smith and Another 2003 EWHC, a motorist, Miss Smith collided with a young cyclist who had emerged into her path from a side road. Failure to observe a provision of the Highway Code is something which a court can take into account when assessing liability, and does not involve fault on the part of the driver. The court judged that Miss Smith had failed to observe the provisions of the Highway Code that requires drivers to have regard to the safety of children in a residential area, and was held partly liable."

3.1.10 There has been a long standing principle, as restated in the Gorringe v Calderdale ruling, that drivers are responsible for their own safety.

"The overriding imperative is that those who drive on the public highways do so in a manner and at a speed which is safe having regard to such matters as the nature of the road, the weather conditions and the traffic conditions. Drivers are first and foremost themselves responsible for their own safety".

"Many more accidents occur on the wider, and should be, safer roads than upon the so-called dangerous ones. I have in some cases, widened turns to render them safer, but more accidents have ensued owing to motorists taking the turns much faster."

H T Chapman, County Surveyor of Kent, September 1932

In 1954 in the paper 'Road Design in relation to Traffic Movement and Road Safety Proceedings of the Institution of Municipal Engineers', the author R J Smeed reported on research that had found a relationship between increased carriageway width and increases in the average speed of traffic, and conversely reductions in radius of curvature of highways and reductions in speed of traffic.

Risk Compensation

3.1.11 Risk compensation, whereby a driver is assumed to adjust behaviour in response to perceived changes in risk is reflected in MfS1 but there is evidence of this dating back to the 1930s: (See Example above).

3.1.12 The evidence based approach set out in MfS1 used the research findings of 'The Manual for Streets: Evidence and Research', TRL661[23], in concluding that a number of environmental factors influence driver behaviour to bring about this compensation.
(See **Chapter 8.**)

Design, Defects and Liability

3.1.13 Streetscape and highway design have been devolved to local authorities. However, some highway authorities do not take advantage of this and can shy away from developing local guidance for fear of litigation. However, HRLC refers to a survey it conducted to assess the scale of cases relating to defects in design.

"There have been very few cases relating to alleged defects in design. A request went out to members of the CSS [now ADEPT] in 2008 for cases that had gone against the authority on the basis of design. There was no significant history. There was a small number of live cases that were tending to focus on trip hazards resulting from design. There is of course nothing stopping an individual making a claim for a design defect, however the instances seem rare and the chances of success remote."

3.2_ Design Guidance and Professional Judgement

3.2.1 For some time there have been concerns expressed over designers slavishly adhering to guidance regardless of local context. Local Transport Note 1/08 specifically advises:

"Regulations and technical standards have a key role in the delivery of good design, but, if used as a starting point, they may serve to compromise the achievement of wider objectives. A standards-based template view of road junction design, for example, is inappropriate". LTN 1/08 3.2.1[24]

3.2.2 In reality, highway and planning authorities may exercise considerable discretion in developing and applying their own local policies and standards.

"Designers are expected to use their professional judgement when designing schemes, and should not be over-reliant on guidance". LTN 1/08 3.2.3[24]

"Available guidance is just that, guidance, and cannot be expected to cover the precise conditions and circumstances applying at the site under examination." LTN 1/08 3.2.2[24]

3.2.3 On this issue HRLC states:

"The authors of guidance, how ever accomplished, will not be cognizant of the site and situation in question. It would be neither reasonable nor rational to presume that anyone could produce an optimal design in abstract. The informed judgement of trained professionals on-site, should logically take precedence over guidance."

4_ Design and Implementation Process

4.1_ Introduction

4.1.1 A generic design and implementation process was set out in MfS1 which leads from local policies through design, auditing, approval to implementation and monitoring. This process can be applied to all types of projects from new development to changes to existing streets.

4.1.2 The detailed process given in MfS1 was primarily for new development. For existing streets the following example of a design process can be applied and is taken from Local Transport Note 1/08[24].

4.1.3 This process emphasises the need for a clear vision, a multidisciplinary team and the monitoring of the performance of the completed project.

4.2_ Community Involvement

4.2.1 On many schemes there will be a need for thorough public consultation and involvement. The Mixed Priority Route projects (see LTN 3/08[1]) all spent considerable time and effort to consult widely which resulted in much improved and well-received schemes.

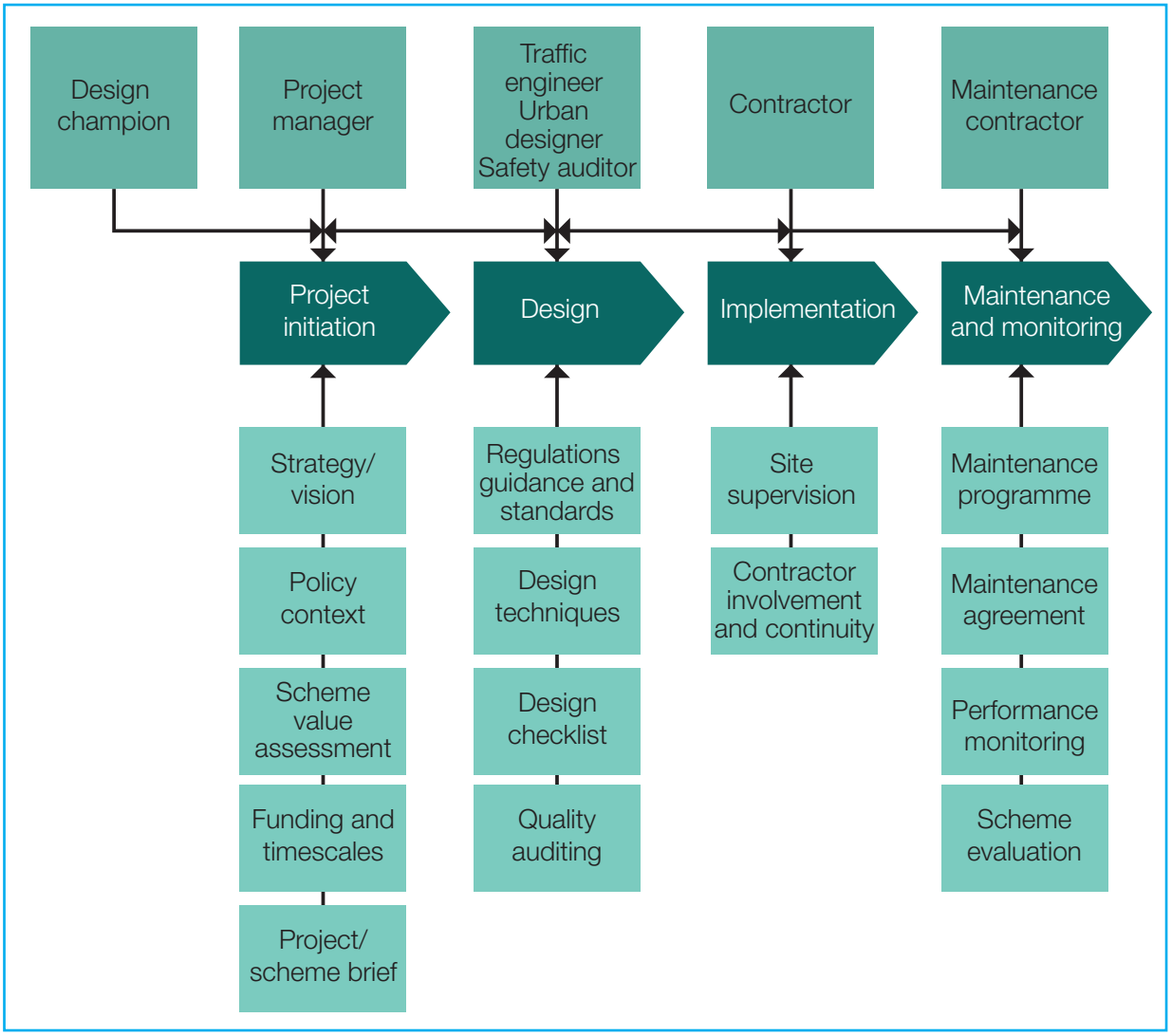


Figure 4.1: The Design Process - Flows, Inputs and Links, from LTN 1/08

4.2.2 These principles can also be applied on small low-budget schemes, for example the Sustrans DIY Streets project which is yielding significant benefits to local people, see Example below.

guidance on how to provide better streets and a series of staged actions to deliver them. MfS and the Better Streets strategy share a consistent philosophy.

DIY Streets – Active Collaboration.

This Sustrans project involves local people in designing modest but effective improvements to the streets where they live, using the principles of the first 'woonerf' schemes in the Netherlands (and which formed the basis of UK Home Zones).

A total of 12 projects have been implemented, all of which have been founded on extensive collaboration with residents. Sustrans has developed a toolkit of low cost interventions to help groups develop future similar schemes. See http://www.sustrans.org.uk/what-we-do/liveable-neighbourhoods/diy-streets for more information



Designing with residents, on street



Mina Road, Bristol – Before



Mina Road, Bristol – After

4.3_ Stages of Improvement

4.3.1 Significant improvements to existing streets can be delivered with relatively little effort by applying the principles of MfS during ongoing maintenance. A similar approach has been developed by the Urban Design Team within Transport for London Group Planning on behalf of the Mayor of London in his 'Better Streets strategy'[25] published in November 2009 and the 'Mayors Transport Strategy' published in June 2010. These provide

4.3.2 The strategy sets out five practical steps to delivering better streets. The steps are progressive, moving from simple measures through to the complete transformation of streets, and more than one can be done at the same time. Steps One to Four can be undertaken in the course of routine maintenance, or small-scale improvements. These can be inexpensive to implement from an engineering point of view and can be carried out quickly.



0. Existing Street

Considering a typical street in the UK, the strategy sets out five practical steps to deliver better streets.



1. Tidy Up

Get rid of unnecessary road markings and bits of kit that are easy to lift and remove. Remove things such as unwanted or broken seats where removal is simple and will not damage the footway or repair them where appropriate.

2. Declutter



More thoroughly, justify each piece of equipment and obstruction with a presumption that it should be removed unless there is a clear case for retention, for example its contribution to the historic character of the area. Look particularly carefully at the need for signs, posts, guardrails, bollards and road markings.

3. Relocate/merge functions



Make the remaining street features and equipment work together, maybe putting multiple signs on poles, private boundary walls, railings or buildings when possible or installing a furniture zone in preference to scattering objects across the pavement width.

4. Re-think traffic management options



Consider how pedestrians, cars and cyclists use the area and rebalance priorities. This might mean, for example, eliminating some traffic signals, removing redundant carriageway width and providing more generous pavements, creating indirect driving lines, or reverting to traditional two-way roads where practical.

5. Re-create the street



Totally remodel the space creating a very different place. This type of approach is likely to be appropriate in very carefully chosen locations. It should be very well designed, with the aid of extensive consultation, and carefully implemented with consideration to the effects on how the historic environment contributes to the sense of place and to the needs of all users. High quality materials and craftsmanship are essential.

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4.4_ Developing a Quality Audit Process

4.4.1 Quality Audit (QA) was first described in general terms in MfS1. QA is a process whereby a series of discrete evaluations are collected and given due consideration within the design process throughout the life of a project.

4.4.2 Quality Audit is recommended as integral to the design process, from initial conceptual designs when a vision for a scheme is developed and including criteria for success, e.g. not just reducing collisions or congestion but also increasing footfall and use of places. For larger schemes this will require a team approach whereby all those with an interest at some stage in the project, including the general public and disability groups, are brought together to identify and resolve competing objectives. QA is appropriate for both large and small schemes and for changes to existing streets. It could become part of the Design and Access Statement required for submission with a Planning Application.

4.4.3 A number of local highway authorities and consultants are already involved in QA processes, which include a Road Safety Audit (RSA). More are involved in undertaking road user audits in addition to RSA on some schemes, (see Examples from Kent and Solihull).

4.4.4 It is recommended that local highway authorities set down a process for implementing and documenting QA, including procedures for resolution if various audits or assessments are in conflict.

4.4.5 The design process should start with an evaluation of what is already there in the street, and how it operates. Street character assessments, including reviews of existing adjacent streets, can help to inform decisions on appropriate materials for new streets, and it may be possible to draw from local designs in designing street furniture. This is a useful way to assess whether items of street furniture (such as signs, posts or bollards) are redundant and can be removed. This approach will be particularly important in conservation areas, national parks, World Heritage sites and other environmentally sensitive areas. Hampshire County Council has adopted a 'Companion Document to Manual for Streets'[26] which sets out its approach to street characterisation in a wide variety of settings.

4.4.6 The review might consider the following:

- A record of the geometry of the street, including distances between buildings and widths of pavement.
- A record of the materials that are in use. This may include:
  - Old granite kerbstones, which are very durable and often remain
  - Stone paving slabs
  - Stone setts in the road (which may be covered by a layer of black-top)
  - Granite setts, for example marking the channel or around cellar entrances
- Details of any street furniture that adds to a sense of place including historic street signs and fingerposts, milestones, traditional phone boxes and features such as horse troughs or drinking fountains. Some of these may be heritage assets of local or national significance, as defined in Planning Policy Statement 5 (PPS5): 'Planning for the Historic Environment'[27]. In Wales further advice design is contained in Technical Advice Note 12[28]. Locally specific information is available from the relevant local authority's Historic Environment Record (HER) and from English Heritage regional offices and in Wales from Cadw.

4.4.7 Further information is available in English Heritage's 'Streets for All'[29] publications.

4.4.8 A QA could comprise a number of discrete studies including:

- Road Safety Audit (RSA) possibly including a Risk Assessment
- Cycle Audit
- Visual Quality Audit
- Access Audit
- Walking Audit
- Cycle Audit
- Non-Motorised User Audit
- Community Street Audit
- Placecheck

4.4.9 Other issues that may need to be considered in the QA process include parking, servicing, public transport, impact on utilities, trees and planting, drainage etc.

4.4.10 The various audit reports should be brought together in order to identify any conflicts that may arise, with a view to seeking a balanced response.

4.4.11 The following examples show how two authorities, Kent and Solihull, have approached Quality Audits.

Kent Design Guide

*"The Quality Audit is carried out by the **Development Team.** This team is assembled by the Local Planning Authority and is made up of all relevant professionals. Its purpose is to work with the developer's **Project Team** to achieve a high quality development that is attractive, functional and safe. Within the Development Team there will normally be at least one Development Planning Engineer representing Kent Highway Services. All development proposals which involve the creation of new streets (as part of the public realm) should be subject to a Quality Audit, albeit the team size and detailed approach should reflect the scale of the proposal.*

*Development Planning Engineers are primarily responsible for assessing the public realm for functionality and safety, and for making the highway authority's recommendation to the Local Planning Authority. The recommendation should be discussed with the Development Team before it is formalised. **Road Safety Audits** will normally figure in the assessment, but they will not direct it.*

Quality Audits bring together the various assessments of public realm. The Development Team, and not individual professionals, decides on the balance to be struck between the outcomes. As such, Road Safety Audits have no superior status. Many Development Planning Engineers have been making value judgements on attractiveness, functionality and safety for years. Increasingly, their role will be one of 'placemakers', hence they will become adept at interpreting Road Safety Audits and understanding the risks to which the findings direct the Project Team's attention. They will also develop the skills necessary to contribute positively and creatively to the placemaking agenda, not restricting themselves to the application of standards.

The Local Planning Authority's Case Officer will keep a record of the Quality Audit inputs and decisions. This will be sufficient to deal with enquiries in the very unlikely event of an incident being attributed to the design of the public realm. A copy of the Quality Audit should be kept on the planning file(s) and any subsequent adoption agreement file."[30]

Quality Audit Process: St Mildred's Tannery Canterbury, Kent

St Mildred's Tannery was the last major site in the historic city centre of Canterbury to become available for redevelopment. Since the 1980s, development plan allocations had moved from multi-storey car park, coach park, major hotel and supermarket to mainly residential with a limited amount of commercial floorspace. The latter element was eventually identified as a small retail centre and a small hotel.

The site had ground contamination problems, lies in a flood risk area and had, for centuries, been inaccessible to the public. Redevelopment offered the opportunity to open up important riverside and other pedestrian and cycle routes in the area, as well as create a lively new 'quarter' of the city.

A Development Brief, prepared by a City Council multidisciplinary team, was subject to wide consultation and member approval. The Brief not only established the principles of development, including listed building retention, scale and massing, permeability and street forms, but it also established the Development Team principle for the assessment of detailed schemes.

Two detailed proposals, both of which were worked on by the Development Team in partnership with the developer's Design Team, were rejected by the City Council's Planning Committee. The third scheme was deemed to be in accordance with the Development Brief. Long before the third proposal reached the Committee stage, the Development Team agreed the street layout and then invited highway maintenance experts to comment upon proposals for street materials.

Certain materials were rejected because they were considered to be unsuitable, but alternatives appropriate for this important part of the city centre conservation area were suggested and accepted.

Parking provision, at well below one space per unit, was agreed as being in line with established and emerging policies and guidance, and the site was considered to pass all relevant tests for travel sustainability and transport impact. No major highway infrastructure improvements were required, but an important addition to the riverside walking and cycling route will be delivered.

Over 400 units of residential accommodation are being built, along with the small retail centre and small hotel.

Quality Audit Actions

- *Development Team approach established for Development Brief preparation and carried through to consideration of detailed proposals by the Design Team.*
- *Additional expertise called upon at appropriate stages of assessment.*
- *Ongoing involvement of Development Team during construction, including visits by Planning Committee members.*
- *Continuing liaison with Project Manager and Agreement Engineers, until development is completed.*

Case Study: Quality Audit Process Adopted by Solihull

As part of regeneration in North Solihull a new village centre, North Arran Way is being built with a high street designed around guidance in Manual for Streets.

In conjunction with its development partner, In-Partnership, Solihull MBC has developed a Quality Audit process which has review meetings at four stages of the design process to consider whether the emerging design is meeting the objectives of the street. The review stages are:

- Outline design (pre-planning) – (user and professional audit);
- Detailed design – (professional audit only);
- Completion of construction - (professional audit only); and
- After opening - (user and professional audit).

The objectives for the street identified the need for:

- A high quality public realm that people want to be in, is enjoyable to be in and encourages social interaction;
- The street to be acceptably safe from a highway and community point of view; and
- The street to be functional, so the needs of all users must be considered and catered for as far as possible.

The first stage of the quality audit was carried out at outline design stage before the planning application was submitted. Two review meetings were arranged. The first meeting was with invited representatives from user groups. The user audit was held close to the development site and representatives from the following groups invited: visually impaired, mobility impaired, other disabled users groups, school children, local people including the elderly, pedestrians and cyclists and potential high-street shopkeepers, Solihull cycle campaign, the public transport operator, drivers of delivery vehicles, and the emergency services.

Representatives of the Design Team presented the scheme and answered questions. Council officers from planning, transport and highways also took part. The original intention was that a series of questions would be worked through to identify any issues and conflicts. However, the user groups were so forthcoming that no questions were needed to facilitate discussion. Many safety issues were raised and discussed, in particular the challenges of the proposed shared space for visually impaired users. Many solutions were also offered to the Design Team. Structured notes of the meeting were taken and circulated to the Design Team and the officers from the Council.

The outline stage professional audit review meeting took place a week after the user audit. The Design Team again presented the scheme, this time to council officers who included: highway safety, transport planning, landscape, environmental maintenance, street lighting, cycling and planning.

In addition to the Design Team and council officers, two independent reviewers were invited to act as ‘independent challengers’. A Road Safety Auditor who had not been involved in the design was invited and also the ‘Design Champion’ for North Solihull. Their role was to challenge the design for their areas of interest i.e. highway safety and public realm quality. The Design Team and council officers then agreed a response to each point raised. It had been agreed prior to the meeting that if necessary a risk assessment approach would be used to help resolve any areas of tension, but the need for this did not arise.

The results of the user audit were worked through in addition to comments raised by council officers and issues raised by the ‘independent challengers’. The discussion and agreed decisions were minuted and action points for the detailed design agreed.

Further professional audits are planned at the detailed design stage and on the completion of construction. These audits will also include the ‘independent challengers’ looking particularly at highway safety and public realm quality.

A final user audit will then be carried out when the scheme is completed and opened.

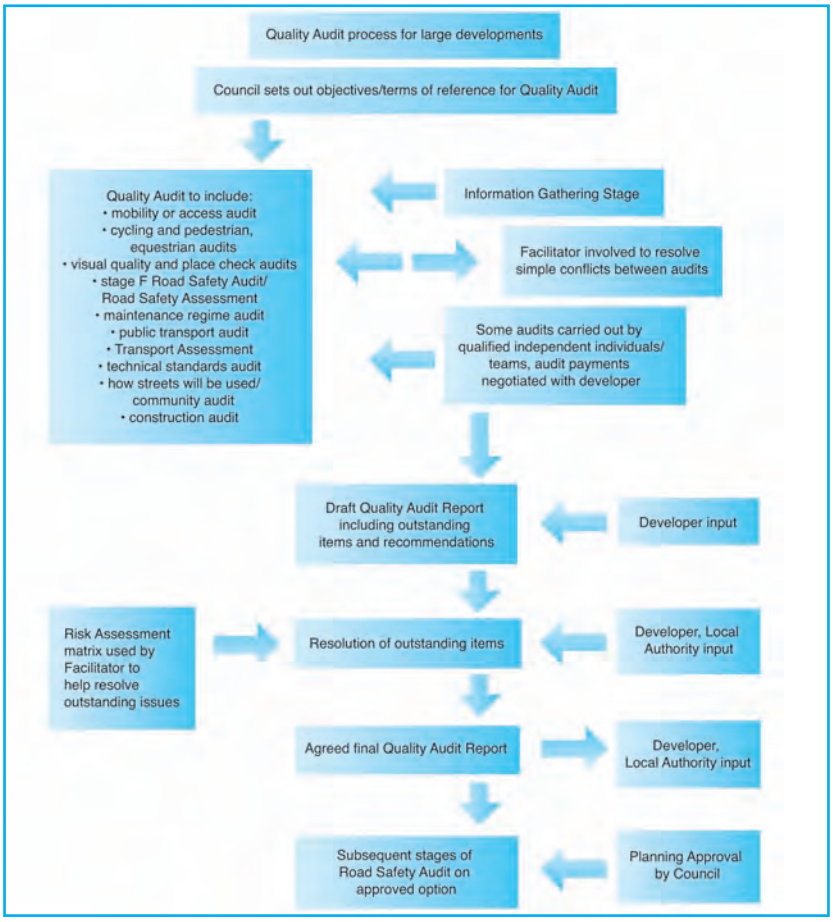


Figure 4.2 - Example Quality Audit Process (Source: Solihull MBC)[31]

4.5_ Road Safety Audit

Safety Audit and Risk Assessment

4.5.1 The aim of Road Safety Audit (RSA) is to check that the design has adequately addressed all safety issues in order to minimise the number and severity of situations in which road users are injured whilst using the public highway. This task is undertaken by experienced road safety practitioners who examine new schemes and highway improvements during the design and construction stages (IHT RSA Guidelines, 2008)[32].

4.5.2 The RSA process involves the preparation of an audit brief and commissioning of an independent audit team to carry out the audit. The designer responds to the audit recommendations, and the client determines whether to undertake the audit recommendations in the light of the design response. As noted in MfS1, there is no sense in which a scheme 'passes' or 'fails' the RSA process.

4.5.3 Road safety auditing began around thirty years ago as a means of feeding back cutting edge knowledge on road safety into main stream highway design. Some 25 years later, MfS1 contained qualifications regarding some more recent activity:

'There can also be a tendency for auditors to encourage designs that achieve safety by segregating vulnerable road users from road traffic. Such designs can perform poorly in terms of streetscape quality, pedestrian amenity and security and, in some circumstances, can actually reduce safety levels.' MfS 3.7.11

4.5.4 Such situations may have arisen where an individual auditor had not kept up to date with latest thinking and research on road safety, or where the scheme objectives have not been fully appreciated by the audit team. Safety auditors with an understanding of the latest safety research and knowledge of innovations in road and street design can perform an especially valuable role. Many client organisations now require that safety auditors keep up to date by attending appropriate training courses and seminars.

4.5.5 Where an RSA is undertaken on highways that fall under the scope of MfS, the audit team should have a sound understanding of the scheme objectives, design principles and research involved. It is important that in the interests of the development of highway engineering that they play the role that was first envisaged, bringing an up-to-date understanding of safety into mainstream highway engineering and public realm practice.

4.5.6 The RSA procedures set out in DMRB[33] are a formal requirement for trunk roads. Whilst RSA have never been mandatory on local roads, many local authorities have adopted the process. The 2008 IHT (now CIHT) Guidelines[32] advise that local highway authorities should undertake RSA, but set out a more flexible approach than that prescribed for trunk roads.

4.5.7 In order to mesh with the balanced decision approach of Quality Audits, it is helpful if the RSA contains measured statements where the risk is assessed. The IHT RSA Guidelines contain helpful guidance on Risk Assessment.

4.5.8 Where appropriate, local highway authorities should consider asking for a Risk Assessment of issues raised in an RSA.

4.5.9 The recommendations should be reviewed by the designer against the overall scheme objectives. This designer can then prepare a short Design Review Report, which evaluates how each recommendation of the audit balances in relation to other scheme objectives (liveability, sustainability, etc), and states what course of action will be taken for the overall benefit of the public.

4.5.10 The 2008 IHT RSA guidance on Risk Assessment includes an example of the matrix below.

		Frequency of collision			
		More than one per year	One every 1-4 years	One every 5-10 years	Less than one per 10 years
Severity	Fatal	Very high	High	High	Medium
	Serious	High	High	Medium	Medium
	Slight	High	Medium	Medium	Low
	Damage	Medium	Medium	Low	Low

Table 4.1: Risk Assessment Matrix from IHT RSA Guidelines

4.5.11 The road safety auditor should be able to provide some assessment of the risk, and the reasoning why a recommendation is made. This approach gives the designer a clear indication of the importance of particular issues and problems raised and an audit trail.

4.6_ Maintenance Issues

4.6.1 Maintenance should play a major part of the design process as ongoing maintenance costs can be an important influence on the quality of a public realm scheme. Whole life costs are sometimes only considered at the later stages of the design process, which should not be the case. Early consideration of maintenance issues during the design process will help to ensure a maintainable scheme is being delivered.

4.6.2 There is a major opportunity to improve streets when authorities carry out routine maintenance. Carrying out minor street improvements at the same time as maintenance can reduce overall costs. The process of using ongoing maintenance for minor improvement is included in the 'tidy up' and 'declutter' steps in the Mayor of London's 'Better Streets Strategy'[25].

4.6.3 The London Borough of Hounslow[34] has developed a method to determine minimum asset provision and levels of service and condition on a very diverse highway network using a location's Link and Place functions; see Example overleaf.

Using Street Function to Determine Maintenance Requirements

The London Borough of Hounslow is putting into place, supported by an award of £267m of PFI credits from the Department for Transport, a project for the upgrade and maintenance of its highway infrastructure assets over a 25 year period, starting in 2013.

The Council, supported by Mouchel and Professor Peter Jones of UCL, has developed an objective and consistent basis for determining minimum asset provision and appropriate levels of service and condition on each part of a very diverse highway network. It has done this by codifying the use made of each part of the network, in terms of its Link and Place functions. The assigned Link and Place status determines the maintenance and serviceability requirements for a section of street, with Link carrying most weight for carriageways and the Place for footways.

The street network in the Borough consists of around 400km of carriageway and 700km of footway; this has been divided into around 2,000 street sections for highway maintenance purposes. Each section has been assigned a Link value and a Place value, on a scale from 1/A (high) to 5/E (low), based on a series of guidelines. For example, a section with two or three bus routes would have a minimum Link value of 3, and the presence of a primary school would result in that section having a minimum Place value of D.

These values are used to determine:

- The minimum condition at which maintenance is required to maintain required levels of service on a section of carriageway or footway
- The standard to which the carriageway or footway should be maintained, or reconstructed
- Whether a below-standard street section is eligible for a wider boundary-to-boundary treatment scheme (a so-called Whole Street Environment scheme) and
- The level of financial deduction – and by implication the degree of incentive – that is applied when the PFI contractor fails to meet contractual requirements on a particular length of street

The Council has developed a new Streetscene Design Guide*, which sets out these and other principles that should be used by all bodies involved in the planning, design, construction and maintenance of Hounslow's roads and streets.

* Hounslow Street Design Guide, Streetcare Services, London Borough of Hounslow, Currently in draft

4.6.4 During the design process the maintenance issues related to the following street elements and issues need to be considered:

- Street Furniture including signs and lighting;
- Footways;
- Vehicle overrun areas;
- On-street loading and parking bays;
- Carriageways;
- Street Cleansing - Chewing Gum / Staining;
- Vandalism;
- Security;
- Stock Pile/Storage of materials; and
- Finishings.



Bespoke street furniture





The photographs above show examples of how a scheme has failed as a result of poor design and construction. In the left hand case the restraining edge to the natural stone sets has failed under vehicle loading thus resulting in failure to the paved area. The right hand case is a further example of failure due to loading.



Damage to concrete paviours due to scraping off chewing gum and visual impact of chewing gum on footways

Section B

Detailed Design Issues



Section B of MfS2 provides guidance on geometric and other parameters for new and improved highways. Although numerical values are given in this section, designers are encouraged to take a flexible approach to its interpretation and application, thinking through for themselves the likely outcome of any course of action based on experience and local circumstances.

This section is divided into chapters by area of the highway (carriageway, footway etc) and by design elements (junctions, street furniture etc).

However, in preparing schemes, designers should consider the layout in totality, including the relationship of the highway to its surroundings, both in urban and rural areas.

The highway should not be seen in isolation or simply as a piece of infrastructure. The best highway designs respect their surroundings - the buildings, open space and pedestrian/cycle routes that pass through an area.

5_ Pedestrian Needs and Footways

5.1_ Pedestrian Needs

5.1.1 Advice on meeting pedestrians' needs, including the geometric design of footpaths and footways is given in Chapter 6 of MfS1, and that advice applies to all highways that fall within the scope of this document. Further guidance on planning and designing for pedestrians is given in the DfT's 'Inclusive Mobility'[35] and the IHT document 'Guidelines for Providing for Journeys on Foot'[36], further guidance in Wales is contained in Technical Advice Note 18 Transport[37].

5.1.2 Encouraging walking has many benefits, including reductions in vehicle emissions and traffic collisions, and improvements in personal health.

5.1.3 In summary, MfS1 advises that

- The propensity to walk is influenced not only by distance, but also by the quality of the walking experience.
- Good sightlines and visibility towards destinations and intermediate points are important for way-finding and personal security.
- Pedestrian routes need to be direct and match desire lines as closely as possible, including across junctions, unless site-specific reasons preclude it.
- Pedestrian networks need to be connected. Where routes are separated by heavily-trafficked routes, appropriate surface-level crossings should be provided where practicable.
- Pedestrians should generally be accommodated on multifunctional streets rather than on routes segregated from motor traffic. In situations where it is appropriate to provide traffic-free routes they should be short, well-overlooked and relatively wide.
- Obstructions on the footway should be minimised. Street furniture on footways can be a hazard for vulnerable people.
- There is no maximum width for footways; widths should take account of pedestrian volumes and composition.

5.1.4 These principles are important throughout urban areas, and are not confined to lightly-trafficked situations. Indeed, meeting pedestrians' needs where traffic volumes are higher is vital if this most sustainable mode of transport is to be encouraged.

5.1.5 This chapter provides key advice on the provision and design of footways; **Chapter 9** deals with crossings and pedestrians' needs at junctions, and **Chapter 12** covers street furniture, including guardrail.

5.2_ Footway Provision

5.2.1 There are many examples of routes in urban areas that were built without footways where pedestrians still do walk, despite the lack of any formal provision. Many of these routes were built as modern ring roads/relief roads of the type discussed in **Chapter 2**, which do not perform well in place terms. Moreover, drivers tend to react to the absence of pedestrians by travelling faster, to the detriment of road safety.





Modern urban highways without footways

5.2.2 Where pedestrians are likely to be present in significant numbers footways should normally be provided along both sides of highways, particularly in urban areas. However, streets without conventional footways may be appropriate where traffic speeds are low and the area operates on 'shared space' principles such as in town or village centres (see **Chapter 2**).

5.2.3 In town centres and other places where there are high numbers of pedestrians, footways should be of sufficient width to cater for peak demand without causing crowding and the risk that people will be pushed into the carriageway. In some cases, this will mean that space needs to be taken from the carriageway in order to create a better balanced street. It may be possible to achieve this without causing a significant reduction in vehicular capacity by reducing the width of traffic lanes, as set out in **Chapter 8**. It may also be possible to remove lanes without affecting capacity or safety e.g. lightly-used turning lanes.

5.2.4 Additional footway capacity can also be gained by removing and/or rationalising street furniture, including guardrail - see **Chapter 12**.

5.2.5 Evidence from the Newland Avenue Mixed Priority Routes (MPR) project (see Example) indicates that providing more generous and better quality facilities for pedestrians can lead to large increases in walking.

The gradient of pedestrian routes should ideally be no more than 5%, although topography or other circumstances may make this difficult to achieve. However, as a general rule, 8% should generally be considered as a maximum, which is the limit for most wheelchair users, as advised in Inclusive Mobility[35].

The Newland Avenue MPR Project created much more space for pedestrians by narrowing the carriageway to between 6 and 6.5m and removing guardrail. See LTN 3/08[1] for further information.

At a pinch point under a narrow railway bridge, the footway was widened from 1.1m to 1.6m, and the flow of pedestrians increased by around 1,700 per day, an increase of 59%.



Footways widened significantly by narrowing carriageway





A marginal widening of footway led to a large increase in pedestrian flow.

6_ Cycle Facilities

6.1_ Introduction

6.1.1 Advice on meeting cyclists' needs is given in Chapter 6 of MfS1, and that advice applies to all highways that fall within the scope of this document.

6.1.2 As with walking, encouraging cycling has many benefits, including reductions in vehicle emissions and traffic collisions, and improvements in personal health.

6.1.3 In summary, MfS1 advises that

- Cyclists should be accommodated on the carriageway.
- Cyclists prefer direct, barrier-free routes that avoid the need for cyclists to dismount. Routes that take cyclists away from their desire lines and require them to concede priority to side-road traffic are less likely to be used.
- Off-carriageway cycle tracks that bring cyclists into conflict with side road traffic can be more hazardous than routes that stay on the main carriageway.
- Cyclists are sensitive to traffic conditions; high speeds or high volumes of traffic tend to discourage cycling. If traffic conditions are inappropriate for on-street cycling, they should be addressed to make on-street cycling satisfactory.
- Junctions should be designed to accommodate cyclists' needs. Over-generous corner radii that lead to high traffic speed should be avoided.

6.1.4 This chapter provides key advice on the provision and design of cycle facilities; Chapter 9 deals with crossings and cyclists' needs at junctions.

6.2_ Cycle Lanes, Cycle Tracks and Markings

6.2.1 Detailed guidance on the design of specific facilities for cyclists is given in Local Transport Note 2/08[38], 'Cycle Infrastructure Design' and its advice should be taken into account when highway schemes are being developed.

6.2.2 Generally the preferred design approach - to enable and encourage increased levels of cycling - is to create conditions on the carriageway so that cyclists are content to use it, particularly in urban areas. This may require reductions in the volume and/or speed of traffic and the reallocation of space away from traffic. Reductions in vehicular lane widths may make it possible to achieve this without causing a significant reduction in vehicular capacity, as set out in Chapter 8. However the choice of lane width should carefully consider the ability of motor vehicles to pass cyclists, if necessary. Narrow traffic lanes will help to reduce traffic speed, which will in turn reduce the need for motor vehicles to pass cyclists.

6.2.3 Guidance on when to provide cycle lanes and cycle tracks is given in Table 1.3 of LTN 2/08[38], depending on the volume, composition and speed of traffic. A high percentage of larger vehicles, including buses, will increase the desirability of cycle lanes (or alternatively combined bus/cycle lanes).

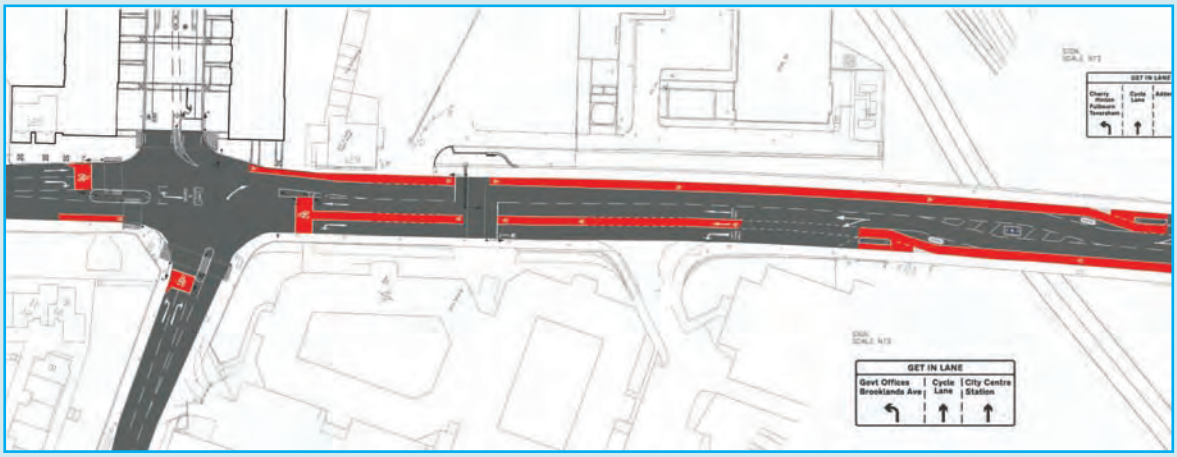
6.2.4 Well-designed cycle lanes can benefit cyclists, but poorly designed lanes can make conditions worse for them. All cycle lanes should be of sufficient width as there is evidence that vehicles are driven closer to cyclists when there is a cycle lane[39]. Cycle lanes are more beneficial in the uphill direction as the speed differential between cyclists and vehicles tends to be larger, while cyclists may wander a little as their speed is reduced. A single uphill cycle lane of the recommended width is far preferable to sub-standard cycle lanes in both directions.



Generous cycle lanes, Scunthorpe. Note absence of central white line

6.2.5 Cycle lanes should be 2 metres wide on busy roads, or where traffic is travelling in excess of 40mph. A minimum width of 1.5m may be generally acceptable on roads with a 30mph limit. Cycle lanes less than 1.2m width are only recommended at lead-in lanes to advanced stop lines where there is insufficient width for wider lanes. Cyclists will also benefit from bus lanes, when provided. Where cycle lanes pass parking and loading bays sufficient margin should be provided to allow for doors being opened.

6.2.6 In some cases, providing the recommended width of cycle lanes will mean that space needs to be taken from the carriageway. It may be possible to achieve this without causing a significant reduction in vehicular capacity by reducing the width of traffic lanes, as set out in Chapter 8. In Cambridge, a scheme is being installed on a busy radial route that reduces the number of traffic lanes to provide wide cycle lanes (See Example overleaf).



Hills Road Bridge is one of the busiest routes in Cambridge. Formerly a four lane dual carriageway, it caters for over 4,000 cyclists everyday, which often results in conflict for both cyclists and drivers. New 2.1m wide cycle lanes are being installed on Hills Road Bridge, which will allow cyclists to proceed straight ahead safely with motor traffic as the lane moves to the right at the top of the bridge. Cyclists turning left will be provided with a by-pass lane.

6.2.7 Many authorities have chosen to use blue, red, green or another coloured surfacing for cycle lanes, and this can make them more conspicuous, which is useful at critical locations such as where a cycle lane crosses a junction. However, coloured surfaces can be visually intrusive, particularly if used excessively, and may not always be justified.

6.2.8 Hybrid lanes are wide cycle lanes with some form of physical demarcation, such as a cobbled strip, between the cycle lane and the carriageway. They offer a greater feeling of protection which is important to less confident cyclists. They are commonplace in the Netherlands and in other countries but are presently rare in the UK.



Hybrid cycle lane, Netherlands

6.2.9 Using the cycle symbol (diagram 1057), in conjunction with appropriate upright signs but without marking a cycle lane is a way of making drivers more aware of the likelihood of encountering cyclists and confirming to cyclists that they are on a designated route. Placing the symbol away from the kerb also encourages cyclists to take up a safer position in the carriageway and reduces the likelihood of drivers passing too close and forcing them towards the kerb. However, the cycle symbol and associated signs do have a visual impact and add to street furniture and authorities should therefore use this approach selectively.

6.2.10 Off-carriageway cycle tracks can have advantages, but will generally need to be shared with pedestrians, who may see them as a reduction in provision. They will therefore be the least desired option, particularly in urban areas. More information on the design of shared use schemes is available in Local Transport Note 2/86 'Shared Use by Cyclists and Pedestrians'[40]. This Local Transport Note is in the process of being updated and a replacement document is expected to be published by DfT in 2011.

6.2.11 Shared use footway/cycle tracks can be segregated into pedestrian/cycle areas using a raised white line or other measure, but these can be omitted on unsegregated routes, reducing street clutter.

6.3_ Cycle Parking

6.3.1 Convenient cycle parking should be provided at key destinations - for example in local high streets - to support journeys by bike. This may be on the footway but there should be a clear route for pedestrians. As indicated in Chapter 8, cycle parking can also be provided along central reservations.

6.3.2 Public transport accessibility can also be greatly increased by providing good quality cycle parking at key bus and tram stops and at railway stations. Cyclists travel around three times the speed of pedestrians and so the cycle catchment of a stop is around ten times the pedestrian catchment.



Secure, covered cycle parking - Newland Avenue MPR scheme

7_ Bus Facilities

7.1_ Introduction

7.1.1 Buses carry more passengers than any other public transport mode, and are mainly routed along the more heavily trafficked highways that are covered by this document. Providing good bus services, particularly in urban areas, is fundamental to achieving more sustainable patterns of movement that reduce people's reliance on the car.

7.1.2 Advice on designing for public transport users and vehicles is given in Chapter 6 of MfS1, with particular emphasis on bus-based transport, and the key points in the document are as follows:

- Bus routes and stops should form key elements within walkable neighbourhoods. Bus services are most viable when they follow direct and reasonably straight routes, avoiding long one-way loops or long distances without passenger catchments.
- Bus stops should be high-quality places that are safe and comfortable to use and highly accessible by all people, ideally from more than one route. Stops should be provided close to specific passenger destinations (schools, shops etc.).
- Carriageways on bus routes should not generally be less than 6.0m wide, although this could be reduced on short sections with good inter-visibility between opposing flows. **Chapter 8** provides more detailed advice on carriageway widths.
- Buses can help to control the speed of cars at peak times by preventing overtaking.

7.1.3 This chapter provides key advice on the provision and design of bus facilities.

7.2_ Bus Priority

7.2.1 Bus priority systems are provided to increase the overall speed, efficiency and reliability of bus services in congested conditions, and can be a highly effective way of improving the attractiveness of buses and increasing their mode share. Guidance on the design of bus priority systems is given in Local Transport Note 1/97, 'Keeping Buses Moving'[41] and in 'Bus Priority: The Way Ahead'[42], published by DfT in 2005.

7.2.2 Bus priority is most commonly achieved by providing with-flow bus lanes, and unless signed to the contrary they can be used by cyclists. Where roads are wide enough bus lanes should be 4.25m wide and the minimum preferred width is 4m; this allows buses to overtake cyclists safely and reduces the likelihood of interference from general traffic in the adjacent lane. The minimum recommended width is 3m.

7.2.3 Bus lanes can also be provided in a contraflow direction on streets that are one-way for general traffic, but their use can have road safety implications.

7.2.4 Providing bus lanes can increase the overall width of the carriageway, which will reduce the space that can be given over to pedestrians, and make it more difficult for them to cross the street. A careful balance will need to be struck between the requirements of these different user groups, taking account of local context.

7.2.5 In the case of the Walworth Road MPR scheme (see case study in **Chapter 14**), bus lanes were removed in order to enable wider footways to be created, with bus priority being achieved through bus advance facilities.

7.2.6 Bus advance areas with pre-signals enable buses to move to the head of vehicle platoons by controlling general traffic with a separate signal, which buses can bypass.



Bus Advance Area, Walworth Road MPR scheme

7.2.7 Many authorities have chosen to use red or another coloured surfacing for bus lanes and bus advance areas, and 'Keeping Buses Moving' advises that this can improve compliance, but it does add to visual impact and so may not always be justified.

7.3_ Bus Stops

7.3.1 Guidance on the design of bus stops is given in LTN 1/97[41], 'Keeping Buses Moving', and more detailed advice is contained in the Transport for London document BP1/06 'Accessible Bus Stop Design Guidance'[43] and in DfT's 'Inclusive Mobility'[35].

7.3.2 The bus stop is a vital component of the public transport system. Stops that are fully accessible, which feel safe and secure and provide good quality information on services, are vital if patronage is to be increased. As noted above, providing cycle parking at key stops will greatly increase public transport accessibility.

7.3.3 Well-designed bus stops should enable buses to stop parallel to the kerb and with a kerb of sufficient height (minimum 125mm, but higher kerbs may be desirable) to allow access ramps to be deployed when required.

7.3.4 Bus shelters are desirable at stops, and the chosen design must also be able to accommodate the numbers of pedestrians likely to wait for buses and any bus information systems that are provided.

7.4_ Bus Laybys and Boarders

7.4.1 In the past, on busy routes, it was commonplace to place bus stops in laybys so that general traffic was able to pass a bus at the stop, but laybys can create difficulties for buses seeking to rejoin a traffic queue on the main carriageway and can therefore make services slower and less reliable. They also reduce footway width and make conditions worse for pedestrians. Bus laybys should therefore only be used where a stationary bus would otherwise create a significant safety problem.

7.4.2 Conversely, bus boarders are used to enable buses to stop within a traffic stream and move off without difficulty. They are built out from the existing kerb line where there are parked cars or other obstructions that would prevent the bus from stopping parallel to the kerb, so that people, particularly those with impaired mobility, can get on and off the bus without difficulty. A full width boarder projects a vehicle width into the carriageway - 2m typically, and 2.6m where large vehicles are parked nearby.



Full width bus boarder

7.4.3 Half-width or narrower bus boarders can also be useful, however, where there is insufficient remaining carriageway width for a full-width boarder to be installed or where it is desirable to allow other traffic to overtake a stationary bus.



Reduced width bus boarder

8_ Carriageways

8.1_ Introduction

8.1.1 The design of carriageways between junctions in urban and rural areas is often based on TD9/93[44], 'Highway Link Design', part of DMRB, but that document has been prepared for Trunk Roads and may not always be appropriate in other circumstances. As noted in Chapter 1 it is recommended that designers bear in mind the key principles of MfS when applying DMRB.

8.1.2 This chapter provides designers with advice on how carriageway widths, alignments and cross-sectional details can be designed in a way that better respects local context and the needs of users other than motor traffic.

8.2_ Design Speed

8.2.1 The geometric design of carriageways is generally based on the notion of a design speed, which in the past has tended to be fixed along a route, or a substantial section of a route.

8.2.2 Design speeds in urban areas (or rural routes subject to a local speed limit) have tended to be based on the advice contained in DMRB TD 9/93[44], which determines design speed from the existing or proposed local speed limit, but with some allowance for vehicles travelling at higher speeds. In urban areas subject to a 30mph limit, a design speed of 60kph (37mph) has often been used.

8.2.3 It is now considered inappropriate in areas subject to a limit of 30mph, to adopt a design speed of more than 30 mph unless existing speeds are significantly above this level.

8.2.4 This is justified by the finding from the research contained in MfS1 that drivers tend to adopt higher speeds in response to more generous highway geometry and that, in recent years, the proportion of vehicles that exceed the speed limit in free flow conditions has been dropping; in 2008 it was below 50%, down from 69% in 1998. Average free flow speeds were 30mph in 30mph limits; and 36mph in 40mph limits[45].

8.2.5 In rural areas not subject to a local speed limit, TD9/93 can be taken as a starting point for new routes, which relates design speed to the:

- Alignment Constraint, based on the bendiness of the route (degrees per kilometre) and on single carriageways, the harmonic mean visibility; and the
- Layout Constraint, which measures the degree of constraint imparted by the road cross section, verge width, and frequency of junctions and accesses.

8.2.6 The finding in MfS1 that the context through which drivers pass does have an effect on their chosen speed is thus explicit in TD9/93[44], which notes in Para 1.2 that 'Speeds vary accordingly to the impression of constraint that the road alignment and layout impart to the driver'.

8.2.7 Whilst an appropriate design speed can be determined from the guidance above, designers should also consider the potential for reducing design speed locally, where it is appropriate that traffic should travel more slowly.

8.2.8 Such situations could include where a major route is passing through the centre of a small town or village, or where there is a site of significant ecological value within the corridor of a highway improvement and where a reduction in design speed would allow a scheme of lower impact to be designed.

8.2.9 In urban areas, highway space is shared between motor traffic, pedestrians, cyclists and public transport, and keeping speeds low has been demonstrated to have significant safety benefits. MfS1 and DMRB confirm that designing for higher speeds will create an environment where drivers tend to travel faster. Instead, speeds should be designed down to an appropriate level.

8.2.10 Speed limits of 20mph are now becoming commonplace. Some authorities, such as Portsmouth, have adopted a policy of setting signed-only 20mph limits across most residential areas, which have succeeded in reducing speeds and improving safety.

8.2.11 Advice on setting local speed limits is provided by DfT and the devolved administrations. In 2009, DfT consulted on a change to Circular 1/2006[46] aimed at encouraging highway authorities, over time, to introduce 20mph zones or limits into:

- streets which are primarily residential in nature; and
- town or city streets where pedestrian and cyclist movements are high, such as around schools, shops, markets, playgrounds and other areas where these are not part of any major through route.

8.2.12 The Welsh Assembly Government published guidance on the setting of speed limits in 2009[47] which supports the use of 20mph speed limits and zones at appropriate locations, including town centres, residential areas and in the vicinity of schools.

8.2.13 However, even where a 20mph limit is not appropriate, authorities may still choose to set the design speed for a section of a route to below 30mph. Measures that will help to keep speeds low, particularly in urban areas, are set out in section 7.4.4 of MfS1, and include:

- Physical features
- Changes in priority
- Street dimensions, including width
- Reduced forward visibility
- Psychology and perception - the following features may be effective:
  - Visual narrowing;
  - Close proximity of buildings;
  - Reduced carriageway width;
  - Obstructions in the carriageway
  - Pedestrian refuges and other features associated with activity;
  - On-street parking;
  - Land uses associated with large numbers of people (e.g. shops); and
  - Pedestrian activity.

8.2.14 Guidance on the design of physical traffic calming measures is given in the IHT publication 'Traffic Calming Techniques' (2005)[48].

8.3_ Horizontal Alignment

8.3.1 Parameters for horizontal curves are related to local design speed and radius and are dependent on the limit of sideways force in the bend that can be tolerated by the vehicle without skidding or overturning.

8.3.2 Desirable minimum horizontal curves set out in TD9/93[44] seek to limit the sideways force to very low levels, commensurate with high speed inter-urban roads, and therefore result in generous curve radii.

8.3.3 The adoption of gentle minimum curve radii for new highways in urban areas can result in alignments that are inappropriate to the surrounding urban grain, sometimes requiring the acquisition and demolition of existing buildings and creating awkward plots of remaining land. This could be avoided if sharper curves were used. The Sky Blue Way example in Chapter 2 shows the damage that can result when new highways are designed with generous curvature and widths.

8.3.4 Tighter radii can be adopted; TD9/93[44] para 3.4 advises that horizontal curves of four steps below desirable minimum radii can be used, "*inter alia*", for design speeds of 60kph and below. The relative sharpness of curves is established by the formula v^2/R, where v=design speed (kph) and R= radius (m).

8.3.5 Horizontal curves of four steps below desirable minimum (TF9/93[44] para 0.7) have a v^2/R value of 56, and therefore the minimum horizontal curves corresponding to this criterion are as follows:

Design Speed, kph	Curve Radius, m 4 steps below TD 9/93 Desirable Min
30	16
40	28
48	41
50	44
60	64

Table 8.1 - Minimum Recommended Curve Radii

8.3.6 Superelevation in urban areas should be kept to a minimum, since it is often difficult to achieve due to the frequency of accesses and junctions and other constraints. Excessive superelevation can also adversely affect the relationship between the carriageway and frontage buildings and footways. When it is provided, a maximum superelevation in urban areas of 5% is recommended (TD9/93[44] para 3.2).

8.3.7 Where it is desirable to provide a horizontal curve below the values recommended in Table 8.1 above, the preferred solution will often be to reduce the speed of traffic locally, rather than provide steep superelevation, which will tend to encourage higher speeds.

8.3.8 The presence of a sharp bend will itself lead to lower speeds. Research by TRL[49] showed the following reductions in speed at bends (v = Approach Speed (kph), R = Bend radius).

	Percentage Speed Reduction Due to Bend	
v^2/R	From 50%ile speed	From 85%ile speed
20	3.5	5
28	5	7
40	7	10
56	10	14
80	14	20

Table 8.2: Percentage Speed Reduction at Bends

8.4_ Carriageway Gradients

8.4.1 A maximum longitudinal carriageway gradient of 6% is desirable (TD9/93[44] para 4.1), although a gradient of 5% is desirable where there are significant numbers of pedestrians walking along the route.

8.4.2 In hilly areas steeper gradients will frequently be required, but a gradient of 8% should be regarded as a practical maximum unless there are particular local difficulties. This is also the maximum gradient that a manual wheelchair user can negotiate (see guidance on footway gradients in Chapter 5).

8.5_ Vertical Curvature

8.5.1 Minimum length requirements for vertical curves are normally assessed based on two criteria - the comfort of vehicle occupants and the need to maintain forward visibility.

8.5.2 For design speeds of 50kph and below, where it can be expected that drivers will reduce speed in response to changes of alignment, forward visibility to achieve minimum Stopping Sight Distance (SSD) should be used as the basis of design, but as with forward visibility around horizontal curves, there will be locations where it is appropriate to restrict forward visibility in order to help reduce traffic speeds.

8.5.3 For design speeds of 50kph and above, designers should follow the guidance contained in TD 9/93[44].

8.6_ Carriageway and Lane Widths

8.6.1 UK practice has generally adopted a standard lane width of 3.65m (12 feet) but this should not be taken as a preferred value in all circumstances. This can be an unsatisfactory lane width for cyclists, as there is insufficient room for drivers to pass them comfortably.

8.6.2 Narrower lanes will be appropriate in many circumstances, particularly in built up areas, resulting in carriageways that are easier for pedestrians to cross and encouraging low traffic speeds without causing a significant loss of traffic capacity. The needs of cyclists will need to be expressly considered however, as discussed below.

8.6.3 Lane widths should be determined based on the following local consideration:

- the volume and composition of vehicular traffic;
- pedestrian and cyclists' needs;
- the demarcation, if any, between carriageway and footway (e.g. kerb, street furniture or trees and planting);
- whether parking is to take place in the carriageway and, if so, its distribution, arrangement, the turnover of spaces, and the likely level of parking enforcement (if any);
- the design speed;
- the curvature of the street (bends require greater width to accommodate the swept path of larger vehicles); and
- any intention to include one-way streets, or short stretches of single lane working in two-way streets.

8.6.4 MfS1 Figures 6.18 and 7.1 provide information on the width requirements of different types of vehicle, and these can be taken as a guide to minimum lane widths. These can be applied to links between and at junctions.

8.6.5 Thus for example, at a traffic signal stop line, where HGVs and buses make up only a small proportion of traffic flow, 2 - 2.5m wide lanes would be sufficient for most vehicles, and would reduce overall carriageway width requirements, making it much easier for pedestrians to cross the carriageway. Lanes wider than 3m are not necessary in most urban areas carrying mixed traffic.

8.6.6 Carriageway and lane widths do not have to be constant. Varying the width through non-parallel kerb lines or other physical limits can create interest, provide informal parking opportunities at widenings and traffic speed reduction at narrowings. The needs of cyclists at narrowings should be considered in detail.

8.6.7 The needs of cyclists using the carriageway should be expressly considered when lane widths are being determined. Cyclists should wherever possible be accommodated on carriageway without special provision, based on the recommendations of LTN 2/08, 'Cycle Infrastructure Design'[38].

8.6.8 The ideal minimum widths required for vehicles to overtake cyclists in comfort given in LTN 2/08[38] are:

- Car passing at 20mph - 3.8m
- Car passing at 30mph - 4.3m
- Bus/HGV passing at 20mph - 4.6m
- Bus/HGV passing at 30mph - 5.05m

8.6.9 These are not necessarily lane widths, however. If traffic flows are generally light enough for vehicles to pass cyclists fairly readily by moving at least partly into the opposite lane then the overall carriageway width will be available. Lane widths of 3m or less will make it less likely that drivers will try to squeeze past cyclists without pulling around them.

8.6.10 Providing a central median that can be overrun is one way of allowing motor vehicles to pass cyclists comfortably without using excessively wide lanes - see Broad Street, Birmingham and Leamington Spa examples overleaf.

8.6.11 If traffic speeds are higher and motor vehicles are not able to move into the opposite lane to pass cyclists with comfort, then cycle lanes may be justified so that excessive lane widths are not provided, which would otherwise encourage higher speeds. Where there is more than one lane in either direction, some authorities have divided the carriageway into unequal lanes, giving more space on the nearside lane to assist cyclists.

8.6.12 Lane and carriageway widening requirements for horizontal curves should be assessed using tracking software. The criteria to be adopted should be based on traffic flows and composition. For example, where HGV and/or bus flows are low, it may not be necessary to design carriageways to cater for two large vehicles meeting at a bend, as long as there is sufficient inter-visibility for one driver to stop and wait. The use of overrun areas can be considered - see MfS1 7.11 for further guidance on their use.

8.7_ Refuges, Medians and Central Reservations

8.7.1 Central medians/reservations and refuges are useful features in urban areas to enable pedestrians and cyclists to cross carriageways in two stages, whether as part of a designated crossing of any type (see Chapter 9), on the approach to a junction, or along a highway link. These features can also have a dramatic effect on the character of a highway, and can therefore significantly enhance the sense of place.

8.7.2 The minimum width of central reservations/medians and refuges should be based on the users anticipated[35]:

- 1.2m - to accommodate pedestrians only, with no street furniture on the median/island
- 1.5m - desirable width to accommodate wheelchair users
- 2.0m - minimum width to accommodate allow wheelchair users to pass one another. This is also the minimum width for cyclists (LTN 2/08 para 10.2.7[38]).



These simple pedestrian refuges were provided on The Parade, Leamington Spa MPR project. Note the absence of keep left bollards, but also the intrusive road markings.

8.7.3 Narrower medians that can be over-run have also proved useful in some schemes, by giving pedestrians a space to wait in the centre of the carriageway which can also be used by vehicles when they need to pass cyclists or other vehicles. Such medians also allow emergency vehicles to cross over into the opposing lane when necessary.



This informal median on Broad Street, Birmingham has operated successfully for many years

8.7.4 Formal central reservations, provided on dual carriageway links, can be planted or paved depending on local context and requirements, including the need for pedestrians to cross the carriageway and the local landscape character.



Mature trees in central reservation, Bristol Road, Birmingham. Here the central reservation is of little benefit to pedestrians crossing the route, but the width of the reservation and the mature trees are attractive and make up a vital part of the street's character.

8.7.5 In urban areas, central reservations should be left unfenced so that pedestrians can cross at any point, unless there is clear safety case for not doing so.



Upper Parliament Street, Nottingham – Unfenced Central Reservation

8.7.6 If it is of sufficient size, the central reservation can be a place for useful activity. O'Connell Street in Dublin has this form, which is also found at Las Ramblas, Barcelona.

8.7.7 There are few examples of this type of street in the UK, but The Broadway in Letchworth shares some of the characteristics, although the continuous fencing on both sides has reduced the value of the central space as an accessible and active place.



O'Connell Street, Dublin

8.7.8 On Kensington High Street, the central reservation has been used for cycle parking. This is a practical use of the space, which also sends a clear signal to drivers that this is a street that cyclists are encouraged to use.



Cycle parking on central reservation, Kensington High Street. Generous spacing between the cycle racks enables pedestrians to cross between the parked cycles.

8.8_ Kerbs

8.8.1 Historically kerbs were primarily installed to form an edge to the drainage channel and provide a clean walking route in urban areas, but have now come to represent a recognisable divider between the carriageway and the footway. In rural areas they are mainly used to form an edge restraint and drainage feature, but there are many rural roads and streets where there is no kerb and separate footway.

8.8.2 In urban areas, half-batter kerbs with a standard height of 125mm are often used, but lower kerb heights are easier for pedestrians to negotiate, particularly people with impaired mobility, and can help to reduce vehicle dominance by reducing the degree of segregation.

8.8.3 Higher kerbs are appropriate at bus stops to allow level access into vehicles - see **Chapter 7** for further guidance on bus stop design.



Kerb heights of between 75mm and zero (at informal crossings) were used with streetscape improvements in the centre of Nottingham.

8.8.4 Low kerb heights may mean that closer gully spacings are required to avoid rainwater run-off from affecting footways during heavy storms.

8.8.5 Kerbs are often omitted in shared space schemes in order to reduce the separate definition of areas for pedestrians and vehicles and to indicate that the street is meant to be shared equally by all users of the highway. However more subtle delineators such as old granite kerbstones could be used, in a remodelled paving scheme in order to retain historic kerb lines and local character. Further guidance on the use of shared space techniques is given in Chapter 2.

8.8.6 'Trief' kerbs are designed to deter vehicles from mounting the kerb where high containment is thought to be necessary, but they are more visually intrusive than normal kerbs, are difficult for pedestrians to cross, and have been known to cause small vehicles to overturn. They should therefore not be used without these adverse effects being considered.

9_ Junctions, Crossings and Accesses

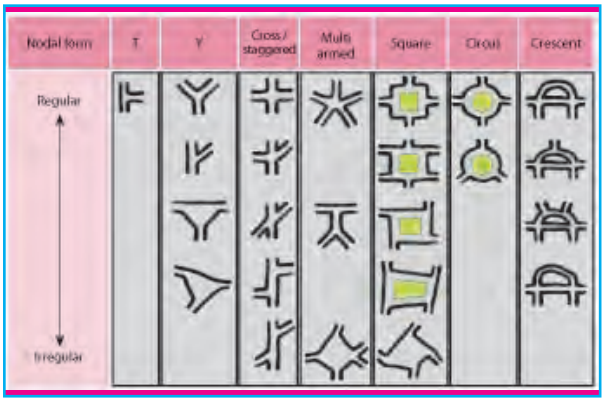
9.1_ Introduction

9.1.1 Junctions are critical places in a number of ways. In traffic terms, they are a potential source of delay and where most collisions tend to occur. They are often seen as a problem in these terms, and highway designers tend to minimise the number of junctions in a network. When junctions are provided or modified, particularly on busier highways, they tend to be designed with the principal aim of accommodating peak hour traffic flows.

9.1.2 In place terms, conversely, junctions can be seen as an opportunity. By definition they are accessible places from several directions, and so tend to be a good location for buildings that attract significant numbers of people, such as shops and public buildings. Junctions are also the most natural way for people to find their way around an area, whether on foot or in a vehicle, and so are a good place for landmark buildings and other distinctive features, such as public art.

9.1.3 It is critical therefore to achieve a good balance of place and movement functions at junctions, particularly in urban areas.

9.1.4 As noted in MfS1 section 7.3, there is considerable flexibility over the form of junctions, which can add to their distinctiveness, so that they function as significant places in their own right.



A wide range of junction layouts is possible

9.1.5 In the past, concerns over capacity and safety have tended to overshadow any concerns about placemaking, and as a result many urban junctions are unattractive and difficult to negotiate, particularly on foot and cycle. Excessive use of guardrailing is a particular problem and further guidance on how to minimise it is given in Chapter 12.

9.1.6 Because junctions are a natural focus for all modes of travel, wherever possible they should include convenient and direct crossing facilities for pedestrians, desirably across all arms.

9.1.7 Well-designed crossings are of vital importance to the ability of pedestrians and/or cyclists to move around easily and safely.

9.1.8 Crossings that involve grade separation - subways and bridges - are undesirable and should only be used where essential due to traffic speeds and volumes. Grade separated crossings are much less convenient and therefore less likely to be used, particularly subways which create significant personal security concerns. These types of crossing are much more costly and elevated structures, with their lengthy approach ramps, cause a high degree of visual intrusion.

9.1.9 Where underpasses and bridges are used, they should be as short, wide and direct as possible to improve users' perception of security and make the routes more legible.

9.1.10 The former subway at Maid Marian Way, Nottingham, was unwelcoming and felt dangerous. When the subway was replaced by an at-grade crossing, the number of pedestrians increased significantly (see Case Study Chapter 14).

9.1.11 More generally, grade separated junctions and links, particularly in urban areas, are rarely successful in placemaking terms. The carriageways have no connection with their surroundings and are highly inflexible and costly to change. Elevated structures create unwelcoming environments at ground level, both beneath and adjacent to the route.





Nechells Parkway, Birmingham - Despite this pedestrian subway being close by, and the absence of a formal surface crossing, many people choose to walk across the central reservation to reach the bus stops.

9.1.12 The choice of junction and crossing type at a particular location should be made after considering all of its functional requirements - including both movement and place functions - and not just capacity and road safety. Every type of junction has its advantages and disadvantages, and the effect of alternative options should be considered.

9.1.13 A Quality Audit approach (see **Chapter 4**) can be used to assess alternative junction types and layouts, so that the best balance of outcomes is achieved, taking into account the objectives of the scheme.

9.2_ Spacing of Junctions

9.2.1 In the past, guidance on minimum junction spacing has often been based on recommended stopping sight distances (SSD) for 85th percentile speeds. The reductions in SSD compared to previous practice means that junction spacing criteria determined on this basis should be reduced. However, in any event there appears to be little evidence that spacing criteria based on SSD are justified on safety or other grounds.

9.2.2 The need for and provision of junctions on new highways, and additional junctions on existing routes, should be assessed in the round, considering a wide range of factors such as the need for access at particular locations, the impact on the size of development blocks, the potential for interaction between adjacent junctions and the consequent effect on user delay and road safety.

9.3_ Crossings

9.3.1 General advice on the choice of crossing type and their design is given in Local Transport Notes 1/95[50] and 2/95[51] and in Chapter 6 of MfS1, which is complemented by the further advice in this section. While the focus is on pedestrian crossings the recommendations can also be applied in most instances to crossings designed for cyclists (other than zebra crossings). Crossings should be provided with appropriate tactile paving. The legal requirements for crossings are given in the Crossing Regulations[52].

9.3.2 Crossings should be located on or close to desire lines so that pedestrians find them convenient and pleasant to use. Placing crossings away from desire lines will reduce their level of use, even when guardrailing or other deterrent features are used.





Stoke Newington - new zebra crossings and new routes through park, linking directly to one another.

9.3.3 The simplest form of uncontrolled or informal crossing involves the provision of dropped or flush kerbs so that mobility-impaired people can cross to and from the carriageway. A refuge in the centre of the carriageway enables pedestrians to negotiate one stream of traffic at a time, which can be of considerable help when flows are high. Combining a refuge with a kerb build out, so that the carriageway is narrowed, will provide additional assistance to pedestrians. Further guidance on the design of refuges is given in Chapter 8.

9.3.4 Informal crossings can also indicate clearly to drivers where pedestrians are encouraged - and are therefore likely - to be crossing. Designs can make use of contrasting paving materials, street furniture and changes in carriageway width and level to emphasise pedestrian movement. When done well, in a slow speed traffic environment, they will often encourage drivers to give informal priority to pedestrians.



Shrewsbury High Street – 'courtesy' crossings are paved in the same material as the footways and line up with pedestrian routes on either side. See Traffic Advisory Leaflet 8/98[103].

9.3.5 Informal crossings require no signs or markings and therefore do not add to visual clutter. They can be generous in width (to pedestrians) so that the crossing becomes a strong element within the street scene.

9.3.6 Replacing controlled crossings (ie zebra and signalised) with informal crossings can reduce delays to traffic. In the Newland Avenue MPR scheme all signal-controlled crossings were removed, which resulted in reduced vehicle travel times as well as a reduction in maximum vehicle speed. Road safety and vehicle emissions were also improved significantly - details are given in LTN 3/08[1].

9.3.7 Zebra crossings offer the greatest advantage to pedestrians as they give them priority over all other traffic. In some authorities there has been a move away from providing zebra crossings towards signalised crossings, on the basis that they represent an 'upgrade' but this is not necessarily the case. Research carried out in London found that it was not possible to ascribe a safety benefit directly to the conversion of zebra crossings to pelicans[53].

9.3.8 Zebra crossings also typically result in lower delays to traffic flow, except when pedestrian flows are heavy. They are more immediately visible to drivers than signalised crossings and can be located closer to junctions, which can help to put crossings on desire lines.



Zebra crossing located close to road junction.

9.3.9 Zebra crossings are generally only used when the speed limit is 30mph or below, as at higher speeds it may be more difficult for pedestrians to establish precedence.

9.3.10 There are four types of stand-alone signalised crossings - Pelican, Puffin, Toucan and Equestrian crossings, which are described in LTN 2/95[51]. Traffic signal junctions can also incorporate signalised crossings.

9.3.11 Signalised crossings can cause additional delay compared to zebras and informal crossings, due to the lost time caused by intergreen periods etc. Linking signalised crossings to upstream signalised crossings can bring traffic benefits but this can lead to long delays for pedestrians.

9.3.12 Signalised crossings need to be used when controlled facilities for mounted cyclists and equestrians are required, as these groups are not authorised to use zebra crossings. Older people and people with a visual impairment may express a preference for signalised crossings as they provide greater certainty when crossing.

9.3.13 All types of crossing can be provided on a raised surface, so that pedestrians cross between footways on a level surface. This slows traffic on the approach to the crossing, makes pedestrians more visible and emphasises their presence in the street, making it more likely that drivers will see them and cede priority.



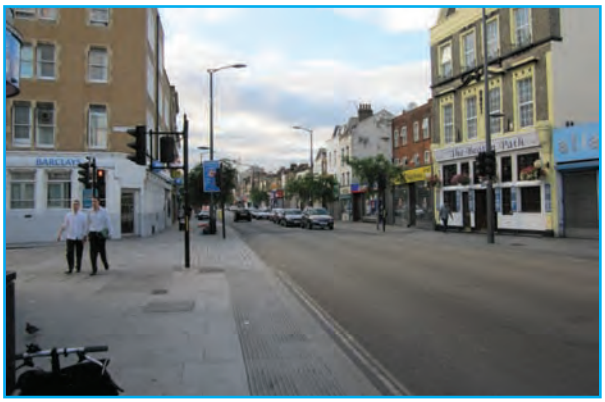
Zebra crossing on raised table.



Simple raised crossing of minor arm, with tight corner radii.



Signalised crossing on extensive raised table, City of London



Raised table across side road at signalised crossing – Walworth Road MPR scheme.

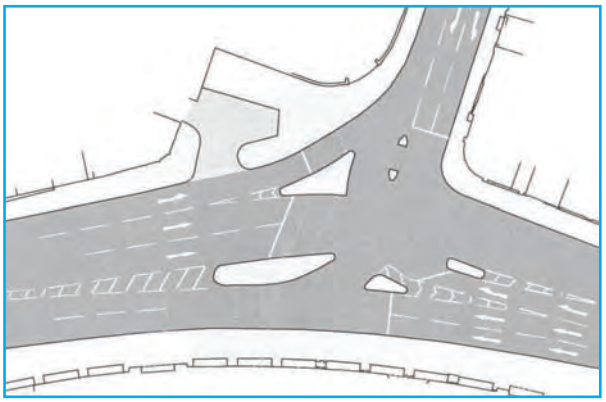
9.3.14 Raised crossings across the mouth of minor road junctions are very helpful to pedestrians, and provide an element of informal priority at this key conflict point. Tight corner radii help to reduce the speed of turning traffic and help make the crossing movements easier and safer. The Highway Code notes (Rule 170)[22] that pedestrians who have started to cross a junction have priority.

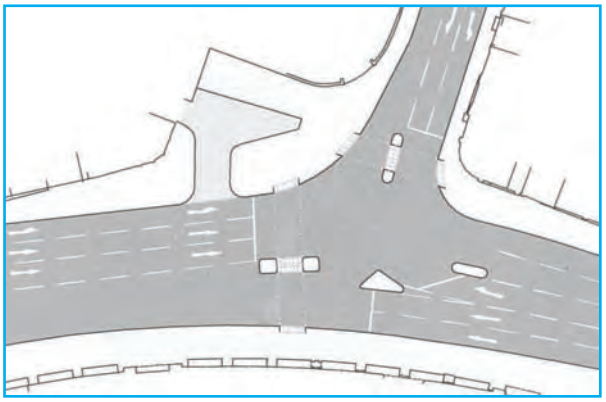
9.3.15 Zebra crossings can also be used across minor junctions close to the give way line, when it is judged desirable to provide clear pedestrian priority at this point.



Zebra crossing across minor arm, close to junction, on desire lines.

9.3.16 Controlled crossings may be divided using central refuges. Straight ahead divided crossings are much more convenient for pedestrians than staggered crossings, which involve additional delay and deviation from the desire line, particularly where the stagger is large.





High Street Kensington - replacement of staggered crossing with straight over crossing at signalised junction.



Staggered signalised crossing without guardrail

9.3.17 Divided zebras operate as two separate crossings, with pedestrians having to establish priority on each side. The absence of a stagger does not affect the operation of a zebra crossing in terms of pedestrian priority.

9.3.18 Signalised crossings that are divided by a refuge, and which are to operate in traffic terms as two separate crossings, are normally staggered, although there are examples of straight ahead signalised crossings that operate under separate phases (see box out on Maid Marian Way, overleaf).

9.3.19 Pedestrian guardrailing is often used to reinforce staggers, but it is not essential. Some authorities have successfully used upstand kerbs or low walls to define the stagger at signalised crossings, which significantly reduces street clutter.

Maid Marian Way – Two Stage Straight Ahead Crossings

At the junction of Maid Marian Way and Friar Lane, Nottingham, a roundabout with pedestrian subways was replaced by a signal-controlled junction with pedestrian crossings.

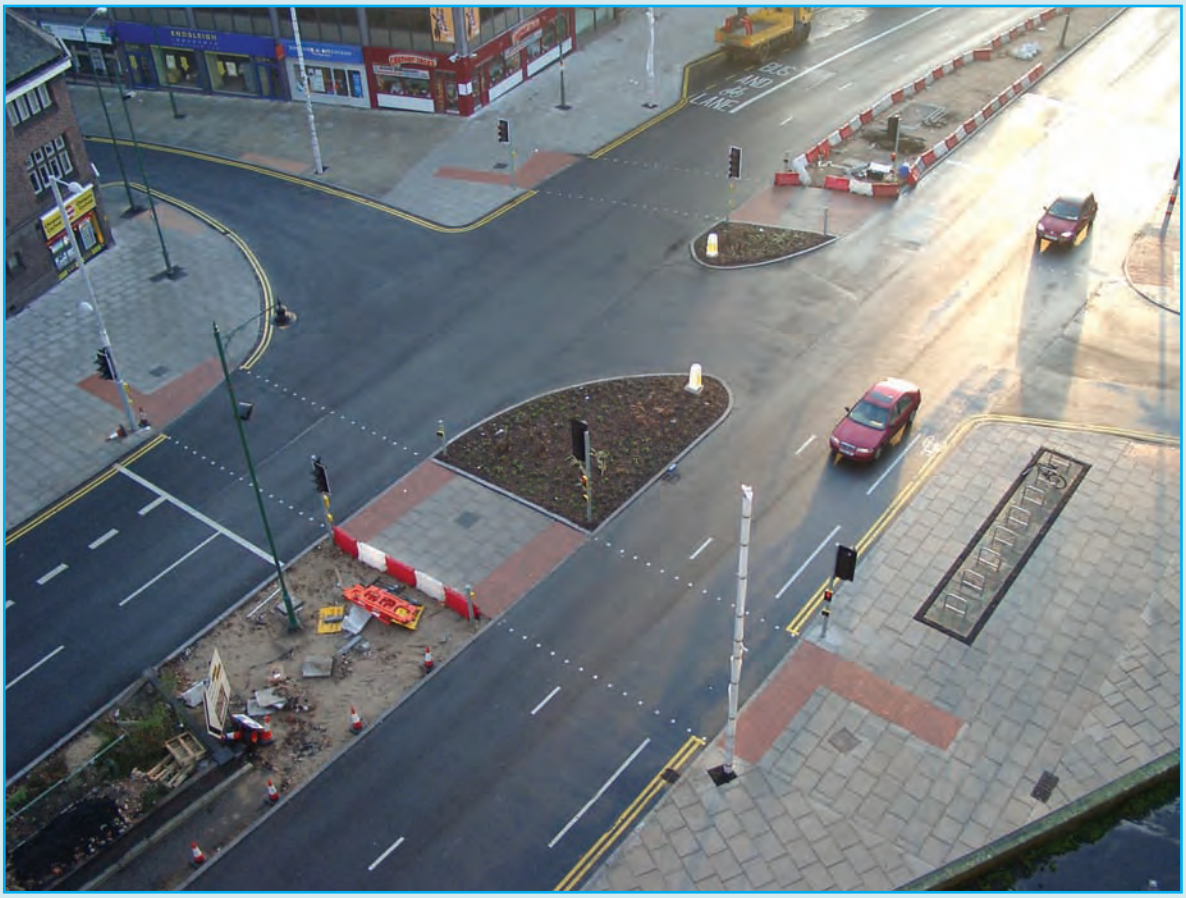




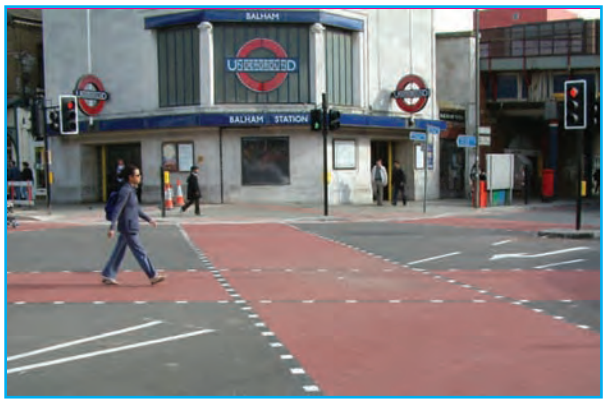
Unwelcoming pedestrian subways were replaced by signal-controlled at-grade crossings.

Maid Marian Way is a busy dual carriageway and both crossings of this route needed to be signalled in two stages. Despite this requirement, straight ahead crossings were used, rather than relying on more conventional staggered layouts. Nearside pedestrian aspects were used, as farside aspects could have led to confusion.

Another non-standard aspect of the design is that one of the crossings is not perpendicular to the traffic flow and stop line, but rather follows the pedestrian desire line.



9.3.20 Pedestrian crossings at traffic signals are typically across each arm of the junction, but when an all-red (to traffic) phase is provided, consideration can be given to providing diagonal crossing facilities. These enable pedestrians to cross to the opposite corner of the junction in one movement instead of two, which is much quicker and more convenient. A high-profile scheme has recently been installed at Oxford Circus in London, but there are long-standing examples elsewhere, such as in Balham, at the junction of Bramford Road and Yarmouth Road in Ipswich, and in Wellingborough at the junction of Croyland Road, Doddington Road and Broadway near a school.



Diagonal crossing, Balham



Diagonal crossing, Oxford Circus

9.4_ Priority and Uncontrolled Junctions

9.4.1 The simplest junctions are where two or more streets meet at a point. These junctions may have marked priority so that there is a major route through the junction, or the junction may have no marked priority and is therefore uncontrolled. Uncontrolled junctions tend to increase driver uncertainty and lead to reduced speeds and are therefore appropriate to low volume and low speed environments, including in urban centres.

9.4.2 Detailed guidance on the design of priority junctions is given in TD42/95[54] but (as with all sections of DMRB) this is written specifically for trunk roads and, where used in other situations, should not be applied uncritically.

9.4.3 T and Y junctions have the fewest conflicting traffic movements. Where there is a straight or nearly straight through route drivers will tend to regard this as the major movement, and so even without road markings or signs, a natural priority will tend to develop.

9.4.4 Crossroads and multi-armed junctions have much higher numbers of conflicting traffic movements and therefore tend to perform worse in terms of road safety. However, grid-type networks with crossroads junctions are extremely legible and therefore encourage walking and cycling, and it is therefore important to strike the right balance. Well-connected street grids can also disperse traffic flows, which will tend to reduce the level of conflict at any particular point.

9.4.5 Reducing traffic speed will also improve safety, and one way of achieving this at the conflict point is to raise the junction onto a speed table.



Tabled crossroads

9.4.6 Keeping the number of approach lanes to the minimum will make the junction safer and easier to negotiate for pedestrians and cyclists. Research into cycle safety at T-junctions found that higher cycle collision rates are associated with two lane minor road approaches[55].

9.4.7 TD 42/95[54] recommends that consideration should be given to providing a right turning lane at priority junctions where the side road flow exceeds 500 vehicles per day, but this advice relates to trunk roads, where there is an emphasis on providing an unimpeded route for through traffic. It is a relatively low flow, and junctions without right turn lanes will often be able to cater for higher levels of turning traffic without resulting in significant congestion.

9.4.8 Right turning lanes make it more difficult for pedestrians to cross major roads and lead to higher traffic speeds and authorities should therefore consider carefully

all of the effects before deciding to provide them. Removing unnecessary right turn lanes can also be considered, and will bring substantial benefits to non-motorised users.

9.4.9 Where right turn lanes are to be provided or retained, refuges should be provided within ghost islands to facilitate pedestrians crossing.

9.4.10 As noted in Sections 6.3 and 6.4 of MfS1, tight corner radii help pedestrians and cyclists to travel across and through junctions by reducing the speed of turning

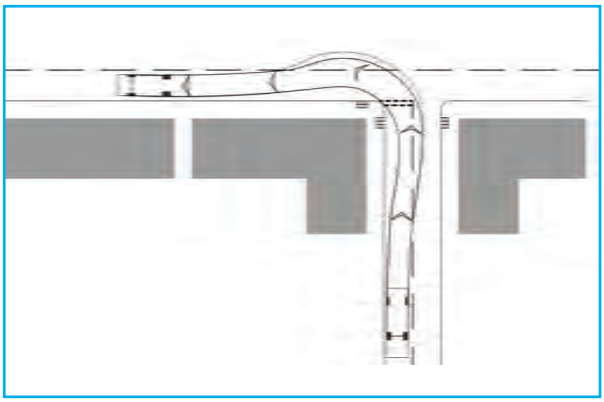


Ghost island junction with pedestrian refuge

vehicles. Advice contained in TD 42/95[54], that minimum corner radii should be 6m in urban areas, should therefore not be taken as representing best practice when the needs of vulnerable road users are to be prioritised.

9.4.11 Larger vehicles can still negotiate junctions where minimal (1m or less) corner radii are used, depending on the width of the junction arms they are turning to and from. In many cases it will be better to have slightly greater carriageway widths at the junction, rather than generous corner radii, or accept that larger vehicles occasionally cross into the opposing lane. This approach allows the vehicle to take a larger radius than the junction kerb, as shown below. This can be tested by vehicle tracking software rather than relying on fixed standards.

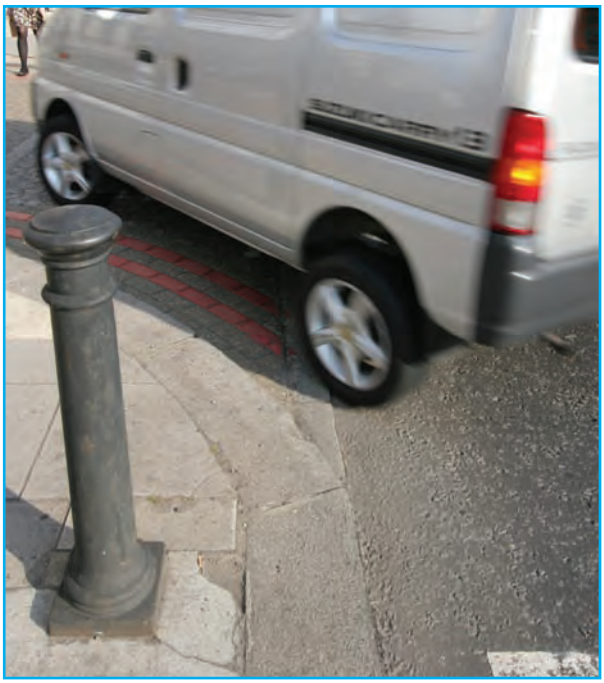
9.4.12 Designers are sometimes reluctant to use tight corner radii on the grounds that vehicles slowing to turn into the minor arm may cause shunt collisions on the



Despite the small corner radius, with sufficient carriageway width (X) a long vehicle can still negotiate a junction.

major road. This may be the case where speeds are high, but in urban areas the overall emphasis of MfS is that speeds should be reduced to appropriate levels of 30mph or below through design and the use of tight corner radii is consistent with this approach.

9.4.13 Moreover, there are junctions on very busy routes where tight corner radii have existed for a considerable time, as shown above.



9.4.14 Footway crossovers can be used instead of more formal priority junctions, which will give further prominence to pedestrians. Footway crossovers are often used successfully at accesses to commercial premises, as illustrated below, demonstrating that they can be used at busy locations.

9.4.15 Footway crossovers should maintain the normal footway cross-fall as far as practicable from the back of the footway (900mm), as recommended in MfS1. Designs



Footway crossover access to commercial premises



Poundbury, Dorset. This square, where four routes meet, forms part of a new urban extension. It includes parking and local shops

which ramp up over the whole width of the footway make it difficult for people with a mobility impairment, including wheelchair users, to negotiate the crossover.

9.4.16 The safety aspects of visibility requirements at priority junctions are dealt with in Chapter 10. Junction capacity is also dependent on visibility, however, as the drivers on the minor arm will emerge more cautiously and slowly when visibility is limited. Standard junction capacity tools such as PICADY enable designers to consider the effect of minor road visibility on junction capacity.

9.5_ Squares

9.5.1 Squares are excellent opportunities for creating successful and attractive public spaces, where people will wish to spend time, and are natural sites for commercial and public buildings that add to vitality. Many towns and cities have public squares at their heart, and many designs for urban extensions incorporate public squares as a focal point for the new community.

9.5.2 Although squares are primarily regarded as public spaces, squares with traffic passing through them can also be regarded as a development of priority and/or uncontrolled junctions, Squares offer a good way of enabling complex turning movements to take place across a more dispersed area, rather than at a single point, thus reducing conflict and improving safety. Many squares successfully incorporate car parking within the space.

9.6_ Conventional Roundabouts

9.6.1 Conventional roundabouts are widely used in the UK. Detailed guidance on the design of roundabouts is given in TD16/07[56] but (as with all sections of DMRB) this is written specifically for trunk roads and, where used in other situations, should not be applied uncritically.

9.6.2 Roundabouts typically have the lowest rate and severity of motor vehicle collisions and cause low levels of traffic delay, and therefore reduced vehicle emissions, in off-peak conditions. They can deliver high levels of traffic capacity and can cater for junctions with more than four approach arms, although there is some evidence that this can lead to a reduction in road safety.

9.6.3 On the other hand, roundabouts generally have a poor collision record for cyclists and can be a significant barrier to pedestrian movement. Many roundabout designs make only minimal provision for pedestrians, requiring them to cross wide entry and exit arms. Where formal crossings are installed, whether as zebra or signal-controlled crossings, they are often placed well away from desire lines. Some designers have created subways beneath roundabouts in an attempt to give pedestrians more direct crossing routes, but as the Maid Marian Way Case Study shows, this has rarely been successful (Chapter 14).

9.6.4 Providing adequate deflection is important in reducing speed for motor vehicles, and normal practice is for the geometry to force vehicles to turn through a curve of less than 100m in radius. This is less important in urban areas with a speed limit of 30mph or below where speed can be limited by other means. Designs that use means other than deflection to achieve low speeds can also have a good safety record.

9.6.5 Roundabouts can have a large land requirement and their circular geometry does not sit comfortably in dense urban areas. The signs and road markings generally associated with roundabouts can be very intrusive, although advice is given in Chapter 13 on how this can be minimised.

9.6.6 When roundabouts are proposed, the recommended approach is to make the overall diameter of the junction as compact as possible to minimise land take. This will reduce the disruption to pedestrian desire lines, with crossings placed close to entries and exits. This may have some impact on traffic flow, but this should not always be seen as an unacceptable outcome, given the underlying need to encourage walking and cycling. Placing crossings on pedestrian desire lines will avoid the need for guardrailing.

9.6.7 Entries, exits and circulatory carriageways should be as narrow as possible, ideally to a single lane, subject to capacity considerations. UK practice has generally been to have generous entry and exit radii and avoid re-entrant curves, but moving towards a more 'continental' or 'compact' geometry will result in slower traffic speeds on the entries, exits and circulatory carriageway, which will be of benefit to cyclists and pedestrians.

9.6.8 Compact roundabouts are recommended in TD16/07[56] for single carriageway roads, and are particularly suitable where there is a need to accommodate the movement of pedestrians and cyclists. Further guidance on providing for cyclists at compact roundabouts is given in Traffic Advisory Leaflet (TAL) 9/97[57].

9.6.9 The widths of circulatory carriageways should be checked using swept path analysis, considering the largest vehicle that will regularly negotiate the junction, rather than always designing for the largest legal articulated vehicle, and using predetermined widths based simply on diameter. This may well allow smaller roundabouts to be achieved, particularly in urban areas.

9.6.10 Roundabouts do not always have to be circular, and ovoid or less regular shapes can be used in constrained situations. Care should be taken however to avoid sharp curves which can result in an overturning hazard for long vehicles.

9.6.11 Left turn slip lanes are often used to increase traffic capacity when there is a heavy demand for this movement. These create a particular hazard for cyclists, however, when they are leaving the circulatory carriageway and find themselves between two moving traffic lanes. Designers should not use these designs without resolving this problem satisfactorily.



Cyclists leaving this roundabout can find themselves in the outside lane of a dual carriageway.

9.6.12 Central islands at roundabouts can be utilised as sites for public art and monuments, but this is likely to be much more successful when these sites can be reached and enjoyed by people on foot.



Although the Wellington Arch, London is situated on a large roundabout, the direct crossing facilities mean that it is accessible by people on foot, cycle and on horses.



The monument at Seven Dials, London, acts as a place to sit and linger, as well as a place to move through and is a public square where seven routes meet. Roundabout priority is established by the placing of signs only on the entries to the junction.

9.7_ Mini-Roundabouts

9.7.1 Mini-roundabouts are essentially the application of a road marking (TSRGD diag 1003.4)[58] which defines a give-way to the right rule, circulating the marked central island. Detailed guidance is given in TD 54/07[59] but (as with all sections of DMRB) this is written specifically for trunk roads and, where used in other situations, should not be applied uncritically.

9.7.2 In particular, although TD 54/07 states that new mini-roundabouts are not to be used at new junctions on trunk roads, no such presumption applies elsewhere, and mini-roundabouts remain a valid choice of junction type for new as well as existing junctions.

9.7.3 Further detailed guidance on the design of mini-roundabouts is given in the DfT and County Surveyors' Society (now ADEPT) publication 'Mini roundabouts good practice guidance'[60].

9.7.4 Many mini-roundabouts have been installed at existing junctions where they can bring advantages such as the reduction in traffic speed on all approaches and a reduction in overall traffic delay. The land requirement of this type of junction is small - they can be fitted into junctions with an overall diameter of around 12m or less and thus create little diversion for pedestrians. They are safer for cyclists than large conventional roundabouts.



This mini-roundabout has an overall diameter of around 12m. It was installed as part of a village traffic calming scheme and has resulted in a significant reduction in collisions.

9.7.5 Mini-roundabouts cannot easily achieve good entry deflection and so are only suitable in locations where approach speeds are 30mph or below. One way of achieving a slow approach speed is to raise the junction on a table.

9.7.6 Most designs are unlikely to deliver high traffic capacities; mini-roundabouts with multiple approach lanes have been used but these are less easy for pedestrians and cyclists to negotiate safely, and can lead to higher approach speeds.

9.7.7 Mini-roundabouts work best where the traffic flow on different arms is reasonably balanced, so that drivers on all approaches slow down in anticipation of having to give way. When one or more arms has a relatively light traffic flow, a means of reducing traffic speeds, such as placing the junction on a speed table, may be a solution.

9.7.8 The requirements for road markings and signs at mini-roundabouts do have a considerable visual impact and can be particularly intrusive.

9.7.9 Some authorities have responded to this by installing junctions that are designed to encourage drivers to adopt circulatory priority, but they are in fact uncontrolled junctions - see Example of Julian Road, Bath, overleaf.





Julian Road Bath – Before and After

The scheme involved the redesign and realignment of a stretch of busy road outside a primary school in the west of Bath between Marlborough Street and the junction with Harley Street. A ghost island junction was replaced by an uncontrolled junction that used pavement materials to encourage circulatory priority.

In the three years prior to the scheme, there were nine recorded serious accidents in the relevant area, including one fatality. There have been no recorded accidents in the three years since the scheme was completed. The scheme included removal of most signs, barriers and road markings, and the creation of simple informal "places" instead of sweeping priority junctions.

9.7.10 Mini-roundabouts can also have controlled crossings close to exits, on pedestrian desire lines.



Zebra crossing close to mini-roundabout exit.

9.8_ Traffic Signals

9.8.1 The principles of traffic signal control are set out in TAL 01/06[61] and the design of pedestrian facilities at signals is covered by TAL 05/05[62]. Detailed guidance is given in TD 50/04[63] but (as with all sections of DMRB) this is written specifically for trunk roads and, where used in other situations, should not be applied uncritically.

9.8.2 Traffic signals and are widely used in urban situations and in rural locations and can cater for high traffic flows, although they are less appropriate than roundabouts when approach speeds are high. They generally have a worse road safety record than roundabouts in terms of vehicle-vehicle collisions, but are better suited to accommodate pedestrians and cyclists on their desire lines, although less so as the size and complexity of the junction increases.



Traffic signal junction with clear and simple pedestrian crossings and advance cycle stop lines. Note lack of guardrailing and buildings close to junction corner, and tight corner radii.

9.8.3 Traffic signals add to street clutter, particularly layouts that require large numbers of signal heads and other equipment. They can therefore have a severe visual impact. The minimum number of signals at crossings is specified in the Schedule to Direction 54 of TSRGD[58]. For example, a non-staggered crossing only requires one primary and one secondary signal. Straight ahead crossings generally require fewer signal heads and therefore create less clutter.



Traffic signals can have a severe visual impact

9.8.4 Traffic signals generally occupy less land take than roundabouts, depending on the number of approach lanes and the need for separate turning lanes.

9.8.5 Even where it is judged that pedestrian phases at traffic signals are not justified, pedestrians can still cross more easily at traffic signals than at other locations, when traffic streams are stopped by red signals or during intergreen periods.

9.8.6 As with priority junctions, tight corner radii will make it easier for pedestrians to cross and will reduce the speed of turning traffic, although this will also reduce saturation flows and will need to be taken into account in capacity assessments.

9.8.7 Visibility requirements between arms of traffic signals as set out in TD 50/04[63] may affect the ability to position buildings close to the corners of traffic signal junctions, which can affect the ability to create a well-enclosed space. Reducing corner radii can enable stop lines to be brought forward to reduce this effect, but designers may need to consider whether the strict application of these visibility requirements is always appropriate, particularly in urban situations where speeds are low; or where stop lines are set back considerable distances due to swept path requirements or other reasons, giving rise to large intervisibility zones.

9.8.8 Many traffic signal layouts include segregated left turn lanes, which may be signal-controlled or operate as give way junctions. Whilst they can increase capacity, they make pedestrian crossing movements much more difficult, adding an extra crossing which can significantly increase overall crossing times. They also add to the number of signal heads needed, and therefore clutter. These disbenefits should be expressly considered before this type of layout is adopted.



Segregated left turn lanes make pedestrian crossing movements more complex and slow, as well as adding to clutter.

9.8.9 Traffic signal junctions in urban areas should generally incorporate advanced cycle stop lines to which enable cyclists to position themselves at the head of traffic streams where they are more visible and safer.

9.8.10 Outside peak hours traffic signals can cause greater levels of delay to all road users than other types of junction, due to the time lost when changing between signal stages. Keeping the number of signal stages to a minimum will reduce this disbenefit. Some authorities have begun to experiment with the removal of traffic signal control to reduce delays, and research studies have found this can lead to significant economic benefits[64].

9.8.11 Notwithstanding these potential benefits, care needs to be taken that the removal of traffic signals does not worsen road safety, or make conditions worse for pedestrians and cyclists.

9.8.12 Traffic signal controllers should be sited to allow unimpeded use of the footway by pedestrians. In the example below, a signal controller has been installed in a bench.



Bench containing traffic signal controller

9.8.13 Most highway authorities specify backing boards with white borders to traffic signals, but they are not legally required. Local Transport Note 1/98[65] notes that backing boards may be omitted at urban sites where speeds are low and there are no distracting backgrounds.



Signalised crossing with no white borders to signal heads

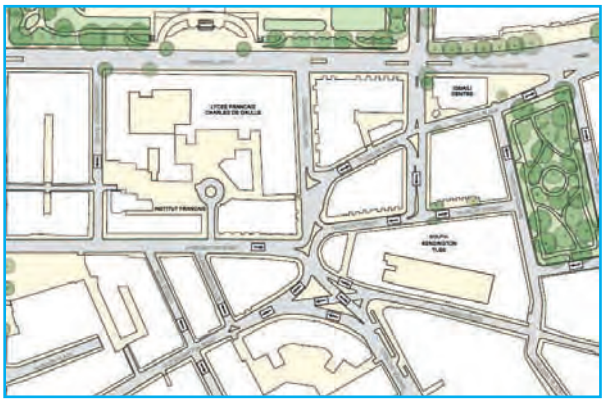
9.9_ Traffic Management and One-Way Systems

9.9.1 In many towns and cities traffic management systems, often involving networks of one-way streets, have been created. The usual aim of these systems is to increase network capacity by simplifying turning movements at junctions. These aims are understood, but the improvements in traffic flow capacity are offset by reductions in legibility and accessibility for all road users. One-way streets also tend to cause higher traffic speeds.

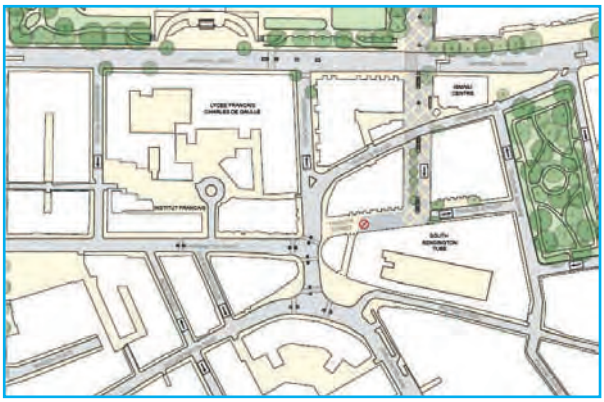
9.9.2 Cyclists are particularly disadvantaged by such systems, since the additional travel distance can be significant. Pedestrians can become disorientated by one-way streets, and fail to look for traffic in the correct direction before crossing. This is a particular problem where there are contraflow bus lanes.

9.9.3 However, with appropriate designs to minimise vehicle speeds, one-way streets can result in narrower carriageways which can create more space for pedestrians, cyclists and the public realm.

9.9.4 Some towns and cities have begun to simplify traffic management systems, judging that the benefits to other road users outweighs any additional travel time for motor vehicles. In South Kensington (see overleaf) a complex one-way system has been removed, whilst at the same time considerable areas of carriageway space have been given over to pedestrians.



Before



After

Changes at South Kensington - a complex one-way system has been simplified



Before



After

Area outside Underground station

9.10_ Direct Frontage Access

9.10.1 Providing direct access to buildings and public spaces is an important element in creating streets that are linked to their surroundings, rather than simply being conduits for passing traffic. Access is a key part of the place function of streets and should be facilitated where possible.

9.10.2 MfS1 referred to research which looked at the relationship between traffic flow and road safety on streets with direct frontage access to dwellings (MfS1 7.9.5). A limit of 10,000 vehicles per day (vpd) was advised, but this related to the limited number of sites considered with more than this level of traffic, rather than an indication that road safety declines above this level of flow.

9.10.3 Research referred to in TD 41/95[3] examined the relationship between access frequency and collisions on 3,000km of all-purpose trunk roads in England, both urban and rural, dual and single carriageway. The research showed that there was no simple statistical relationship between the number of collisions and the number of vehicular connections in the form of minor junctions and direct accesses.

9.10.4 For rural roads, there was a statistically significant relationship between collisions and traffic flow, link length and the total number of all access connections. In the case of urban roads, however, only traffic flow had a significant effect on the number of collisions at this level of confidence, and was found no direct relationship between access provision and collision occurrence.

9.10.5 It is therefore clear that the advice given in MfS1 concerning direct access is applicable to all urban roads, and that providing direct frontage access is unlikely to have significant disbenefits in road safety terms.

10_ Visibility

10.1_ Introduction

10.1.1 This section of MfS2 incorporates Section 7.5 of MfS1. It is based on a combination of the research carried out by TRL[23], the research carried out by TMS Consultancy for MfS2[66], a review of recent research and international standards and the outcome of public inquiries since MfS1 was published (see Example below).

10.1.2 Sight distance parameters can be based on various models, such as stopping sight distance, overtaking distance or gap acceptance. UK practice generally focuses on Stopping Sight Distance (SSD). The effect of sight distance on the capacity of priority junctions is discussed in **Chapter 9** above.

10.1.3 This section provides guidance on SSDs for streets where 85th percentile speeds are up to 60 kph (37mph). This will generally be achieved within 30mph limits and may be achieved in some 40mph limits.



Inspectors at public inquiries have accepted that SSD guidance in MfS1 applies to non-residential streets. At an appeal into a development of some 100 dwellings, accessed from the B5215 Leigh Road in Wigan, the Inspector concluded that MfS1 did apply, notwithstanding the volume of traffic (approximately 1,700vph peak times) or the classification of the highway (part of the Strategic Route Network).

10.1.4 Stopping sight distance (SSD) is the distance drivers need to be able to see ahead and they can stop within from a given speed. It is calculated from the speed of the vehicle, the time required for a driver to identify a hazard and then begin to brake (the perception-reaction time), and the vehicle's rate of deceleration. For new streets, the design speed for the location under consideration is set by the designer. For existing streets, the 85th percentile wet-weather speed is used.

10.1.5 The basic formula for calculating SSD (in metres) is:

$SSD = vt + v^2/2(d+0.1a)$

where:

v = speed (m/s)

t = driver perception-reaction time (seconds)

d = deceleration (m/s^2)

a = longitudinal gradient (%)

(+ for upgrades and - for downgrades)

10.1.6 The Desirable Minimum SSDs in general use prior to MfS1 were based on a driver perception-reaction time of 2 seconds and a deceleration rate of 2.45 m/s^2 (equivalent to 0.25g, where g is acceleration due to gravity (9.81 m/s^2)). The Absolute Minimum SSD values kept the same reaction time of 2 seconds, but assumed a deceleration rate of 3.68 m/s^2 (0.375g).

10.1.7 The SSD values recommended in MfS1 were based on a perception-reaction time of 1.5 seconds and a deceleration rate of 0.45g (4.41 m/s^2). This value is appropriate for cars and other light vehicles, but heavy goods vehicles and buses have different deceleration characteristics. When deciding whether to carry out separate checks for cars, HGV and bus SSDs, highway authorities should consider the following factors:

- Volume of HGVs and buses
- Proportion of HGVs and buses
- Presence of priority lanes which may enable higher bus/HGV speeds

10.1.8 As a guide, it is suggested that bus/HGV SSD should not need to be assessed when the combined proportion of HGV and bus traffic is less than 5% of traffic flow, subject to consideration of local circumstances.

10.1.9 Based on international vehicle standards (see Example) HGVs must be able to achieve peak deceleration rates of at least 0.509g. However, allowing for the delay in the maximum effectiveness of air braking systems, overall minimum stopping distances are also specified which reduce the minimum overall deceleration rate[A] under the regulations to some 0.36g. Real life tests carried out by ROSPA (also see Example) indicate that these values are likely to be exceeded in practice and therefore the pre-MfS1 Absolute Minimum value of 0.375g is recommended for HGVs. These average deceleration rates already allow for the time taken for air braking systems to apply and therefore the same reaction time of 1.5 seconds should be used.

10.1.10 For buses, the limiting design factor is passenger comfort and safety rather than the ability of the vehicle to stop, and therefore for buses, the recommended maximum deceleration rate is the same as the pre-MfS1 Absolute Minimum value of 0.375g, as used for the pre-MfS1 Absolute Minimum SSD values.

[A] The minimum overall deceleration rate means the deceleration rate, expressed as a uniform value, from the instant when the brakes begin to be applied when the vehicle stops, required by the standards.

10.1.11 Where designers wish to determine different SSD values for HGVs and buses it will be necessary to use appropriate design speeds for these classes of vehicle. Where SSD is being calculated for existing highways, actual 85th percentile values for these types of vehicles should be measured and the worst case SSD be used for horizontal measurements of visibility.

10.1.12 Based on free flow vehicle speeds travelling in 30mph limits given in Transport Statistics Bulletin 2008[45], buses travel at 90% of the average speed for all vehicles.

HGV Braking Performance

Minimum standards for lorry braking systems are set out in the UNECE Vehicle Regulation 13[67], which requires that the mean fully developed deceleration rate achieved by the braking system (with the engine disconnected) should be at least 5.0m/s² (0.509g). In addition, the stopping distance of the vehicle must be no more than $0.15v+v^2/130$, where v=vehicle speed in kph (up to 60kph), and $0.15v+v^2/103.5$ (v up to 90kph).

At 50kph the maximum allowable stopping distance is therefore 26.7m, and this is equivalent to a minimum overall braking rate of 3.6m/s² or 0.37g.

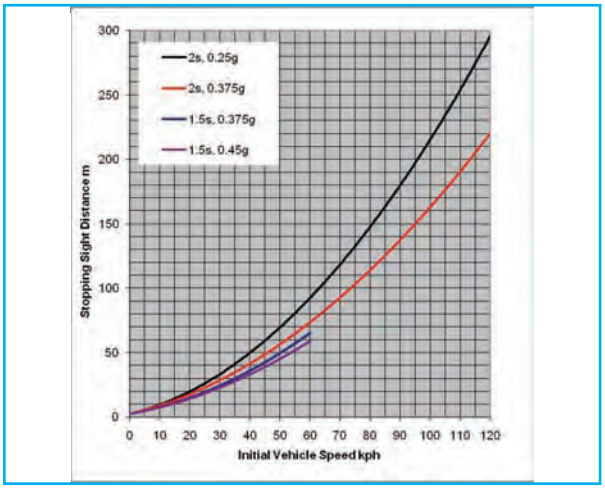
A series of real life braking tests were carried out by ROSPA using a wide range of vehicles in 2001, as reported in http://www.rospa.com/RoadSafety/AdviceAndInformation/Driving/hgv-truck-braking-systems.aspx

Deceleration rates have been calculated from the results of these tests which show that the minimum overall braking rate achieved was 0.44g, for a 36 tonne Foden vehicle, which stopped in 20.68m from 30mph. (One vehicle did take longer to stop, at 27m, but this was on a down slope). Cars were also tested by ROSPA, and the best performing of these was a Ford Mondeo, which stopped from 30mph in 7.14m, an overall deceleration rate of 1.27g.

10.1.13 In summary, recommended values for reaction times and deceleration rates for SSD calculations are given in Table 10.1 below and the resulting SSD values for initial speeds of up to 120kph are shown on the graph beneath.

Design Speed	Vehicle Type	Reaction Time	Deceleration Rate	Comments
60kph and below	Light vehicles	1.5s	0.45g	
	HGVs	1.5s	0.375g	See 10.1.9
	Buses	1.5s	0.375g	See 10.1.10
Above 60kph	All vehicles	2s	0.375g (Absolute Min SSD)	As TD 9/93
	All vehicles	2s	0.25g (Desirable Min SSD)	As TD 9/93

Table 10.1: Summary of Recommended SSD Criteria



Graph showing recommended SSD values, allowing for bonnet length.

10.2_ Visibility Requirements

10.2.1 Visibility should be checked at junctions and along the street. Forward visibility is measured horizontally and vertically.

10.2.2 Using plan views of proposed layouts, checks for visibility in the horizontal plane ensure that views are not obscured by vertical obstructions.

10.2.3 Checking visibility in the vertical plane is then carried out to ensure that views in the horizontal plane are not compromised by obstructions such as the crest of a hill, or a bridge at a dip in the road ahead. It also takes into account the variation in driver eye height and the height range of obstructions. Eye height is assumed to range from 1.05m (for car drivers) to 2m (for bus and HGV drivers).

10.2.4 Drivers need to be able to see obstructions from 2m high down to a point 600 mm above the carriageway. The latter dimension is used to ensure small children can be seen.

10.2.5 The SSD figure relates to the position of the driver. However the distance between the driver and the front of the vehicle is typically up to 2.4m, which is a significant proportion of shorter stopping distances. It is therefore recommended that for assessments of SSD, an allowance is made by adding 2.4m to the distance calculated using the formula.

10.3_ Forward Visibility

10.3.1 The minimum forward visibility required is equal to the minimum SSD, based on the design speed at the location being considered. It is checked by measuring between points on a curve along the centreline of the inner traffic lane (see **Fig.10.1**).

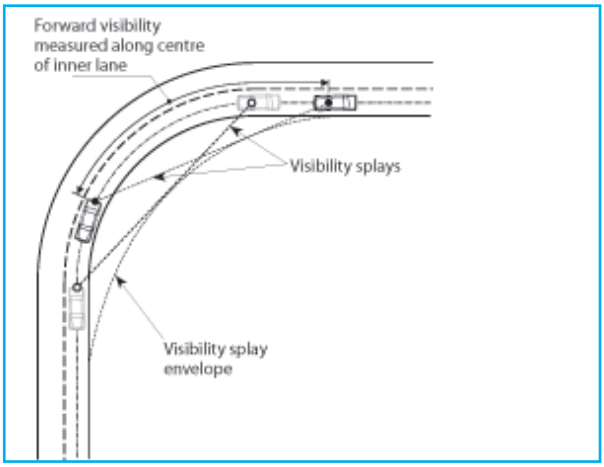
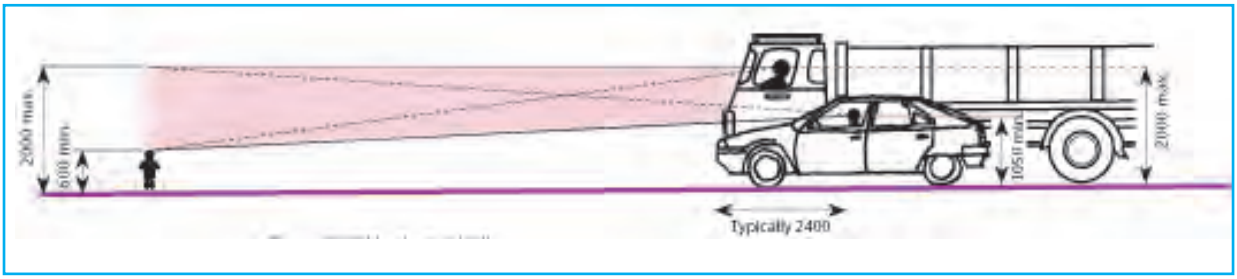


Figure 10.1 - Measurement of forward visibility

10.3.2 However there will be situations in locations with design speeds of 60kph or less where it is desirable and appropriate to restrict forward visibility to control traffic speed - research carried out for MfS1 describes how forward visibility influences speed. An historic example is shown below.



Spaniards Inn, Hampstead – historic building restricting forward visibility and carriageway width



10.4_ Visibility At Priority Junctions

10.4.1 The visibility splay at a junction ensures there is adequate inter-visibility between vehicles on the major and minor arms.

10.4.2 It has often been assumed that a failure to provide visibility at priority junctions in accordance with the values recommended in MfS1 or DMRB (as appropriate) will result in an increased risk of injury collisions. Research carried out by TMS Consultancy for MfS2[66] has found no evidence of this (see research summary below). Research into cycle safety at T-junctions found that higher cycle collision rates are associated with greater visibility[55].

High Risk Collision Sites and Y Distance Visibility

Introduction

The accepted approach to visibility at priority junctions has been to provide a minimum stopping sight distance value appropriate to a particular design speed. The assumption made by some designers and road safety auditors is that this value provides a minimum road safety requirement, and that collision risk will increase if the SSD is not achieved.

The purpose of this research was to examine this assumption and to identify whether or not a direct relationship can be established between variations in Y distance SSD and collision frequency at priority junctions.

Methodology

Site Selection

A series of "high risk" priority junctions was identified as the basis for research. Uncontrolled crossroads and T- junctions were selected for all classes of road throughout all 20, 30 and 40mph speed limits in Nottinghamshire, Sandwell, Lambeth, and Glasgow. For each area a list of all non-pedestrian collisions was ranked in descending order of collision total for a recent five-year period, with over 1500 collisions listed in total. Each location was then analysed in detail to identify specific collision characteristics.

Collision Analysis

Collisions involving vehicles emerging from junctions into the path of vehicles on the main road, together with nose-to-tail shunts on the minor road were identified as the type of incident that could have been caused by "poor visibility". The locations were then ranked in descending order of these types of crashes, and site visits were carried out at the "worst" sites.

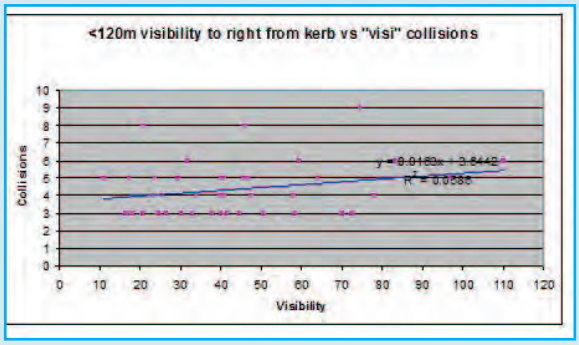
In addition to the 626 potential "poor visibility" collisions, a record was made of 203 collisions involving main road shunts, 46 collisions involving main road bus passengers, 22 collisions involving main road large goods vehicles, and 216 collisions involving main road two-wheeled vehicles. There is a concern that these types of collisions could be over-represented at locations with poor visibility.

Site Visits

Two investigators visited each location, and measured visibility to the left and right, from a point on the side road, 2.4m back from the main road channel line. Visibility was measured from a height of 1.05m, to a point at the kerb edge and a second point 1m out from the kerb edge, where observations showed that visibility increased.

Summary of Findings

- "High risk" sites were defined as locations that had three or more potential poor visibility collisions - in a five year period (94 in total). Of these 90 were on 30mph roads, with 3 on 40mph roads. At 55 of the 94 locations the worst case visibility (either to the left or right) was restricted to less than 120m. Thus in relation to the total number of uncontrolled junctions that exist, the proportion of "high risk" sites where visibility is less than that recommended for 70kph in DMRB is likely to be very low. It is possible that some former high risk priority junctions have been converted to other forms of junction control.
- In two thirds of the cases where visibility was less than 120m, the restriction was due to parked vehicles or street furniture. It is not possible to determine whether the parking was present at the time of the collision.
- Linear regression to compare potential poor visibility collisions with Y distance has a very low R^2 value, which shows that the variation in collision frequency was explained by factors other than Y distance visibility, for a large number of different situations. Therefore Y distance cannot be seen as a single deterministic factor at these high-risk collision locations (see example graph below).



- A series of collision types at high risk locations where Y distance was less than 45m were compared with locations with more than 45m visibility. There were no statistically significant differences between the two sets of data. The data analysed included main road bus and large goods vehicle collisions, and the research did not find high numbers of collisions involving these types of vehicles at low visibility sites.

Collision type	No & % in sites <45m vis	No & % in sites >45m vis
Potential visi collisions in dark	40 (31.75%)	90 (30.3%)
Main road shunts	24 (8.79%)	50 (9.11%)
Bus passenger	10 (3.66%)	10 (1.82%)
Main road HGV	1 (0.37%)	5 (0.91%)
Main road two-wheeled.	38 (13.92%)	85 (15.58%)

Conclusions

- This study has been unable to demonstrate that road safety concerns regarding reduced Y distance are directly associated with increased collision risk at "high-risk" urban sites;
- Previous research for MfS1 demonstrated that main road speed is influenced by road width and forward visibility. Many of the locations in this study were straight roads with good forward visibility. The ability of the driver to stop is likely to be affected by more than just what is happening in the side road and an understanding of the factors influencing main road speed is important when assessing visibility requirements.

Visibility measured to right, to nearside kerb.

	No. of sites	No. collisions	Collisions per year	Collisions per site per year
0-20m	4	16	3.2	0.80
20-40m	14	58	11.6	0.83
40-60m	15	64	12.8	0.85
60-80m	5	24	4.8	0.96
80-100m	2	11	2.2	1.10
100-120m	1	6	1.2	1.20
120m+	48	208	41.6	0.87

10.5_ X and Y Distances

Measurement of X and Y distances

10.5.1 The distance back along the minor arm from which visibility is measured is known as the X distance (**Figure 10.2**). It is generally measured back from the 'give way' line (or the main road channel line if no such markings are provided).

10.5.2 This distance is normally measured along the centreline of the minor arm for simplicity, but in some circumstances (for example where there is a wide splitter island on the minor arm) it will be more appropriate to measure it from the actual position of the driver.

10.5.3 The Y distance represents the distance that a driver who is about to exit from the minor arm can see to the left and right along the main alignment. For simplicity it has previously been measured along the nearside kerb line of the main arm, although vehicles will normally be travelling at a distance from the kerb line. Therefore a more accurate assessment of visibility splay is made by measuring to the nearside edge of the vehicle track. The measurement is taken from the point where this line intersects the centreline of the minor arm (unless, as above, there is a splitter island in the minor arm).

10.5.4 When the main alignment is curved and the minor arm joins on the outside of a bend, another check is necessary to make sure that an approaching vehicle on the main arm is visible over the whole of the Y distance. This is done by drawing an additional sight line which meets the kerb line at a tangent.

10.5.5 Some circumstances make it unlikely that vehicles approaching from the left on the main arm will cross the centreline of the main arm - opposing flows may be physically segregated at that point, for example. If so, the visibility splay to the left can be measured to the centreline of the main arm.

Recommended values for X and Y distances

10.5.6 An X distance of 2.4m should normally be used in most built-up situations, as this represents a reasonable maximum distance between the front of a car and the driver's eye.

10.5.7 Longer X distances enable drivers to look for gaps as they approach the junction. This increases junction capacity for the minor arm, and so may be justified in some circumstances, but it also increases the possibility that drivers on the minor approach will fail to take account of other road users, particularly pedestrians and cyclists. Longer X distances may also result in more shunt collisions on the minor arm. TRL Report No. 184[68] found that collision risk increased with greater minor-road sight distance.

10.5.8 A minimum X distance of 2m may be considered in some slow-speed situations when flows on the minor arm are low, but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm, and many drivers will tend to cautiously nose out into traffic. The ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty, should be considered. This also applies in lightly-trafficked rural lanes.

10.5.9 The Y distance should be based on the recommended SSD values. However, based on the research referred to above, unless there is local evidence to the contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem.

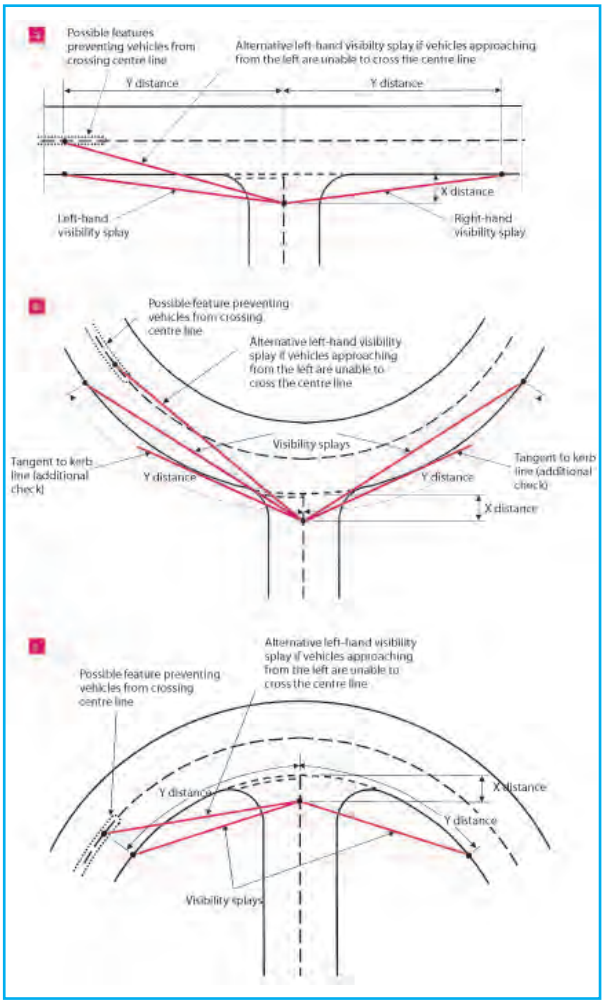


Figure 10.2

10.6_ Visibility Along The Street Edge

10.6.1 Vehicle exits at the back edge of the footway mean that emerging drivers will have to take account of people on the footway. The absence of wide visibility splays at minor accesses will encourage drivers to emerge more cautiously - similarly to how vehicles pull out when visibility along the carriageway is restricted (see Example below)

10.6.2 . Consideration should be given to whether this will be appropriate, taking into account the following:

- the frequency of vehicle movements;
- the amount of pedestrian activity; and
- the width of the footway.

10.6.3 When it is judged that footway visibility splays are to be provided, consideration should be given to the best means of achieving this in a manner sympathetic to the visual appearance of the street (Figure 10.3). This may include:

- the use of boundary railings rather than walls; and
- the omission of boundary walls or fences at the exit location.



Access to commercial property with limited visibility.



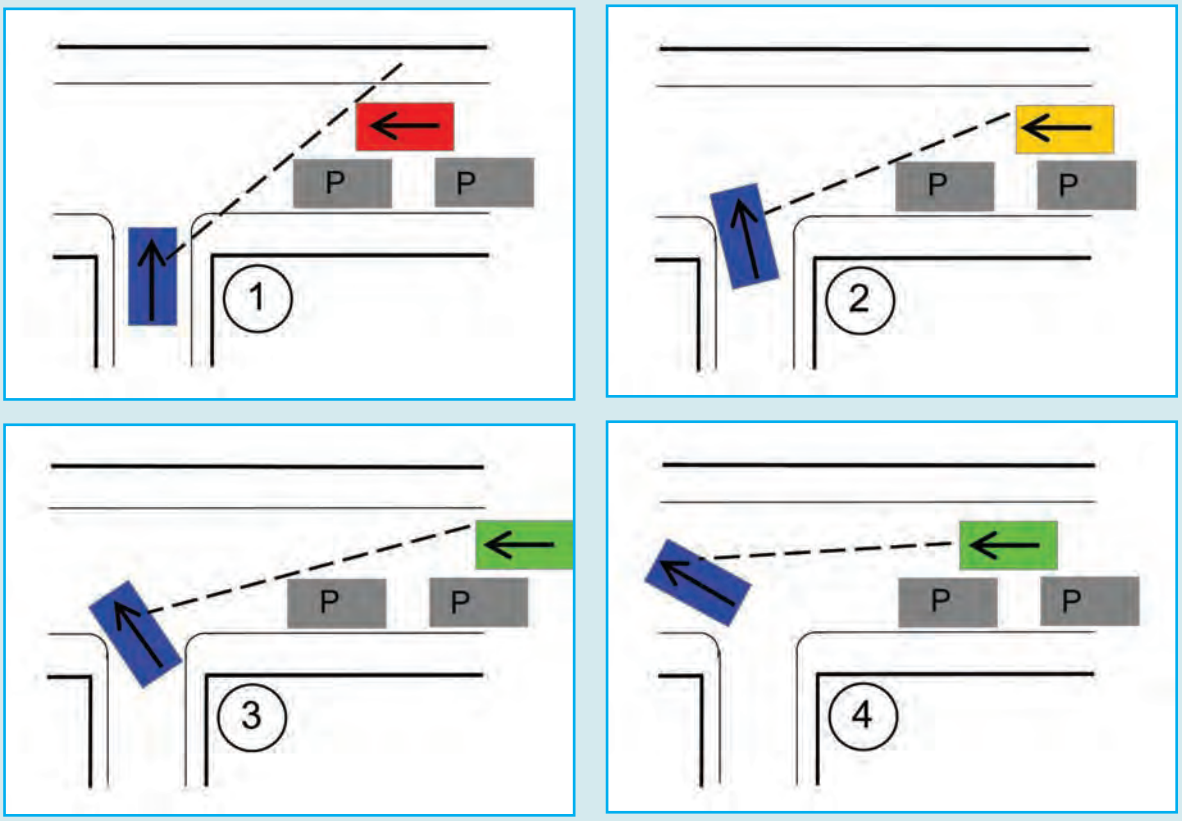


Figure 10.3

10.7_ Obstacles To Visibility

10.7.1 Parking in visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice. Ideally, defined parking bays should be provided outside the visibility splay. However, in some circumstances, where speeds are low, some encroachment may be acceptable. (See Example below.)

10.7.2 The impact of other obstacles, such as street trees and street lighting columns, should be assessed in terms of their impact on the overall envelope of visibility. In general, occasional obstacles to visibility that are not large enough to fully obscure a whole vehicle or a pedestrian, including a child or wheelchair user, will not have a significant impact on road safety.



At urban junctions where visibility is limited by buildings and parked cars, drivers of vehicles on the minor arm tend to nose out carefully until they can see oncoming traffic, and vice-versa.

In the images above, the blue car moves forward slowly until it can see far enough past the parked vehicles to see that the gap to the next oncoming vehicle is long enough for it to pull out. Drivers on the major route will also be able to see the vehicle pulling forward slowly and may slow down or stop to allow it to pull out.

11_ On-Street Parking and Servicing

11.1.1 Parking is an important consideration in the planning and design of highway networks, particularly in urban areas. General guidance on the development of parking strategies is given in the IHT publication 'Parking Strategies and Management' (2005)[69] and the document 'Car Parking, what works where'[70] provides a comprehensive analysis of the design of parking in residential and mixed-use areas.

11.1.2 On-street car parking can be a vital component of highways, particularly where routes pass through town centres and commercial areas. The decision whether or not to provide on-street car parking should take into account its positive and negative effects, as summarised in MfS1:

Positive Effects

- A common resource, catering for residents', visitors' and service vehicles in an efficient manner.
- Able to cater for peak demands from various users at different times of the day, for example people at work or residents.
- Adds activity to the street.
- Typically well overlooked, providing improved security.
- Popular and likely to be well-used.
- Can provide a useful buffer between pedestrians and traffic.

Negative Effects

- If there are few places for pedestrians to cross with adequate visibility it can introduce a road safety problem, particularly if traffic speeds are above 20mph.
- Can be visually dominant within a street scene and can undermine the established character.
- May lead to footway parking, unless the street is properly designed to accommodate parked vehicles.
- Vehicles parked indiscriminately can block vehicular accesses to premises.
- Cars parked on-street can be more vulnerable to opportunistic crime than off-street spaces.
- Providing parking bays potentially reduces footway space, which could also be used for cycle parking.

11.1.3 Where car parking is provided, a good solution is to break it into discrete groups of spaces with build outs that provide opportunities for pedestrians to cross with good visibility.



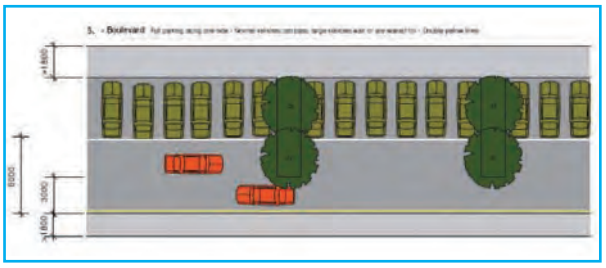
Well-integrated on-street parking.

11.1.4 Car parking alongside carriageways can be longitudinal, echelon or at right angles to the kerb. Longitudinal parking will be more appropriate where traffic speeds and volumes are higher, since vehicles entering and exiting the spaces cause less interruption to traffic flow. In town centres and other locations where speeds are low, echelon and right angled parking may be the best solution, since it is more efficient and creates a stronger statement that the area is for 'place' activities as well as for movement.





Manchester Ancoats Before and After.



Manchester Ancoats Plan

11.1.5 Echelon parking may be more difficult for pedestrians to pass through than longitudinal and right angled parking, depending on the spacing of parked vehicles, and can provide a greater barrier to crossing the street. This can be solved by leaving regular gaps between parked vehicles, however. It is easier to for vehicles to enter and exit echelon than right angle spaces and so the former have less impact on through traffic.

11.1.6 With echelon and right angle parking, care has to be taken that overhanging vehicles do not have an adverse impact on the available footway width. This can be addressed by providing generous footways, or using street furniture or wheel stops, in the form of dished channels, to prevent vehicles from encroaching too far.

11.1.7 On-street servicing bays are often required in urban centres where commercial premises can only be accessed from the front. Where they are designed as lay-bys, they can be difficult to keep clear of parked cars and take space away from pedestrians that is empty for much of the time. Some authorities are placing loading areas on strengthened areas of the footway, which makes it much less likely that space will be used for parking, and allows pedestrians to use the space when there are no vehicles present.

11.1.8 This approach has been used in numerous locations in London in recent years[71].



On-footway servicing bay - Walworth Road MPR Scheme, London

11.1.9 The minimum widths required to manoeuvre to/from 2.4m wide parking spaces are as follows:

- 90° - 6m
- 60° - 4.2m
- 45° - 3.6m
- 30° - 3.6m

11.1.10 Where parking is provided on street, this manoeuvring width will generally be provided by the carriageway.

11.1.11 For echelon and right angle parking, manoeuvring space can be reduced by providing wider spaces, as shown in Figure 8.20 of MfS1.

12_ Street Furniture and Trees

12.1_ Introduction

12.1.1 Street furniture is the collective term for the wide range of extraneous items that are placed in highways, most of which is to be found outside the carriageway. Street furniture has an important role to play in facilitating the use of the highway for many purposes, and some items support important 'place' functions, such as seating and cycle parking. While trees may not be strictly classed as street furniture, they are important elements within highways that are highly beneficial, although they should be located and managed carefully.

12.1.2 In recent years there has been increasing concern that excessive and poorly-planned and maintained street furniture is seriously degrading the quality of the local environment.

12.1.3 Based on the guidance that is already contained in MfS1 the key principles that should be followed with respect to street furniture, including traffic signs, are as follows:

- Designers should start from a position of having no street furniture and only introduce these elements when they serve a clear function.
- Street designs should be as self-explanatory as possible, so that the number of signs can be minimised. Providing additional signs may not solve a particular problem - it may be necessary to consider removing signs and dealing with the problem another way.
- Excessive street furniture should be avoided, although street furniture that is of direct benefit to street users, such as seating and cycle parking, can contribute to a sense of place, making the street a destination in its own right.
- Street furniture should be laid out so that pedestrian routes along and across the street are kept clear.
- New street furniture should be well designed and in sympathy with the character of the street. Items of historic interest should be retained.

12.1.4 Further detailed advice on minimising the number and impact of traffic signs is given in **Chapter 13**.



Excessive signs and street furniture can have a severe impact on the public realm.

12.1.5 A proliferation of street furniture can often arise in mixed-use environments. This is made worse when complex traffic management systems are also used. Consequently the key principles from MfS1 are even more important to consider in the context of the wider range of street and road types that are covered by this document.

12.1.6 Local Transport Note 1/08 'Traffic Management and Streetscape'[24] provides advice on how to manage street furniture in a more sensitive way, with particular emphasis on the processes that should be followed. Whilst LTN 1/08 focuses on traffic management schemes, its principles can be applied more generally, including on new and improved highway schemes.

12.1.7 Reducing the amount of street furniture will bring significant benefits in terms of visual amenity. It is only possible to appreciate the character of an area if it is not obscured by excessive standardised street paraphernalia.



Character Obscured



Character Revealed - same location, same street furniture, but rationalised (Images Courtesy Colin Davis)

12.1.8 Other benefits of reducing the amount of street furniture include:

- reducing the costs of provision and maintenance.
- improving the overall image of a place, helping it to function well economically and making its features of interest, such as heritage buildings and structures, stand out more clearly.
- improving the safety and amenity of pedestrians, particularly people with impaired mobility and people who are blind or partially sighted.
- making those signs that are most important stand out more clearly, improving safety and user behaviour.

In summary, less can be more.





Mare Street Hackney - Before and after a decluttering scheme in August 2007. Casualty records have revealed a safety neutral outcome.

12.2_ Procedures For Reducing Street Furniture

12.2.1 In existing streets, highway authorities, working closely with other agencies and other interested parties, can carry out targeted decluttering schemes, reviewing traffic signs and street furniture. This will identify what can be removed without adversely affecting road safety and the proper functioning of the street. Highway authorities should also work with external bodies, such as the statutory undertakers, and with other local authority departments to prevent streets becoming degraded with excessive street furniture over time.

12.2.2 It is also recommended that highway authorities adopt a process of decluttering as an integral part of their ongoing maintenance regimes. It will often be possible to identify items of street furniture that are redundant during routine street inspections so that they can be removed at little cost during maintenance operations. This process is covered by the 'tidy up' step in the London Mayor's Better Streets strategy[25], set out in Chapter 4.



This guardrail has no function - the pedestrian route it was protecting has been closed - and can therefore be removed.

12.2.3 When new highways are built or improvements are carried out, designers may over-provide and over-specify traffic signs, markings and other street furniture, based on the principle that they will only have one opportunity to provide such items. This practice adds unnecessarily to street clutter and should be avoided. Instead, the starting point should be that they are not to be provided unless there is a clear need for them. Where there is doubt over the need for any items, they should be omitted, and the situation monitored closely to establish whether they are justified in the light of experience.





Junction of Corporation Street and Croft Road, Coventry - Junction simplified, traffic signs, bus lane, keep left bollards and guardrail removed, cycle parking on median.

12.2.4 Local policy and guidance on streetscape design and implementation processes has a key role to play in setting procedures for the progressive reduction of street clutter while promoting walking and cycling - see Example below.

Transport for London's 'Streetscape Guidance'[72] contains detailed advice on the use of appropriate materials and details across the TfL network, and requires designers to ensure that:

- Signs are sufficient to enforce the regulations but are not excessive in terms of numbers and size.
- Key views and landmark buildings are not obstructed by poorly located street furniture, unless there is an unavoidable safety or security need.
- Clear pedestrian routes are maintained by removing redundant furniture and locating new furniture outside pedestrian desire lines.
- Clutter is reduced by combining elements of street furniture, such as signals and signs on street lighting or CCTV columns, incorporating bins and seats into bus shelters, and by mounting street signs and equipment on buildings or structures, wherever it is safe and acceptable to do so and the agreement of the owner has been obtained.
- The extent and visual impact of safety fences and barriers is reduced to the minimum required for safety and security to lessen visual impact and severance effects.

12.2.5 Local highway authorities are encouraged to develop policy documents to ensure that similar principles are adopted as a matter of course when existing highways are maintained and improved, and when new ones are being designed.

12.3_ Keeping Footways Clear

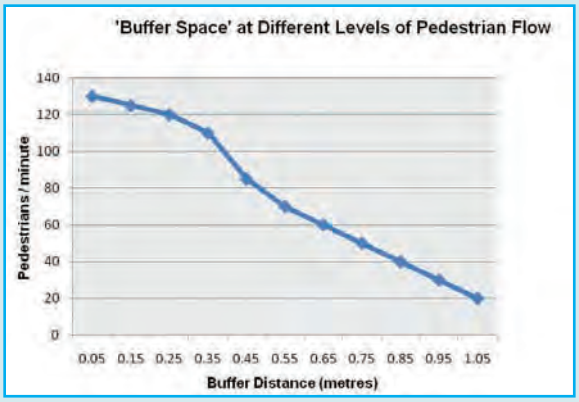
12.3.1 Guidance on the space requirements for pedestrians is contained in Section 6.3 of MfS1 and can be related to the volume of pedestrians per square metre (Fruin Level of Service). Experience from Copenhagen[73] indicates that pedestrians start to take alternative routes when the flow exceeds 13 people per metre of footway width per minute.

12.3.2 In many places, however, particularly in town centres, the effective width of footway is significantly reduced by the presence of street furniture and other obstacles (see box out on UCL research). Waste bins are a particular hazard in many cities. ADEPT have published their practical guide for developers and local authorities called 'Making Space for Waste'[74].

The Influence of Street Furniture on Pedestrian Footway Capacity

Research carried out at UCL by Peter Jones and Rachel Palfreeman[75] looked at the space requirements of different types of street furniture located on the footway. The amount of space taken up by such objects is often much greater than their physical footprint due to two factors. First each object has a 'no go' buffer space around it as pedestrians seek to avoid coming into contact with the object. The literature has historically assumed a 0.3 to 0.45m buffer width, but this research suggests that it varies according to pedestrian flow rates and can be as little as 0.1m at high rates of flow – see figure below.





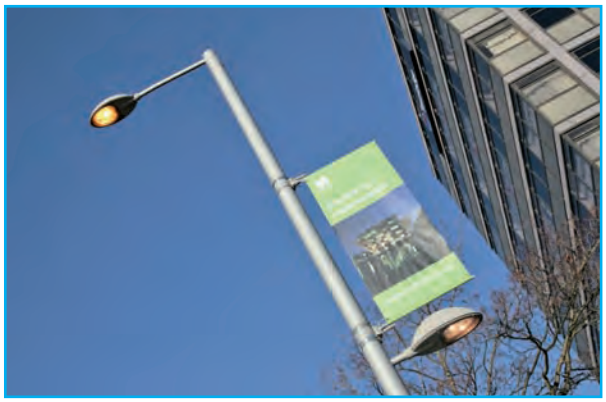
Street furniture and other clutter affecting footway capacity

But there is a second factor which further reduces pedestrian capacity, which has not previously been taken into account. This is the 'footprint in use' of the object. This may result either from the intended use of an object (e.g. additional space taken up by a cycle parked against a cycle rack; a person sitting on a bench with shopping bags or a pushchair alongside; or people queuing to use a cash machine), or from unintended use (e.g. rubbish bags left next to a bin, or cycles parked alongside pedestrian guardrailing). The 'footprint in use' may add considerably to the physical footprint of the object itself, as shown in the table below, and so have a major impact on pedestrian flows and the use of the footway.

Item of Street Furniture	Typical Dimensions	Extra footprint (footway width occupied) when in use
Bus Shelter	0.28m x 3.9m to 1.3m x 5.2m	0.4m to 1.1m
Cycle Stands	0.1m x 0.6m to 0.1m x 0.7m	0.5m
Litter Bins	0.5m x 0.5m to 0.6m x 0.6m	0.1m to 0.9m
Cash Machines	NA	0.55m to 1.6m

12.3.3 The first step to improve conditions for pedestrians is to remove any unnecessary obstacles, whether through regular maintenance processes, a decluttering programme or through the prevention of ad-hoc installation of features by external agencies such as utilities, by developing local working and communication arrangements. Encroachment by frontagers, such as by A-boards or licensed street trading, should also be controlled.

12.3.4 Where substantial items of street furniture, such as street lighting columns, are to be replaced the opportunity should be taken to co-locate items onto a single pole wherever possible, with individual departments of a local authority and external agencies working together. Items such as traffic signal heads, belisha beacons and litter bins can all be dealt with in this way. Street elements can also be mounted on walls and other structures to remove the need for a pole entirely.

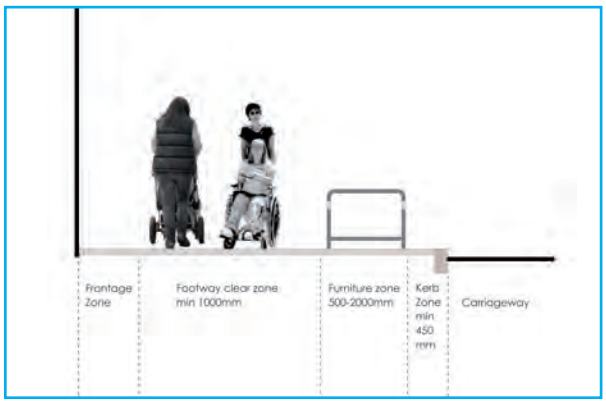


Maid Marian Way, Nottingham



Belisha Lamp Column

12.3.5 Street furniture should be located in a consistent place so that a clear pedestrian zone is maintained. Normally street furniture will be positioned between pedestrians and the carriageway to avoid affecting access to buildings and to provide a buffer to passing traffic.



Source - TfL 'Streetscape Guidance'[72]. Note - 'Inclusive Mobility'[35] advises that minimum width for pedestrians of 1m should only be used for distances of up to 6m.

12.3.6 Bollards create an obstacle to pedestrian movement and can also be visually intrusive, particularly when used in large numbers. They are often installed where there is a concern that vehicles will encroach onto pedestrian areas, particularly in level surface schemes, but they have tended to be over-used as they provide an 'easy' design solution.

12.3.7 Where designers consider it essential to prevent vehicles gaining access to a footway or pedestrian area, items of street furniture with a definite purpose, such as seating, cycle racks or trees, will often be preferable. Better enforcement of parking can also have a part to play.



Bollards can add considerably to street clutter.

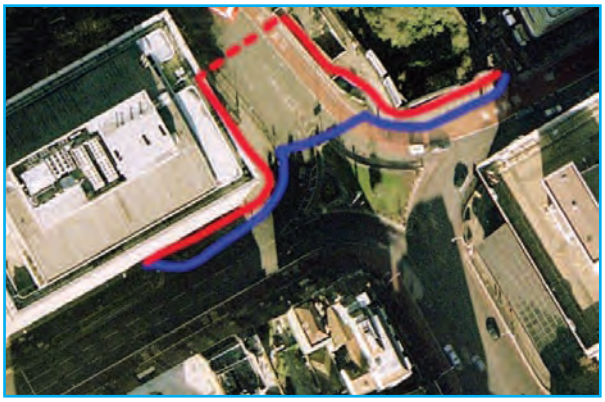
12.3.8 When used, bollards should be of a minimum height of 1m so that they are detectable by visually-impaired people.

12.4_ Guardrail

12.4.1 Guardrail is usually installed where there is a risk, or perceived risk, that pedestrians and/or cyclists will, in its absence, cross carriageways away from designated crossing points, or will otherwise wander into places where they can come into conflict with motor traffic. It is widely used in the UK, both on existing streets where a problem has been identified, and often on new or improved highway schemes as a matter of course.

12.4.2 Guardrail is a very intrusive element. It disadvantages pedestrian movement by making people walk further, away from their desire lines, and creates an unpleasant feeling of restraint. It also narrows the usable footway which can lead to congestion. It is unsightly and detracts from local character and visual amenity, and there is evidence that it can increase traffic speeds and present an increased risk to cyclists, who can be crushed against it by vehicles.





Despite extensive guardrailing, many pedestrians still choose to take the shortest path, putting themselves at greater risk. The red line shows the designated path, the blue line where many people walk.



Guardrailing can add to pedestrian congestion

12.4.3 There is a pressing need to strike a more appropriate balance in the use of guardrail. That is not to say that there are no locations where it may be necessary - but it should only be used when no other solution to a significant safety problem is practically possible, and the adverse effects on amenity, capacity and safety have been fully evaluated and recognised.

12.4.4 Local Transport Note 2/09, 'Pedestrian Guardrailing'[76], provides advice with respect to guardrailing, including:

- a description of the development of policy guidance on guardrailing;
- an assessment procedure for the evaluation of the need for the installation or removal of guardrailing; and
- encouragement for authorities to consider developing and using an audit trail, recording decisions and actions when considering guardrailing.

12.4.5 LTN 2/09 advises that alternative measures should be considered before a decision is taken to install guardrailing. Such measures may include:

- Reducing traffic speed;
- Relocating or installing a new pedestrian crossing to better fit pedestrian desire lines;
- Footway improvements and widening;
- Providing straight-ahead pedestrian crossings; and
- Using other means of directing pedestrians if this is necessary.

12.4.6 Experience has shown that the careful removal of guardrail from existing streets does not necessarily result in a worsening of road safety (see Prince of Wales Road Example below).

Prior to its improvement, as part of the DfT's Mixed Priority Route demonstration project Prince of Wales Road in Norwich had a very poor collision record and a poor quality environment.

As part of the scheme, guardrails were removed from most of the street, footways were widened, all on-street parking moved into defined bays, and the public realm was improved (including the rationalisation and reduction of street furniture and the introduction of street trees).





Before and after pictures of Prince of Wales Road and Upper King Street, Norwich

At some junctions, kerbs have been used successfully to define staggered crossings rather than using guardrail. These give guidance to less confident pedestrians (including visually impaired people) on the direction of stagger, whilst allowing more confident pedestrians to cross on their direct desire lines.



Pedestrians choosing different routes to cross the carriageway

Prior to the scheme being implemented the street had a very poor casualty record of 23 per year (44 per km), 75% of whom were pedestrians and cyclists. In the three years after implementation, the average number of casualties had reduced by 60% despite an increase of 16% in pedestrian footfall.

12.4.7 Guardrail has been extensively used in the past as a means of preventing footway parking, and of discouraging parking generally. This is not an appropriate use of guardrail - better enforcement should be used instead. If it is necessary to control vehicle access to an area, other useful street furniture such as a bench could be used. Where footway overrunning is a problem it may be simpler just to increase the construction depth so that overrunning can be tolerated.

12.4.8 Guardrail is commonly installed when pedestrian and cycle routes meet a carriageway. There should be no presumption that this is necessary, unless there is a reason to think that pedestrians are more at risk than when approaching a junction along a footway next to a carriageway - a situation where guardrail is not provided by default.

12.4.9 Guardrail is often installed as a matter of course at new junctions, even when there is no particular reason to think that pedestrians are at a high risk of injury. As with other street elements, highway authorities should start with the presumption that no guardrail is necessary. If it is considered that it may be needed, only the minimum amount should be installed, after considering all other ways of resolving the issue. If in doubt, it may be better to omit the guardrail and carefully monitor the site after the scheme opens to establish whether it is needed in the light of actual usage.



Newly-implemented highway scheme with extensive guardrailing

Guardrail assessment procedures

12.4.10 When considering the removal of guardrail, authorities should go through a well-documented process to show that the decision has been made following careful consideration of all relevant factors. General advice on managing authorities' liability is given in **Chapter 3**.

12.4.11 LTN 2/09[76] provides an assessment tool for authorities considering the removal of guardrail from existing junctions, based on research carried out by the University of Southampton (see box out). The method uses the evidenced comparison of sites with and without guardrail, and does depend on data from a similar comparison site being available. It focuses on the degree of compliance with crossing points rather than a road safety assessment.

Guardrail research

Research on the effectiveness of guardrail has been carried out by University of Southampton for the Department for Transport. The research for DfT, which underpins LTN 2/09[76], examined 78 junction and crossing sites with and without guardrailing in the UK outside London and found that:

- The frequency of all collisions and pedestrian collisions was some 1.5 to 1.6 times higher at sites with guardrailing than sites without guardrailing, (although this may in part be due to the with-guardrail sites having slightly higher traffic flows and speeds).
- Guardrailing does (unsurprisingly) increase the proportion of pedestrians that cross in the designated places.
- However, there is no conclusive evidence that the inclusion of pedestrian guardrailing at any type of pedestrian crossing or junction has any statistically significant effect on road safety.

12.4.12 Transport for London has developed a Guardrail Risk Assessment Form[77] which provides a method for the assessment of the suitability of pedestrian guardrail at an existing site.

12.4.13 A more context-sensitive methodology for the assessment of the need or otherwise for guardrailing has been developed by Urban Initiatives for LB Hackney[78]. Details of the procedure are given in the box out below.

12.4.14 Local highway authorities are advised to develop similar tools, which can also consider how measures described in 12.4.5 above, together with more general public realm improvements, can reduce or eliminate the need for guardrail.

LB Hackney – Guardrail Assessment Procedure

The methodology consists of two parts:

Part A provides a framework for the determination of the necessity for guardrail, up to the stage at which revised design proposals, if necessary, are brought forward. These proposals should be audited in an independent safety audit.

Part B considers the recommendations of the safety audit, and, where problems are identified with the scheme developed in Part A, weighs up all the information considered in the previous stages, and records the authority's conclusion.

Part A

Stage 1a of the procedure considers the character of the place, how different users perceive it and how the current design favours one or more groups. Stage 1b then considers road safety issues specifically, including the collision record, vehicle speeds and the presence of any vulnerable users.

Stage 2 assigns the location to one of 12 street types, ranging from a pedestrianised street to a major distributor road in a non-built up area.

Stage 3 assesses the in-principle appropriateness of guardrail, depending on the street type. For example, guardrail is considered to be never appropriate in a pedestrianised street, sometimes appropriate in high streets and likely to be necessary on major distributor roads.

Stage 4 then identifies desire lines on the assumption that there is no guardrail considering local origins and destinations such as doors in nearby buildings. The assessor then identifies where these important pedestrian movements coincide with major vehicle movements. Guardrail may be needed to influence these conflict points but should not otherwise be considered in most situations.

Stage 5 assesses the severity of these conflicts at coincidence points and other locations, and whether there are any particular concerns.

Stage 6 then considers whether guardrail is an appropriate means of diminishing danger at these conflict points, or whether there are any other/better tools that could be used, even if these cannot be delivered in the short term. From this assessment, proposals for the installation or retention of guardrail, or other measures, are developed.

Part B

The recommendations from Part A may then be subject to a Road Safety Audit. If this does not identify problems with the proposals, the process is complete.

If problems are raised by the Safety Audit, a documented process considers the previous proposals and the Audit recommendations, leading to an exception report and a final decision.

12.5_ Street Trees and Planting

12.5.1 Trees bring a wide range of benefits both to individual people and to society as a whole. They contribute to character and distinctiveness, create visual interest and help to soften the urban environment. However, their potential contribution goes far beyond the purely visual; they have a critical role to play in helping to adapt urban areas to climate change, for instance, by providing shade and reducing the local environmental temperature[79] or by slowing the rate at which rainfall enters the drainage system.

12.5.2 The introduction of trees as part of a scheme or improvements around existing trees is as much a specialist discipline as highway engineering and designers need to take advice from a qualified and professional arboricultural consultant or tree officer from the planning or highway authority at the planning stage of a scheme to ensure that suitable trees are used and their needs in terms of growth, protection and maintenance are appropriately catered for.

12.5.3 Although providing and maintaining street trees have financial implications, the economic, environmental and social benefits vastly outweigh these costs. For example, a recent cost:benefit analysis study of New York street trees has revealed significant cost benefits[80]. Guidance on the asset valuation of trees (for non-timber purposes) has recently been published by the RICS[81].



The street trees in the centre of The Circus in Bath are an example of how trees can contribute significantly to the quality of place.

12.5.4 Recent studies have shown that in urban areas all over England trees are under threat[82]. Large, mature trees are under particular threat, while new trees being planted tend to be smaller varieties. It is worth noting that the benefits that trees bring are proportionate to their size: large, mature trees bring more benefits than small ones. The potential contribution of trees will be further improved where they are integrated into 'green infrastructure' networks.

12.5.5 Large species will grow to have large canopies and extensive root networks. Designers should choose appropriate species and ensure that their physiological needs are incorporated into scheme designs. Information about the types of trees that will survive in urban areas in England can be found at http://www.right-trees.org.uk.





Designers need to plan now to achieve streets lined with large canopy trees which will be vital in reducing the expected increase in urban temperatures anticipated with climate change. Appreciation of long-term growth issues such as root ball size and overhang of carriageway must be taken into account.

12.5.6 Designers should take steps to prevent conflicts between tree root systems, underground services and building foundations[83]. Wherever possible underground services should be routed in shared service ducts. Ducts make maintenance easier and minimize the amount of space taken by services. Modern utilities in plastic ducting can tolerate deformation by tree roots in ways that older services cannot.

12.5.7 Tree pits are an important part of tree planting proposals in an urban street environment and the design will be site specific due to the nature and conditions of the local environment. An arboricultural consultant or tree officer must be consulted to provide advice on tree pit design to ensure trees can grow to maturity.

12.5.8 One of the underlying reasons why urban trees are under threat is that many people believe they cause a range of problems. This section considers whether or not these perceptions are realistic, and outlines ways in which potential problems can be avoided.

12.5.9 The incidence of subsidence in urban areas that is caused by trees is far lower than assumed. One study in a London borough found that only 0.05% of its building stock was affected by tree-related insurance claims annually. Selecting appropriate species for a location and maintaining the tree appropriately will ensure that roots do not affect building stock. The London Tree Officers Association has produced 'A risk limitation strategy for tree root claims'[84].

12.5.10 Measures to be taken to avoid common problems include:

Pavement lift:

- Ensure that the planting pit is designed and built to allow for root expansion in the future.
- Where necessary, it might be possible to have non-structural surface roots removed.

Footpath obstruction

- Ensure pavements are sufficiently wide to accommodate large species trees where appropriate.
- Where trees have already grown too wide for a path, it might be possible to build the path out into the street so that pedestrians can go round the tree trunk.

Leaf litter and fruit fall

- Leaf litter and fruit fall can be collected by local authorities and used to create locally sourced compost.
- Blocked gutters and drains can be avoided by fitting mesh guards.

12.5.11 For further guidance, see:

- Trees and Design Action Group http://www.tdag.org.uk
- CABE 'Managing Urban Trees'[85]
- Trees for Cities http://www.treesforcities.org.uk and guidelines on street trees[86]
- Mayor of London's Street Trees http://www.london.gov.uk/streettrees/
- Greater London Authority 'Right Trees for a Changing Climate' http://www.righttrees.org.uk
- Communities and Local Government trees web pages http://webarchive.nationalarchives.gov.uk/+/http://www.communities.gov.uk/planningandbuilding/planning/treeshighhedges/trees/
- Chris Britt and Mark Johnston, 2008 'Trees in towns II: a new survey of urban trees in England and their condition and management'[82]
- Communities and Local Government, 2006 'Tree Roots in the Built Environment'[87]

12.6_ Street Lighting

12.6.1 Street lighting can contribute to:

- improving road safety;
- assisting in the protection of property;
- discouraging crime and vandalism;
- making residents and street users feel secure;
- Enhancing the appearance of the area after dark; and
- Encouraging walking, cycling and the use of public transport.

12.6.2 MfS1 provides advice on the design of street lighting. The following key principles are given, which can be applied to the range of highway types covered by MfS2.

- Lighting should be planned as an integral part of the street layout, including any planting. The potential for planting to shade out lighting through growth should be considered when deciding what to plant.
- Lighting should be appropriate to context and street function. In some locations, such as rural villages, lighting may not have been provided elsewhere in the settlement and therefore it may not be appropriate in new developments.
- Lighting should illuminate both the carriageway and footway.
- The height of street lighting units should be appropriate to the cross-section of the street. Lowering the height of lighting can make the scale more human but this will mean that more lighting units are required.
- Lighting levels do not have to be constant during the hours of darkness.
- Lighting columns should be placed so that they do not impinge on the available widths of footways.
- Lighting design should ensure that shadows are avoided in streets where pedestrians may be vulnerable. Sudden changes in lighting level can be particularly problematic for partially sighted people.
- It is important that lighting is carefully designed to reduce stray light.
- Consideration should be given to attaching lighting units to buildings to reduce street clutter.



Inconspicuous lighting units on buildings help to minimise clutter in this village high street.

12.6.3 Sustainability is an important consideration. The Carbon Reduction Commitment Energy Efficiency Scheme (CRCEE) and the Energy Using Products Directive (EuP) should be taken into account in the design of lighting schemes. Other recent legislation that should be considered includes the Climate Change Act (2008) and the Energy Act 2008 (Consequential Amendments) Order (2009).

12.6.4 Current guidance documents on street lighting include the following:

- BS 5489 (2003) Code of Practice for the Design of Road Lighting - Part 1: Lighting of Roads and Public Amenity Areas[88].
- BS EN 13201-2: 2003 Road Lighting - Performance Requirements[89].
- BS EN 13201-3: 2003 Road Lighting - Calculations of Performance[90].
- BS EN 13201-4: 2003 Road Lighting - Methods of Measuring Lighting Performance[91].
- *Guide on the Limitation of the Effects of Obtrusive Light from Outdoor Lighting Installations'[92].
- 'Guidelines for Minimising Sky Glow'[93].
- Institution of Lighting Engineers (ILE) (2005) 'Guidance Notes for the Reduction of Obtrusive Light'[94].
- 'Lighting in the Countryside: Towards Good Practice'[95].

12.7_ Security Measures

12.7.1 With an evolving criminal and terrorist threat to infrastructure and areas where high concentrations of the public may gather, certain sites may have anti-ram protection measures installed to protect them from vehicle-borne attack. Such countermeasures would typically consist of vehicle security barriers such as bollards, planters, structural walls or balustrades, appropriately resilient landscape architecture, or using structural elements concealed within common streetscape items such as shelters, benches, cabinetry, signposts and lighting columns.

12.7.2 For protection reasons, their position is usually optimised as far from the vulnerable site as possible. The advantage of having an effectively managed cordon-based scheme, where barriers are located at the furthest perimeter of a vulnerable site, is that individual assets within the area will not typically need to be protected with extra security barriers, thus helping a local authority achieve its objectives with minimal clutter.

12.7.3 If designed to be permeable by pedestrians then the spacing between structures will be no more than 1.2m apart such that hostile vehicles cannot encroach through the gaps. They are unlikely to be less than 1 metre apart so that people with impaired mobility are not inconvenienced. Although dressed to blend in to the architecture and streetscape in an urban area, these measures are designed to resist forced attack using special materials and foundations and, in so doing, they are not frangible or likely to bend if accidentally hit.



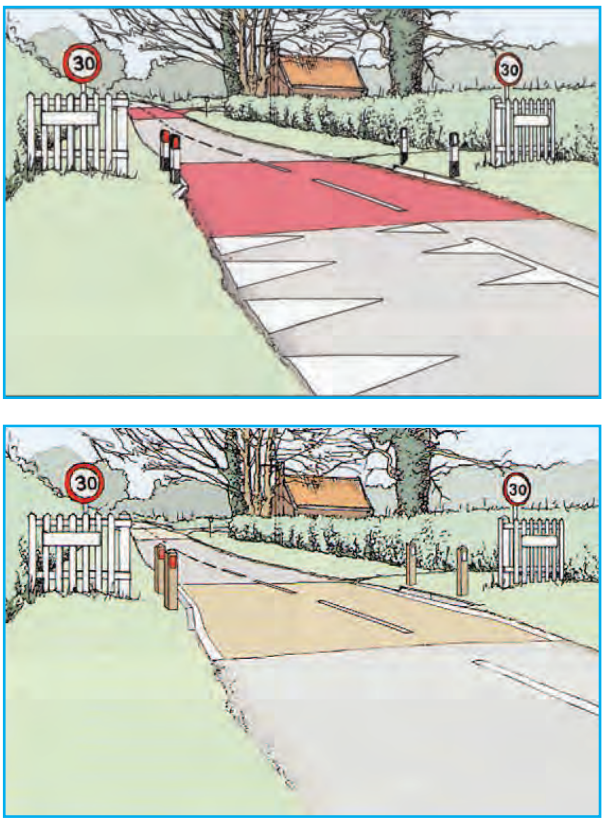
Anti-ram walls that also provide seating outside the Supreme Court, Parliament Square

13_ Traffic Signs and Markings

12.7.4 In future years, town and city centres may install permanent retractable bollard and gate schemes not just for bus priority or environmental reasons but also to include a security theme and thus be specified to a security specification. These measures may be in place full time or just at times of increased risk (e.g. when the site is crowded or when a secure event is being hosted in town).

12.7.5 Any traffic regulation introduced for this national security purpose will typically be accompanied by Anti-Terrorist Traffic Regulation Orders (ATTROs using Sections 22C or 22D of the Road Traffic Regulation Act 1984 as amended by the Civil Contingencies Act 2004).

12.7.6 Further information is available in the Home Office's documents "Working Together to Protect Crowded Places"[96], "Crowded Places: The Planning System and Counter Terrorism"[97] and "Protecting Crowded Places: Design and Technical Issues"[98]. Protective security advice and a palette of appropriately resilient vehicle security barriers or structural elements for embedding in the public realm are available from specialists at the UK Government's Centre for the Protection of National Infrastructure (CPNI) or via the local police Counter-Terrorism Security Adviser (CTSA).



Village gateways do not have to use garish colours - images taken from the Suffolk Countryside Manual, produced by Suffolk County Council[100].

13.1_ Introduction

13.1.1 Traffic signs and markings add significantly to the amount of street furniture and it is important that highway authorities look for opportunities to reduce excessive signing, where this would not have a detrimental impact on road safety. Examples of where this could be done, whilst complying with the legal requirements of the Traffic Signs Regulations and General Directions (TSRGD) and other Regulations, are given in this section of the document.

13.1.2 Based on the guidance that is already contained in MfS1 the key principles that should be adopted with respect to traffic signs are as follows[B]:

- The Traffic Signs Manual (TSM)[99] and other DfT publications such as Traffic Advisory Leaflets provide advice to designers on signing.
- Whilst signs must comply with legislation in the form of the TSRGD[58] and the Crossing Regulations[52], there is flexibility within the regulations.
- Highway Authorities should not see TSRGD and the TSM as constraining documents, and they are able to use the flexibility in the documents to suit local circumstances.
- TSRGD does not require any signs to be installed. However, signs are needed to warn, inform or to give effect to Traffic Regulation Orders.

13.1.3 Chapter 3 of the Traffic Signs Manual notes that research has shown that the greater the number of signs that drivers are presented with simultaneously, the greater the difficulty they are likely to have in assimilating all the information.

13.1.4 Excessive signs and road markings can be particularly intrusive in rural areas, where it can have an urbanising influence. The impact is not only aesthetic; many rural economies are dependent on tourists, attracted by the quality of the landscape, which can be damaged by insensitive design. Some authorities, such as Dorset County Council, have developed policies for managing rural roads in a more sensitive way.

[B] Note – road 'markings' are legally 'signs' and so the latter includes the former

13.2_ Size and Mounting Height Of Signs

13.2.1 Advice on the size of signs is given in the various chapters of the Traffic Signs Manual[99] and is generally related to actual traffic speed (85th percentile values) and in some cases the speed limit.

13.2.2 Although highway authorities should take account of this advice in determining the size of signs, it should be noted that it is not unlawful to deviate from the advice contained in these documents. TSRGD[58] sets out the sizes of signs that can be used, and highway authorities are at liberty to select from these alternative dimensions.



Sign mounted at low level

13.2.3 The Traffic Signs Manual confirms this, noting (in Chapter 3, Appendix A) that smaller signs may be used where special amenity considerations apply, but noting that this will offer drivers less time to react to the sign. Highway authorities will need to judge, based on the importance of the information on the sign and the consequences of drivers not being able to read it in time, whether this will lead to a significant road safety problem.

13.2.4 There is no legal requirement for signs to be mounted at a particular height, although the Traffic Signs Manual recommends that signs are generally set with their lower edge between 0.9m and 1.5m above carriageway level, and 2.1 to 2.3m above footways and cycle tracks. While their effectiveness may be reduced, mounting signs at lower levels can reduce the visual impact of signs and may be appropriate in some situations, particularly rural areas where it is often important to mount traffic signs below adjacent hedges or walls to minimise the impact on long views across the countryside.



If all signs have yellow backing boards, how well does a particular sign stand out?

13.3_ Yellow Backing Boards

13.3.1 Yellow backing boards are placed on signs to increase their conspicuity and while this may be appropriate in some exceptional circumstances, this technique significantly worsens their visual impact. The effect is particularly marked when a blanket decision is



Multiple yellow retroreflective bollards can have a significant visual impact.

[c] Note – retroreflective bollards complying with BS 8442:2006 section 14 incorporating traffic signs which are not lit require special authorisation from the Department for Transport since they do not comply with TSRGD.

taken by a highway authority to use yellow backing boards on all signs along a route.

13.3.2 Chapters 3, 7 and 8 of the Traffic Signs Manual[99] provide advice on the use of backing boards and notes that there are potential disadvantages to their use:



Keep left bollard, with rear face uncoloured

- Yellow backing boards can be especially environmentally intrusive, and their over-use devalues their attention-attracting benefits.
- Even a grey board can deprive triangular and circular signs of a primary recognition aid, their distinctive silhouettes.



Pedestrian refuge without keep left bollards, Walworth Road Mixed Priority Route scheme

- The larger overall size of the assembly can sometimes obstruct sight lines.
- Where it is necessary to increase a sign's conspicuity, a less garish way of doing this may simply be to provide a standard sign of larger size. Not only will this be more noticeable than a smaller sign, but it will also improve legibility and hence reading distance, which a yellow backing board cannot.
- Yellow backing boards will not normally be necessary when signs indicate an increase in the speed limit.



Sign to diagram 610 mounted on hoop top frame.



Sign to diagram 610 mounted on post. Note - yellow backing is not compulsory.

- Where it seems that a sign is not being noticed by drivers, it should be checked to ensure that it is well sited, not obscured by vegetation or other obstructions and is of the appropriate size and in good condition. Only then should the use of a yellow backing board be considered.

13.4_ Keep Left/Right Signs



The London Road, Southampton scheme omits central line markings for part of its length.

13.4.1 Signs to Diagram 610 (keep left or right) or 611 (pass either side) are typically provided at the ends of central islands and refuges and at kerb build-outs to warn drivers of the obstacle in their path. They are often mounted within illuminated or reflectorised bollards, which over recent years have increasingly been of the passively safe type, usually with a yellow reflective finish[c].

13.4.2 These can be highly intrusive, particularly where a large number of such bollards are installed at a junction.

13.4.3 Where the highway authority considers that retro-reflective bollards are essential, they should give consideration to specifying that the coloured material is only provided on the side of the bollard that faces the traffic flow, so that the overall intrusive effect is reduced.

13.4.4 Highway authorities should consider whether signs and bollards are required at every central island or kerb build-out, particularly where the area is lit and other vertical features would alert drivers to the presence of the obstacle. The Crossings Regulations[52] make it clear that signs to diagrams 610 and 611 are optional.

13.4.5 Similarly, there is no legal requirement for such bollards and signs on the median islands on the approaches to roundabouts.

13.4.6 Where traffic signs are necessary, there is a range of mounting and lighting arrangements that can be used. The hoop type of sign mounting has been used in many schemes, for various types of sign, and can be lit from below when this is necessary. Signs to Diagrams 610 and 611 can also be mounted on lamp columns and other street furniture.



Excessive use of coloured surfacing can be visually intrusive

13.5_ Centreline Markings

13.5.1 MfS1 notes that the use of centre lines is not an absolute requirement and includes reference to the reductions in traffic speed that result by omitting centreline markings on carriageways. This has been done successfully on busy routes in urban areas as well as in village settings. Removing centrelines can be done easily when carriageways are resurfaced, with an immediate saving in capital and ongoing maintenance costs.

13.6_ Zig-Zag Markings

13.6.1 Zig-zag markings on the approaches to pedestrian and cycle crossings are required under the Crossing Regulations[52], which state that the number of zig-zag marks shall be between 8 and 18 in number. However, the regulations also state that the number of zig-zag



This junction has the Give Way marking (1003) and the approach triangle (1023) but no Give Way sign. It would have been possible to omit the approach triangle. Note also table to slow speeds and make pedestrian crossing easier.

marks may be reduced to 2, of a minimum length 1m, where the traffic authority is satisfied that, by reason of the layout or character of the location, it will be impracticable to comply with the normal requirements.

13.7_ Coloured Surfacing



Roundabout in Taunton town centre with proceed left signs to Diagram 606 but no black and white chevrons to diagram 515. Note - cobbled surface is difficult for cyclists.

13.7.1 Coloured road surfacing is often used to give greater conspicuity to areas that are hatched (to Diagrams 1040, 1040.2, 1040.3 and 1040.4) as being areas that should not be entered by vehicles unless it is considered by the driver to be safe to do so. It is also often applied to bus and cycle lanes in an effort to improve compliance. Anti-skid surfacing is also sometimes coloured, although less intrusive grey and buff colours are available.





One sign (Diagram 616), as shown on the lower image, can be legal and sufficient.

13.7.2 Coloured road surfacing has no legal significance. It adds to visual intrusion and should not be used by default. It should be reserved for situations where it is considered that it will have a particular safety benefit, and where this outweighs the aesthetic disadvantages. Studies have shown[101] that coloured surfacing can reduce the number of vehicles overrunning hatched areas, but that the effect reduces with time as the colour fades. Coloured surfacing therefore creates an ongoing maintenance liability.



Visually intrusive yellow lines in a narrow street.

13.8_ Signs and Markings at Junctions

13.8.1 There is no legal requirement to use road markings to define priority at T-junctions or crossroads.

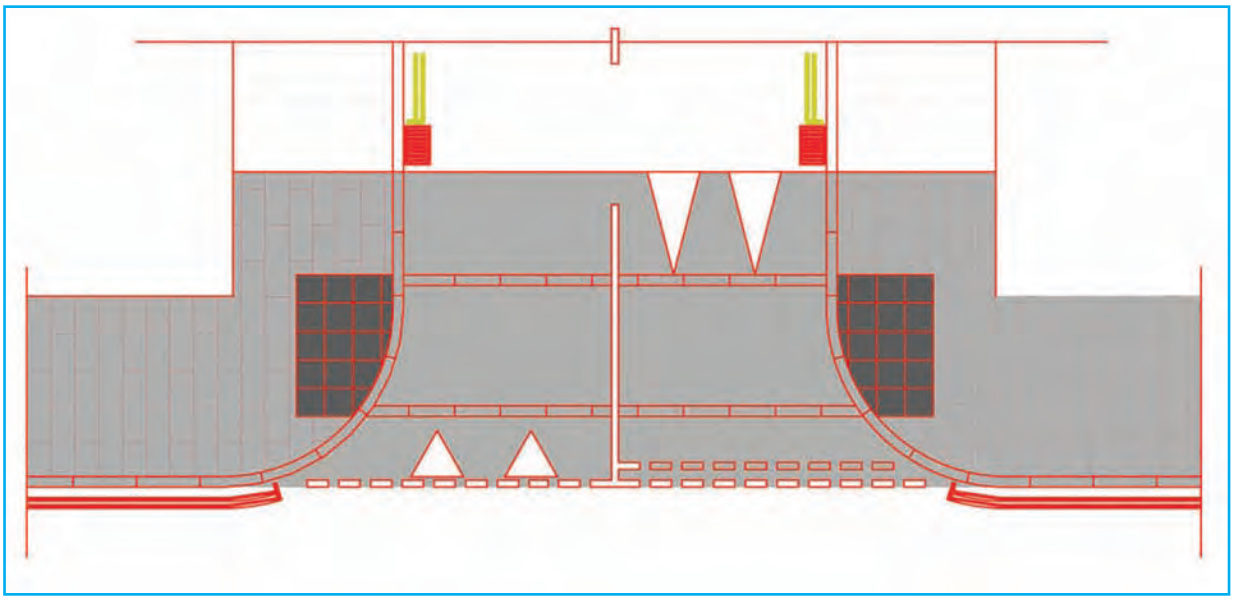
13.8.2 The give way rule at T-junctions is often signed using both road markings to Diagram 1003 (give way line) and 1023 (approach triangle) and a sign to Diagram 602 (Give Way). However, not all are mandatory and highway authorities should consider whether it is necessary to go beyond the minimum legal requirement. The following options are possible:

- Give Way marking (1003) alone
- Give Way marking (1003) and approach triangle (1023)
- Give Way marking (1003) and approach triangle (1023) and Give Way sign (602)

13.8.3 Roundabout central islands are usually signed with the proceed left arrow sign (Diagram 606) and black and white chevrons (Diagram 515) but it is lawful to omit both types of sign, or to use Diagram 606 without Diagram

515. At roundabouts and bends consideration could be given to reducing the size of signs.

13.8.4 No entry signs (Diagram 616) are normally provided on either side of the entrance to a one-way street from a junction, but this is not a requirement of TSRGD where the carriageway or vehicle track width is less than 5m.



Detail for tabled side road crossing, omitting yellow/red markings across table

Section C

Case Studies



The detailed case studies have been developed on behalf of CABE by John Dales and David Johns at Urban Initiatives. We are grateful to the project contacts for the time they took introducing us to their schemes. Visit the CABE website (www.cabe.org.uk) for detailed scheme drawings, a wider selection of street focussed case studies, and information about training and direct project support that we offer.

Case Study Photograph Credits

The CIHT would like to acknowledge and thank all those who supplied photographs of the case studies they are listed below:

CS1 Ian Hingley Urban Initiatives

CS2 Louise Duggan
CS3 CABE/Jane Sebire
CS4 CABE/Jane Sebire
CS5 CABE/Jane Sebire
CS6 CABE/Jane Sebire
CS7 CABE/Jane Sebire
CS8 CABE/Jane Sebire
CS9 CABE/Jane Sebire
CS10 Sam Wright TfL
CS11 CABE/Jane Sebire
CS12 Southampton City Council
CS13 Graham Redman/Southampton City Council
CS14 Southampton City Council
CS15 Graham Redman Southampton City Council
CS16 Graham Redman Southampton City Council
CS17 Graham Redman Southampton City Council
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CS33 David Johns Urban Initiatives
CS34 CABE/James Whitaker
CS35 John Dales Urban Initiatives
CS36 Gillespies
CS37 CABE/James Whitaker
CS38 CABE/James Whitaker
CS39 Gillespies
CS40 Gillespies
CS41 Nottingham City Council
CS42 Nottingham City Council
CS43 Nottingham City Council
CS44 Nottingham City Council
CS45 CABE/Stephen McLaren
CS46 CABE/Stephen McLaren

14_ Case Studies

14.1_ Walworth Road, Southwark, London

Summary

Walworth Road in Southwark faced problems with road safety. As a distributor route with heavy traffic and a local high street with lots of shoppers things had become unbalanced:

- The street space was largely allocated to motor vehicles, including designated bus lanes.
- The footways were relatively narrow, and long stretches of guard rails stopped pedestrian movement both along and across the street.
- The guard railing also made servicing difficult for the many retail and other commercial properties which fronted the street.

Despite many conventional traffic engineering and road safety measures, the collision record gave considerable cause for concern.

Walworth Road became one of ten Department for Transport 'mixed priority route' demonstration projects. It was the most complex, because of its heavy traffic, and the high importance of making it a much more attractive place for shopping, business and the local community.



Photo CS1



Photo CS2

The scheme helped to re-establish balanced provision changing from a traffic-dominated thoroughfare into a vibrant place for people –that still carries important traffic flows (see photo CS1 before and photo CS2 after).

Description

The A215 Walworth Road runs from the Elephant and Castle in the north to Albany Road in the south - some 1.2km. It is a key radial route, carrying around 20,000 vehicles per day. However, it is also an important and busy neighbourhood retail centre, in the area around the East Street Market (see photo CS3). Around 500m of the street in the heart of this centre was redesigned (see Location Plan.



Location Plan



Photo CS3

Generally the street is fronted by retail and commercial properties, though the immediate hinterland to both sides is residential. Walworth Road is mainly used by local residents from the nearby social housing. The lower levels of car ownership in the social housing sector mean it's all the more important to enhance the walkability of the local high street (see photo CS4). It's historic alignment and buildings create a well-defined street scale, but its relative narrowness was a problem for the modern-day demands of vehicles and pedestrians.



Photo CS4

Balanced provision

Before the improvement scheme, Walworth Road was dominated by through vehicles. This came at the expense of pedestrian movement, and undermined the sense of place:

- the carriageway contained a dedicated bus lane and a general traffic lane in each direction
- vehicles and pedestrians were segregated by long sections of guard rails
- there were infrequent crossing facilities
- it was badly cluttered in places by typical permanent traffic management equipment and street furniture, and by temporary 'A-boards' placed there by local businesses.

One of the most critical issues was the reallocation of space (see photo CS5) – carriageway to footway – to enable the street to function far better as a local high street and neighbourhood centre. This was a very challenging task, given the fixed frontage to frontage widths and localised narrowness on the road in certain sections.



Photo CS5

Public transport

A comprehensive transport assessment was done to find out the feasibility of removing bus lanes and redistributing some of this space to the footways. Ten different bus routes – with some 150 buses per hour at peak times – use the road.

Bus 'gates' were installed at both entrances to the scheme area (see photo CS6). These allow buses to have priority over general traffic. Nearly two years after the scheme opened, anecdotal evidence suggests that it has had little impact (either way) on bus journey times. Bus drivers often do not use the gates, even at peak times.



Photo CS6



Photo CS8

Other critical elements of the scheme included:

- improved and new formal (see photo CS7) and informal crossing points along the street, including a wide median strip in the southern section of the scheme (see photo CS8)
- extensive tree planting (see photo CS9)
- seating (see Photo CS5)
- improved management of parking and loading (see photo CS10)
- improved pedestrian and vehicular lighting, through multi-function poles
- major de-cluttering - approximately 600 unnecessary signs and poles, and around 425m of pedestrian guard rails were removed.



Photo CS9



Photo CS7



Photo CS10

Design Process

Scheme genesis

The scheme began life as a road safety scheme. A bid was made by the London Borough of Southwark for Department for Transport 'mixed priority route' road safety demonstration project funding. The bid's success encouraged the council not only to seek out innovative approaches to achieving better safety, but also to take a wider view of the street in the context of regeneration benefits.

Procurement

Southwark Council commissioned a comprehensive transport and public realm design for the street, through a combination of conventional tendering and public competition. Five consultancies were initially asked to submit full tenders. From these, two were shortlisted to produce design concepts for the competition.

A public vote identified Project Centre as the winning designer, on the basis of:

- the scheme's simplicity
- the use of public realm elements appropriate for Walworth Road's use and character
- views on robustness and long-term cost-effectiveness.

Disciplines/people involved

There were two principal workstreams – transport/safety and public realm/street design – and these ran largely in parallel. Officers from both Southwark Council and Transport for London (TfL) were closely involved, as well as the consultancy team.

A comprehensive traffic analysis and modelling exercise was carried out by Southwark and presented to TfL as part of the justification of the scheme. This information was used not only to determine the impact of the scheme on traffic flows – especially buses – but also to help identify opportunities for reallocating carriageway space to footways.

There was considerable public involvement throughout the design and delivery process, not only at the procurement stage. This included public meetings, targeted stakeholder events and a business questionnaire.

There was direct engagement with transport user groups, including:

- TfL (buses, signals, cycling and walking)
- the emergency services
- Southwark Cyclists

Notable issues

Public consultation and engagement was a critical factor in the success of the project. Consultation with traders led to agreement on a reorganisation of loading and delivery arrangements. The primary changes were an increase in permitted loading times and relocation from carriageway to footway loading. A construction method was also developed in partnership with retailers to ensure continuous footway access to all premises during the build period. This was done through night working and careful phasing.

Given the many and complex transport issues along the street and negotiations with London Buses and TfL's Network Assurance team, it took over two years for the scheme design to be agreed.

Technical Data

Dates	Contract mobilisation October 2006. Works largely complete in January 2008 with some minor amendments and snagging works continuing until March 2008.
Volumes	• Pre-scheme: 75 buses/hour/direction; 20,000 pedestrians/day • Pre-scheme: 24-hour weekday flow >20,000 vehicles • 2010: 24-hour weekday flow = 18,300 vehicles (am peak hour 1,030; pm peak hour 1,080)
Speeds	Post-scheme mean speed 18 mph (85th percentile 24 mph)
Road Safety	36 months 'Before' record: 63 total collisions, of which 29 involved pedestrians or cyclists 19 months 'After' record (factored up to 36 months): 53 total collisions, of which 30 involved pedestrians or cyclists
Costs	£4.5 million (approximately £2.5 million Southwark Council; £1 million Department for Transport; £1 million Transport for London)

Evaluation

Benefits

Walworth Road now has the character and appearance of bustling high street. Anecdotal evidence indicates:

- a noticeable increase in footfall and in the number of pedestrians crossing
- a decrease in shop vacancies
- growth in the amount of time people spend in the street.

Considering the challenging economic conditions since the scheme opened, this is good news - although there is no supporting factual evidence.

Specific improvements include:

- better provision for pedestrians to cross according to their desire lines (see photo CS4)
- better provision for bus passengers in terms of the positioning, layout and prominence of bus stop 'pairs'
- easier pedestrian movement and a more visually pleasing street scene due to the removal of unnecessary street clutter and the creation of raised side street crossings (see photo CS11).



Photo CS11

The footways are not just less cluttered - they are also considerably wider. The most important, and obvious, transformation the scheme has brought is the reallocation of space away from motor vehicles.

Comprehensive repaving in consistent, simple and maintainable materials has given the district a positive and cohesive identity. The tree-planting programme softens the impact of traffic, and adds a welcome new element to the street's overall character (see photo CS9).

Throughout the scheme, kerb heights have been lowered and in places there is no kerb at all (see photo CS5). This reduces segregation between those on the footway and those in the carriageway - requiring them to be generally more aware of one another. However, some national user groups and Southwark's Access Officer maintain the blurring of pedestrian and vehicle areas can cause problems for blind and partially sighted people. Tactile paving - 'Corduroy' - has been used to mark the boundary where there is no kerb.

Problems

There have been a number of minor changes to resolve particular issues. Pedestrian crossings were originally paved in modular granite blocks. However, these failed to cope with the weight and flow of buses and had to be removed.

Although footway materials are durable and maintainable, the lack of agreement on an overarching street management plan has led to poor reinstatement of paving by utility operators, and some problems with refuse collection.

The scheme opened in April 2008, so it will be another year before sound conclusions can be drawn. Collision monitoring after six months painted a positive picture, although further analysis after 19 months was less conclusive – with some positive and some negative results.

The interim data shows:

- the total number of collisions reduced noticeably
- the proportion of collisions leading to people being killed or seriously injured increased, also noticeably.
- this increase has fallen more heavily on user groups usually considered less vulnerable, than on pedestrians and cyclists.

Collisions incurring personal injuries are more evenly distributed, rather than in clusters as before. As the scheme did away with much of the paraphernalia focusing pedestrian crossing in specific locations, this is unsurprising.

Conclusion

Despite the radical nature of the changes implemented on Walworth Road, the scheme is characterised by its pragmatism. This is evident throughout, from the reasons behind the public selection of the design team, through to the choice of materials. Walworth Road may look much different and better than it did previously - but the design fully responds to the practical and functional requirements of this very hard-working street.

Further Information

http://www.southwark.gov.uk
http://www.dft.gov.uk/pgr/roadsafety/dpp/mpr/

Project Team

- Project Management- London Borough of Southwark/Malcolm Reading Associates
- Public consultation- London Borough of Southwark
- Lead Designer – Project Centre Ltd
- Main Contractor – FM ConwayLondon

14.2_ London Road, Southampton

Summary

The improvements to London Road, to the north of Southampton city centre, were opened in September 2008. The scheme aimed to radically change the way in which London Road was used and understood, strengthening its friendliness to pedestrians, the visual quality of its public realm, and its sense of place. (See photo CS12 before and photo CS13 after.) The design adopted a minimalist approach to traffic management kit and other street furniture.



Photo CS12



Photo CS13

Southampton City Council intentionally associated the term 'shared space' with the scheme. However, it is perhaps best described as a 'better balanced' street, in which the needs of all users are now given appropriate consideration (see photo CS14 before and photo CS15 after). The council's aim was that the London Road design should be a quality benchmark for future work in the city - and it has succeeded in achieving this challenging objective.



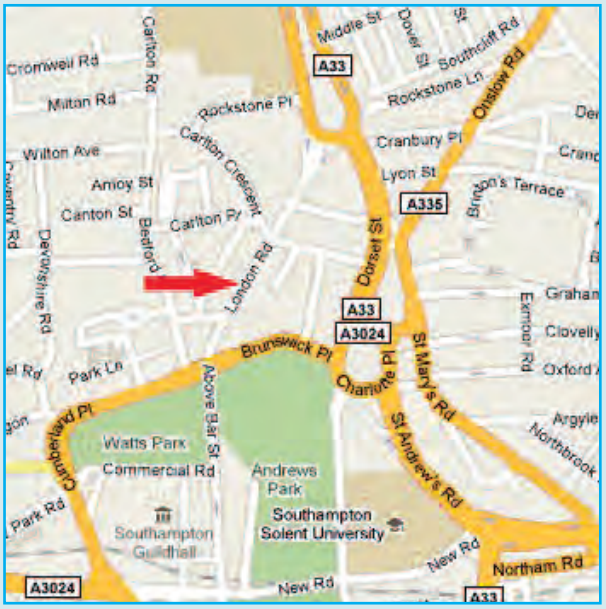
Photo CS14



Photo CS15

Description

London Road is an historic gateway to Southampton city centre for traffic arriving from the north (see Location Plan). The section covered by the scheme is around 450m long. It is home to around 80 businesses, mostly retail. It also has a developing café society and night-time economy, and is considered 'on the up' after years of decline.



Location Plan

Before the scheme, it was also a road safety hotspot, with 31 personal injury collisions recorded from 2002-2004, particularly affecting vulnerable road users. The degraded streetscape reinforced antisocial driver behaviour, and marginalised pedestrian movement along and across the street.

Southampton City Council's design team built on recent experience from European countries of 'shared space' approaches to street design. They placed a strong emphasis on innovative traffic management to reduce speed and improve walkability:

- carriageways were narrowed
- kerb heights were lowered
- the centre line and other superfluous road markings were removed.

Horizontal deflection (see photo CS16) was used to visually break the street into two sections, disrupting the traditional linearity. Parking was reorganised into discrete areas of echelon - angled - parking. Vehicles manoeuvring into and out of spaces increase 'friction' and help calm traffic speeds (see photo CS17).



Photo CS16



Photo CS17

A banned right turn at the junction with Brunswick Place – at the southern end of the scheme – has encouraged through traffic heading south towards the city centre to use the A33. This has led to reduced traffic volumes on London Road.

Footways

Footways were widened - significantly in places - to give space for café seating and 'spill out' activity (see photo CS15). Street furniture and signs were rearranged into a furniture zone, so that pedestrian movement was not obstructed. Carriageway and footway lighting were combined to reduce the number of columns.

Crossing Points

Informal pedestrian crossing points were implemented in three locations, using a change in materials and layout - but no traffic management signs or measures. Flush kerbs and granite sett paving were used on the carriageway to indicate the crossing (see photo CS16). Build outs and informal crossing points associated with angled parking (see photo CS19B)

Public Transport

Bus stop improvements like raised kerbs (see photo CS18), new bus shelters and better information have significantly improved the public transport user experience. Bespoke Southampton wayfinding signs were piloted in London Road, and are due to be rolled out across Southampton.



Photo CS18

Seating

Bespoke seating was designed by a local artist, focusing on the history of London Road (see photo CS19). Two large seats replicate the shape of the main rose window of St Paul's church, which formerly stood in London Road.



Photo CS19B

Design Process

Scheme genesis

The 2000 Southampton city centre masterplan identified the need to improve London Road as part of a wider strategy to upgrade the Queen Elizabeth II (QEII) Mile north-south spine. This links the waterfront to the retail and civic cores of Southampton.

Procurement

An interdisciplinary in-house team delivered the project from inception through to construction. This team was supported by specialist consultancy advice on street lighting, public art and legibility aspects.

People/disciplines involved

The City Council team included an urban street and landscape designer, transport engineers, transport planners, a city centre manager, parking services, marketing and public relations professionals. The team worked together to foster new ideas about street design and to challenge traditional thinking. A communications plan was used to:

- Keep people informed
- invite views on proposals
- build support for the project
- actively manage participation

Notable issues

A 'Placecheck' survey was done in 2004 to find out how local businesses and residents thought London Road should be upgraded. The design team then developed an overall vision and concept for the street, and took the concept 'on the road' using a mobile exhibition space within a bus.

Adjoining landowners and tenants were engaged on a one-on-one basis. This aimed to help them understand the scheme, allay any concerns, and work through the complexities of construction programming. Post-consultation and approval of the design, regular newsletters, updates and thank you letters were sent to maintain communications.

The lead designers developed solutions that were different and challenging. The experience has helped to build council officers' capabilities and capacities to deliver similar schemes throughout the city.

Complex issues of parking and loading along the street were adequately resolved.

- Third-party parking forecourts to the south of the street were successfully integrated into the street design, while retaining the primacy of the footway for pedestrians.
- Designated cycle lanes within the street were initially proposed, but these were removed in favour of encouraging cyclists to share the main carriageway. Part of the reason for this was possible conflicts between cyclists in the lanes and vehicles manoeuvring into and out of the angled parking bays.

Funding

Council officers got approval for improvements to London Road on the basis of benefits to road safety, public transport, walking and cycling. Local transport plan funding was obtained to address these issues in a single package.



Photo CS19

Technical Data

Dates	Construction: June 2007-August 2008
Volumes	• 2005 Pre-scheme: 24-hour weekday flow = 12,716 vehicles (am peak hour 764; pm peak hour 950) • 2010 Post scheme: 24-hour weekday flow = 7,260 vehicles (am peak hour 432; pm peak hour 559) • Post-scheme counts: pedestrians 5,500/day; cyclists 400/day
Speeds	• Post-scheme mean speed 18 mph (85th percentile 23 mph)
Road Safety	2003-2006 inclusive (48 months): 31 collisions (28 slight; 3 serious) Jan-Dec 2009 (10 months): 3 collisions (all slight)
Costs	£1.3 million (works and fees for all phases)

Evaluation

Benefits

The London Road improvement scheme has had a marked impact on the way people use and appreciate the street. It has transformed a once failing space into a worthy gateway to the city.

Simple lines and a clean finish give the street a sense of purpose (see photo CS13). The well considered layout of public realm elements emphasises the mixed-use nature of the street. A series of public spaces provides a setting for new public activities to happen in the street.

The design has used horizontal deflection (see photo CS16) of the carriageway alignment to create two precincts - north and south - of different character, and to reduce traffic speeds. The deflection is reinforced by short rows of parking in angled bays on alternating sides.

Angled bays can be awkward for crossing pedestrians to negotiate. However, the consolidation of parking, and the loss of some spaces overall has opened up new areas for pedestrian crossings with unobstructed sight lines (see photo CS16). Together, the horizontal deflection and new parking arrangements help to interrupt traffic flow and limit speeds. In turn, this helps create gaps in the flow so pedestrians can cross without formal signal control.

A representative of the local access forum commented how the scheme has 'settled down' since opening. Visually impaired people have got used to some particular features – such as raised tables – having previously had misgivings. It helped that certain design details – for example kerb heights - were tested in a mock-up at a

council depot, before progression within the overall design.

Problems

It is perhaps unavoidable, given the scheme's remit and the nature of the roads which London Road connects to both north and south, that the improvements come to a very abrupt end at the scheme's 'red line'. For example, the staggered pedestrian crossing at the southern junction of London Road and Brunswick Place still acts as a barrier to pedestrian movement to and from the city centre. Reduced traffic flow on London Road means that in hindsight an un-staggered crossing should have been installed.

Although costs prohibited this, the design team would have preferred to have gone with a higher specification lighting column - the visual qualities and frequency of the columns used means they do tend to dominate the street. Tree planting on the eastern footway would have softened the impact of lighting columns, and balanced vertical elements along the street. However, the cost of relocating utilities was too high.

Conclusion

Despite the economic climate, pedestrian footfall on London Road has increased. Early results suggest that both traffic speeds and the number of collisions have been reduced.

Overall, the London Road scheme has considerable lessons to offer. The project has showcased how in-house design teams are capable of taking ownership of - and delivering - high quality street improvement schemes, in challenging urban 'main street' conditions. A simple yet aesthetically pleasing design has been achieved without major cost in terms of materials. It is both affordable and replicable across Southampton, and in similar locations across the UK (see photo CS18).

Project Team

- Designer: Simon Taylor, City Projects, Southampton City Council
- Project Manager: Phil Marshall, Southampton City Council
- Project Engineer: Graham Redman Southampton City Council
- Site Engineer: Nigel Best Southampton City Council
- Principal Contractor: A Machola Ltd
- Public Artist: Christopher Tipping
- Street Lighting: Halcrow Group Ltd
- Legible City Design: City ID

14_ Case Studies

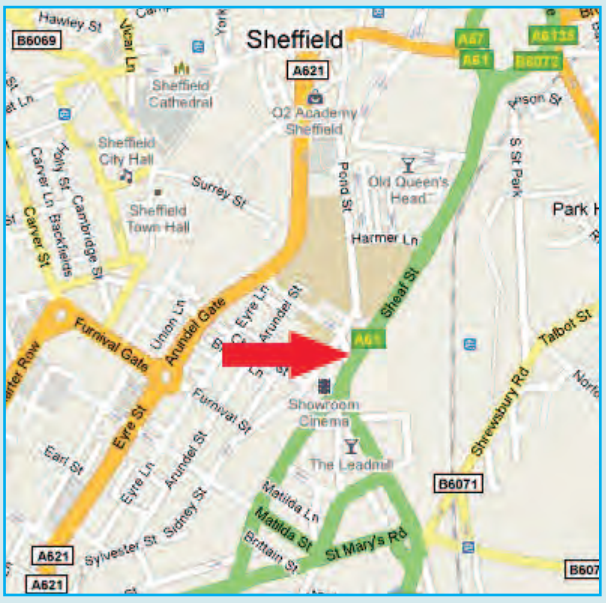
14.3_ Sheaf Square & Howard Street, Sheffield

Summary

Sheffield's 'Gold Route' (see Location Plan) is a series of streets and places running through the city centre from Sheffield Station to the east, through to the Heart of the City to Devonshire Park in the west. Identified in the 2000 City Centre Masterplan, it has contributed a range of city centre regeneration schemes, and has been a focus for public investment to turn the historic tide of city centre decline.

Sheaf Square and Howard Street are two key elements of the Gold Route that connect Sheffield Station to the city centre, by incorporating new crossings of what were two distinct parts of Sheffield's relief/ring road system (Sheaf Street and Arundel Gate). They have transformed the sense of arrival in the city for many visitors, and greatly improved the setting for Sheffield Hallam University.

They exemplify the successful relationship that can be struck between an area's historic character and heritage and its emerging purposes and community. Although the scale of change may be beyond the reach of most Councils, they demonstrate what is achievable when the potential contribution of public realm to city regeneration is recognised and a commitment to joined-up design and integrated delivery and management structures is established.



Location Plan

Description

Sheaf Square was once dominated by Dyson House (see photo CS20) – a disused part of the Hallam University Campus, and separated from the centre by the heavily trafficked Ring Road (Sheaf Street) (see photo CS22) and a large roundabout. Pedestrian connections to the city centre from the station were unpleasant, indirect and illegible (see photo CS21).



Photo CS20



Photo CS21



Photo CS22

Howard Street and Sheaf Square have been redesigned to create a much better 'first impression' of Sheffield and to reinforce one of the city's major pedestrian axes. Both were constructed at the same time as the major reshaping of the station itself.

Sheaf Square

Demolition of Dyson House made a much enlarged square possible and opened up two parcels of land for major redevelopment (see photo CS23). The walking route between the station and Howard Street now runs between a water cascade and a gigantic stainless steel sculpture 'The Cutting Edge' that frame a gentle slope to the realigned and redesigned crossing of Sheaf Street. The sound of the water and the form of the sculpture blocks out any traffic noise.



Photo CS23



Photo CS24

The Ring Road itself has been substantially remodelled between Sheaf Square and Howard Street so that a wide, direct signalised crossing of the main carriageway is now on the exact alignment between the two spaces (see photo CS24) and a second, informal crossing of Pond Street/Paternoster Row (see photo CS25). This street narrows at the raised crossing point, so that only one vehicle can pass at a time. Vehicles give way to one another and pedestrians have a short crossing distance to negotiate. This bus gate has experienced vehicle/pedestrian conflicts and is currently under design review including looking at ways to reduce bus speeds.



Photo CS25

Howard Street

Howard Street, which runs up the side of a valley, was previously dominated by traffic access and servicing in conflict with high flows of pedestrians (see photo CS26 before). Access to Pond Street/Paternoster Row was restricted to buses and local access traffic and Howard Street restricted to pedestrians and cyclists only.



Photo CS26

Howard Street itself is now a tree lined avenue with 12 illuminated stainless steel and granite seats (see photo CS27). The street is paved in a mix of flamed granite flags and sandstone with flush kerbs along the alignment of the old carriageway (see photo CS28 and photo CS29). The street is a shared surface for pedestrians,cyclists and occasional vehicles accessing the University front entrance. As elsewhere there is ongoing discussion about the design of such spaces in relation to use by people with visual impairments. Alongside, Hallam Gardens was created (see photo CS30) by the University entrance and consists of a simple terraced garden edged by a curved and ramped stone sitting wall containing a small water feature.



Photo CS27



Photo CS28



Photo CS31



Photo CS30

At its upper end, Howard Street connects with Arundel Gate, previously a dual carriageway 'concrete collar'. Formerly, the pedestrian route across Arundel Gate was via a subway. In association with the redesign of Arundel Gate itself, and through the creation of 'Hallam Square' in front of the main University entrance, there is now a signalised surface level crossing across a two-lane carriageway (see photo CS31).

Design Process

Scheme Genesis

The 'Gold Route' emerged from the City Centre Masterplan, with the Sheaf Square, Howard Street and related projects identified as having a particular role to play in re-connecting the city centre with its mainline railway station. The Novotel building which is on the direct line between Howard Street and 'Hallam Square' represented an 'immovable object' and, in order for the route, to achieve its primary objective, the improvements would have to exhibit excellence in its design.

Procurement

Initial city centre masterplanning was carried out by EDAW, working with the City Council's in-house Regeneration Projects Design Team (RPDT) who went on to design and detail the scheme.

People/Disciplines Involved

Critically, the public realm and pedestrian interventions were progressed within a wider programme of city centre regeneration and involved the collective working of a range of public institutions, asset/service managers, and private land owners. Through collaborative working and investment the Gold Route projects have been so successful in stitching together the station with the Heart of the City and beyond.

Notable Issues

The successful regeneration of the Peace Gardens and the Heart of the City projects helped to generate support and commitment to further projects from politicians, council officers and the public generally. Council restructuring led to the creation of a single directorate and committee dealing with both transport and planning projects for the city, enabling more integrated and consistent decision making.

Both the Masterplan and detailed designs for each project area were the subject of extensive public consultation and engagement, especially with the users and operators of the station and of Hallam University Campus. Subsequently development of sites and spaces around the Sheaf Square and Howard Street were the subject of further consultation as part of the development of the Sheaf Valley Masterplan, which was later incorporated in to the 2008 City Centre Masterplan Review.

The management of Sheaf Square and Howard Street is supported by the City Centre Management Team, whose work ensures that the Council holds National Beacon Council status, and whose roles include cleaning, water feature maintenance, horticulture, City Centre Ambassadors and security (see photo CS32).



Photo CS32

Overall, the success of the Gold Route programme and associated projects has been the consequence of committed leadership by the City Council, based on a clear and agreed vision for change that was conceived of and promoted as essential to the future success of the City. Continued commitment to this vision at the highest level helped to ensure the necessary interdisciplinary working within the Council, to which members remained committed despite possible concerns about cost, and that the many vital partnerships with other parties and agencies were well managed. The Gold Route is a great example of what genuine civic leadership can achieve in the 21st century.

Funding

Sheaf Square was linked to the refurbishment of the railway station, and was implemented and funded through a partnership comprising Sheffield 1 (Urban Regeneration Company), the City Council, Network Rail, Midland Mainline, the Department for Transport, Yorkshire Forward (Regional Development Agency) and the South Yorkshire Passenger Transport Authority. The regeneration and pedestrianisation of Howard Street and Hallam Square was delivered in partnership with, and in cases only made possible by, the efforts of Hallam University.

Technical Data

Dates	Construction: June 2007 to August 2008
Volumes	**Sheaf Street** 7am-7pm vehicle counts: 2001 – 36,600 2008 – 29,200 2010 – 25,520 24-hour weekday flow: 2010 – 33,000 7am-7pm pedestrian counts: 2001 – 3174 movements at previous roundabout 2008 – 8700 movements in same broad area **Arundel Gate** 7am-7pm vehicle count: 1990 – 24,000 2010 – 11,780 24-hour weekday flow: 2010 – 15,520
Speeds	Sheaf Street: post-scheme mean speed 23mph (85th percentile 29mph) Arundel Gate: post-scheme mean speed 21mph (85th percentile 25mph)
Road Safety	Sheaf Street/Paternoster Row (vicinity of Howard Street/Sheaf Square) Before – 1/04/00-1/04/04 (48 months): 18 collisions (16 slight; 2 serious) After – 1/04/08-31/1/10 (22 months): 10 collisions (all slight) Arundel Gate (vicinity of Howard Street) Before – 1/04/00-1/04/04 (48 months): 7 collisions (3 slight; 3 serious; 1 fatal) After – 1/04/08-31/1/10 (22 months): 4 collisions (3 slight; 1 serious)
Costs	£24 million (£11.1m European 'Objective 1' funding; £6.8m DfT; £2.8m Yorkshire Forward; £3.3m from Hallam University, s106 contributions, English Partnerships, Railway Heritage, private developers)

Evaluation

The regeneration of Sheaf Square and Howard Street has delivered seamless and legible connections between key points in the city centre (see photo CS31 and photo CS24). The reflection of history, culture and enterprise in their layout, form and aesthetic give them meaning and purpose.

In terms of transport, the reconfiguration of the Ring Road and the downgrading of the infamous concrete collar have not only been essential to the transformation in Sheffield but can also act as inspiration to the many other UK cities and towns that suffer from the stifling of growth and development that such highway infrastructure leads to. The concerns about gridlock in Sheffield that were once voiced at the prospect of the changes, though they were understandable, have proved unfounded.

A few concerns about the scheme design have been raised from an accessibility perspective. These include the design of some seating without backs or arms, an issue that has since been resolved. The sharing of Howard Street by pedestrians and cyclists remains a potential concern in relation to the safety of the former, and this is an aspect of the scheme that is presently being monitored to see if remedial action – perhaps simply through access management rather than design – is required.

The cost of these improvements, while justified by experience, may be considered beyond the ability of other Councils to afford. Nevertheless, the Gold Route demonstrates the need for an institutional framework and process to guide wider city centre regeneration. The partnership between the Council and Hallam University in the delivery of improvements to Howard Street and Hallam Square, and between the Council and Network Rail in joining-up the station redevelopment and Sheaf Square project, show how such mechanisms are necessary in creating better functioning, formed and designed spaces.

Four years on from opening, both Sheaf Square and Howard Street remain in good condition. This would not have been the case had the Council not earnt lessons with preceding schemes such as the Peace Gardens. The major water features in Sheffield were installed with a clear understanding of, and commitment to, a lifecycle maintenance regime capable of keeping features such as those in Sheaf Square and Hallam Gardens in excellent working order.

The City Centre Management Team (CCMT) is key to the ongoing success of the public realm investment (see photo CS32). Specific service level agreements on maintenance standards and budgets are based upon the priority allocated to the location of the street or space. These include a lifecycle asset management regime and costs for cleaning, repair and reinstatement, and for the management of major public realm features.

Day-to-day management of the spaces is enhanced by the presence of the CCMT Ambassadors. There are excellent working relationships with the local police, and this partnership allows for the sharing of responsibilities of public space management.

Successful partnerships; inspired and committed leadership; design excellence; the prioritisation of pedestrian movement over vehicular movement where appropriate; and a clear ongoing maintenance and management regime. All of these have been essential to the success of Sheaf Square and Howard Street in achieving genuine benefits for the users of the spaces and Sheffield as a whole.

Project Team

- Lead Designer – Sheffield City Council Regeneration Projects Design Team with support from EDAW and Faber Maunsell
- Main Contractor – Interserve
- Lighting – Sutton Vane
- Highways Design – Street Force
- Artists – Si Applied (‘Cutting Edge’ sculpture); Jeremy Asquith (street furniture); Mosaic Workshop (Howard Street Rill); RPDT (Sheaf Street Water Cascade)

14.4_ High Row & West Row, Darlington - Part Of The 'Pedestrian Heart'

Summary

The Darlington 'Pedestrian Heart' project opened in summer 2007, following more than two years of physical work in the town centre. Darlington wanted to maintain its competitive edge as one of the main shopping destinations in the Tees Valley. The scheme aimed to bring people back, encourage an improved retail offer, and attract new investment and development in the town.

The scheme involved rationalising bus access (see photo CS33) and improving pedestrian provision within a large part of the town centre. It was focused around the historic market hall and market square, and included the unique three-level street at High Row/West Row. Bus routes were considerably reconfigured, with a bus-only gate maintaining excellent bus penetration into the centre. All private car parking is provided on the edge of the core.



Photo CS33

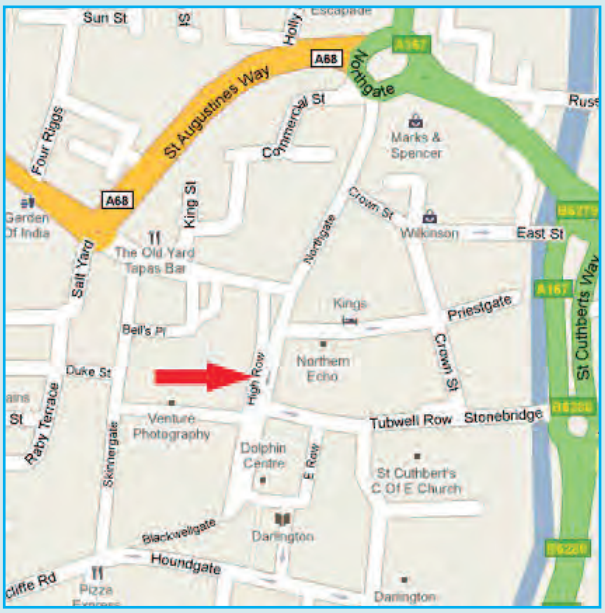
Over two years after opening, the scheme is considered a major success. Footfall has increased and the improvements have been cited as the reason why a number of significant retail landlords have invested further in the town. Darlington Pedestrian Heart is an example of how appropriate public realm investment can enable a market town to transform not only its image, but also the quality of life for its people (see Photo CS34).



Photo CS34

Description

High Row and West Row lie parallel and immediately next to one another in Darlington's town centre (see Location Plan). They form part of what was once the Great North Road between London and Edinburgh. High Row was formed from a raised footway on the western side, separated from its carriageway to the east by a triple-stepped kerb. The whole was separated by a sloping bank from the lower West Row.



Location Plan

The layout dates back to 1904, when the street hosted a cattle market. Before the Pedestrian Heart improvements, traffic tended to dominate. There were access restrictions, including one-way operation and bus lanes. These were signed and enforced using conventional methods, which together with planters and associated paraphernalia created a poor impression.(see photo CS35)



Photo CS35

The dominance of the two carriageways, the lack of pedestrian facilities, and some vehicle congestion meant the space did not work well for anyone. Darlington Borough Council saw an opportunity to create a focal point for civic and market activity (see photo CS36).



Photo CS36

A critical challenge was to reorganise provision for different modes to stop vehicles 'choking' the town centre streets, particularly along High Row and West Row. Bus stop capacity and layover space were issues, given increasing numbers of bus patrons and bus mode share. Bus routes and interchange facilities were relocated, but remained very close to the retail core (see photo CS33).

This enabled vehicles to be effectively excluded from West Row. Service access to High Row was restricted to before and after retail trading hours. These changes allowed the three levels to be rationalised to two and the creation of a predominantly pedestrian space. The upper - High Row - carriageway was raised to footway level, creating a single surface. In the lower section - West Row - the distinction between footway and carriageway was also largely removed (see photo CS34). It is now effectively a pedestrianised street. The level change between the two streets is the defining feature within the town centre which has been celebrated and articulated through a single flight of steps that runs the entire length of the space (see photo CS37).



Photo CS37

The steps terminate at the junction of West Row and Northgate to the north of the scheme with a new amphitheatre and focal point for civic gatherings and events (see photo CS39). The removal of traffic outside the market hall allowed for the relocation of the outdoor market to a primary location within the town centre. A similar market/events space was created to the south along Blackwell Gate.



Photo CS39

One of the scheme's most interesting features is the 'stepped water cascade' developed by Gillespies, Fountain Workshop and artist Michael Pinsky (see photo CS40). This water feature sits under the main pedestrian ramp linking High and West Rows, and is made from coloured strips of granite. Alternate grey and red lines reflect both the historic washing of blood down the slope associated with the earlier market, and the 'barcode' pattern that underpins contemporary trading.

Design Process

Scheme genesis

The Pedestrian Heart scheme emerged from the 2001 town centre development strategy. The strategy aimed to make a distinct improvement in the economy and quality of the environment in Darlington town centre. It had two main strands:

- to attract new retailers and businesses
- to increase the ease, comfort and safety with which the town centre could be used.

Procurement

A 2001 town centre access study identified the opportunity to create a 'pedestrian heart'. The proposal was approved by Darlington Borough Council in 2002. Gillespies were appointed in 2003 as lead consultants to take forward the design development. The Pedestrian Heart project therefore pre-dates Darlington's sustainable travel demonstration town initiative.

People/disciplines involved

Design development and delivery was helped by all the key contributing officers being within the same division. Transport officers in particular made a positive contribution to negotiations with bus operators. The process was also aided by strong buy-in from council members, and the council's general political unity.

Despite not having a formal role in project execution, a steering group of council members ensured that members remained informed and supportive throughout. Without this well co-ordinated project management and governance regime, some of the more controversial aspects of the scheme – such as the water feature and inclusion of cyclists – would have been lost.

Public and focused stakeholder engagement was a crucial component throughout the process. This included very close working with town centre businesses to minimise construction disruption, and with the Darlington Access & Disability group on inclusive design.

Notable issues

In such a historic location, there was understandable concern about the nature and scope of change. Local heritage groups were particularly concerned about the change from the previous three levels to two (see photo CS37). This was addressed by outlining the benefits of the new layout, and by that the fact that the new scheme would be reinstating the original simpler layout that was in place pre 1904.

Significant disruption to local businesses during the construction period was recognised as inevitable. A dedicated liaison officer was appointed. Whose efforts in building personal relationships with retailers and market traders were key to maintaining their support. A major gas main was encountered beneath West Row during construction, and this had a significant impact on scheme design and costs. It also added three months to the construction period.

During design development, there was considerable discussion about the initial plan to allow cyclists to use the pedestrian area informally. The close working relationships and trust between officers and members meant that, despite opposition based on safety concerns, cyclists were permitted to use the scheme on opening. This was initially for a six-month trial period. Based on experiences during this period – during which CCTV-based assessment of pedestrian-cyclist interactions took place – the decision to allow cycling within the Pedestrian Heart area was made permanent.

Concerns were expressed by blind and partially sighted people about the loss of kerbs in some locations. This was addressed partly by varying certain design details. The very low vehicle volumes and speeds that would be encountered in what is a virtually pedestrianised part of the town centre were also pointed out.

Funding

The Pedestrian Heart scheme was largely funded by:

- Darlington Borough Council
- the Local Transport Plan and
- One North East (the regional development agency) 'Single Programme' funding, through the Tees Valley Partnership.

Technical Data

Dates	Construction: 2005 – Summer 2007
Volumes	Prebend Row 2010: 24-hour weekday flow = 2,020 vehicles (am peak hour 130; pm peak hour 160)
Speeds	Post-scheme mean speed 13mph (85th percentile 17mph)
Road Safety	No personal injury collisions involving pedestrians or cyclists were recorded within the town centre ring road in the year following scheme completion.
Costs	£6.5 million (approx) (£3.3 million One North East; £2.5 million Darlington Borough Council; £0.65 million Local Transport Plan)

Evaluation

Perhaps the most important mark of the Pedestrian Heart scheme's success is that, despite the economic recession, the town centre economy is showing signs of resilience. Pedestrian footfall and parking duration of stay figures improved between 2008 and 2009, in contrast to other centres in the Tees Valley. Darlington's town centre manager reports greater investor confidence in Darlington as an investment location - though objective data to support this is not available.

Benefits

The design has delivered numerous benefits:

- The upper section exploits the east-facing orientation and elevated position relative to the rest of the town by incorporating new areas of seating, and a wide, flush, retail and civic promenade.
- The scheme maintains good access to the centre for public transport and for people with disabilities.
- Space has been created for the market traders to be located on the main retail street to provide vitality and greater choice to the town centre offer.
- Planters have been integrated into a retaining wall between the upper and lower sections, breaking up the hard urban condition and facilitating Darlington's ongoing participation in 'Britain in Bloom' (see photo CS39)
- Cycling levels in the town centre have increased since the scheme opened, with the number of cyclists counted over a 12-hour period rising from around 1,000 in July 2007 to over 1,300 in July 2008
- Support from people in the town centre for allowing cycling to continue has also increased over the same period, from 53.9% to 62.1%.



Photo CS40

The scheme was ambitious, with a clear vision for transformation and a strong emphasis on creating a quality environment for pedestrians. It has successfully achieved an appropriate balance between various modes of travel. The greatly enhanced public realm has created both a safer and more attractive environment for all users, and a more flexible space for markets and events.

Problems

As might be expected with such a major scheme, a number of issues were encountered in the development and construction phases. Engagement with businesses was a major issue:

- the 18-month period of design development meant that several consultees moved on during the process
- some felt that more could have been done to get the people of Darlington excited about the project - what the 'gain' would be for the construction 'pain'.

Project cost increases and overrun, largely due to the problems associated with the gas main under West Row, meant that compromises were made in relation to some of the design features. There have also been maintenance problems associated with some of the more complex elements.

Conclusion

Darlington Pedestrian Heart has nevertheless achieved its primary objective of bringing people back to the town centre - and encouraging them to stay there longer. The heart of the town now throngs with people – whatever the weather. It's still easy to get to by bus, and businesses are doing well. High Row and West Row no longer look or work like the historic Great North Road did, but what this part of Darlington needed then and needs now is quite different. The Pedestrian Heart is a benchmark for the town – and other market towns – for the early 21st century (see photo CS36 and photo CS37).

Further Information

http://www.darlington.gov.uk/Living/Planning+and+Building+Control/Planning+Services/Projects+and+Schemes/PedHeart/PedestrianHeart.htm

Project Team

- Lead Designer – Gillespies
- Main Contractor – Birse
- Artist – Mike Pinsky (Water Cascade and 'Life Pulse')
- Highway Engineers – Faber Maunsell
- Quantity Surveyors – Kinsler & Partners
- Lighting Design – Equation
- Water Feature Designer – The Fountain Workshop

14.5_ Maid Marian Way, Nottingham

Summary

Voted by the public as one of Britain's worst streets, Nottingham's Maid Marian Way has since been transformed from a traffic-dominated corridor into a more pedestrian-friendly part of the city.

Pedestrian subways under busy roads on the edge of city centres are a common legacy from the 1960s and 70s. In Nottingham, Maid Marian Way was turned into an inner-city dual carriageway in 1964. The intersection with Friar Lane was turned into a roundabout with a sunken plaza, which linked four pedestrian subways each served by stairways and ramps (see Photo CS41). There are similar examples in many other UK towns and cities.

In 1989, a review of planning policy for Nottingham city centre highlighted a number of essential measures to retain the city's competitive position for retail, business and tourism - including overcoming the barrier effect of Maid Marian Way. Consideration was given to sinking the road into a tunnel, but this was discounted on financial grounds (see Photo CS44).

Remodelling of the dual carriageway and the inclusion of wide pedestrian crossings has restored a direct visual and psychological link across the busy road (see Photo CS42 and CS43). Large areas of additional public space have been won back in the process, creating generous pavements and areas of planting.



Photo CS41

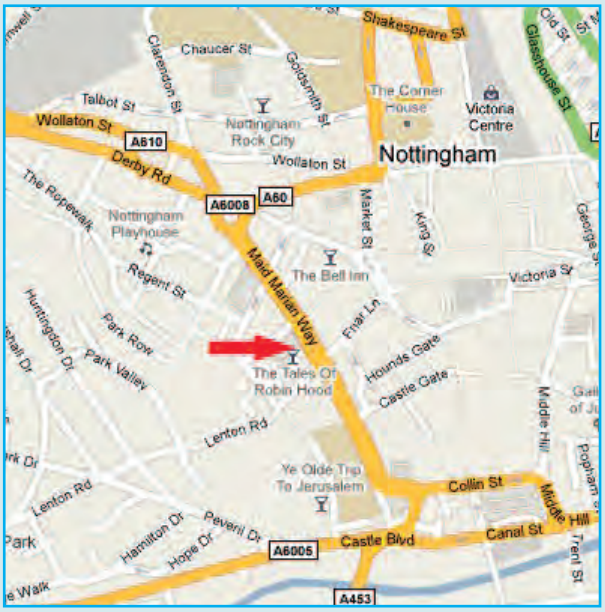


Photo CS42

Description

Maid Marian Way runs from Canal Street/Castle Boulevard to the south, to the roundabout junction with Upper Parliament Street to the north – some 650m (see Location Plan).

It was previously laid out as a four lane dual carriageway that bore no direct relation to the surrounding urban fabric, and was designed primarily for moving large volumes of traffic. As a result it severed the parts of the city centre to west and east. It was lined by a mixture of older buildings and undistinguished office blocks from the 1970s and 1980s.



Location Plan

The centrepiece of the improvements is the treatment of the roundabout that formed the intersection with Friar Lane. A sunken plaza with sloping concrete walls surrounding a small retail kiosk connected four subways, which emerged through step/ramp arrangements on each of the four corners of the space (see Photo CS41). The available footway at each corner was reduced by this arrangement to narrow fragments close to the buildings.

Crossings

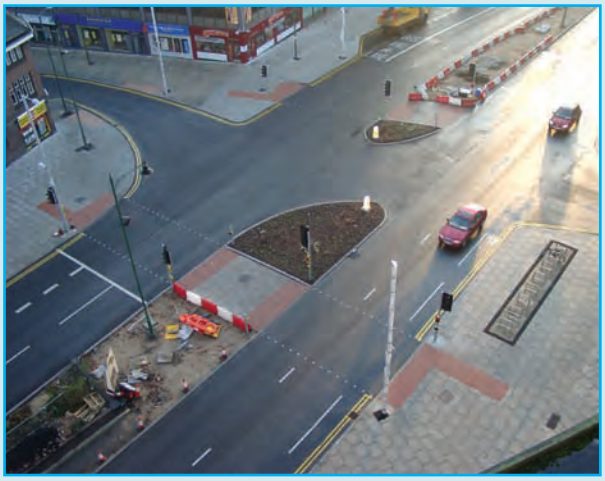


Photo CS43

The design involved filling the subways and sunken plaza with concrete. The roundabout was replaced with a set of traffic signals and two in-line pedestrian crossings over Maid Marian Way to the north and south of Friar Lane. The five metre wide crossings provide adequate space on the central median to allow them to be directly aligned with the dominant pedestrian movement. Generous new pavement areas were added, with side-street connections incorporated into the design (see photo CS43 and CS44).



Photo CS44

Street furniture

Modern street furniture, including bicycle parking, was installed, with new tree planting along the footway. Traffic signal equipment was mounted on new lighting columns, with dedicated electrical supply for each to keep maintenance simple and safe (see photo CS45). The City Council also took the decision to omit the surrounding white backing boards for signal heads to reduce their impact on the streetscape at the junction.



Photo CS45

Friar Lane junction

Although the speed limit - 30mph - and the basic dual carriageway layout remained unchanged, both approaches to the Friar Lane junction were redesigned with ramps as speed reduction features. Kerb heights at the junction itself were reduced to around 25mm.

The Friar Lane junction has been transformed, influencing how the whole of Maid Marian Way impacts on the surrounding built environment and on pedestrian movement. The street continues to carry broadly the same traffic volume as before.



Photo CS46

However, traffic capacity and horizontal alignment issues – for example at the Mount Street junction - along with awkward carriageway levels, have meant that a more conventional highway design has been used north of the Friar Lane junction (see Photo CS46). This includes significant lengths of guard rails, and staggered pedestrian crossings.

The introduction of bus lanes and a dedicated right-turning lane into Friar Lane (east) means that Maid Marian Way is now six lanes across in some places, compared with the previous four. However, the width of each new lane is less than the former lanes.

Further improvements are proposed for this northern section:

- the red tactile paving at junctions will be replaced with a less obtrusive colour
- significant lengths of pedestrian guard rails will be removed from the Mount Street junction as part of a wider city centre decluttering programme.



Photo CS47

Design Process

Scheme genesis

The changes in Maid Marian Way were part of a wider package of improvements. These aimed to reduce the severance created by the inner ring road in order to allow the city centre to expand. From the outset, it was recognised Maid Marian Way would need to continue to handle large volumes of traffic - so the focus was on how best to improve physical and perceptual links for pedestrians.

Procurement

Funding was sought via a major scheme bid to the Department for Transport (DfT) - an ‘Annex E’ submission as part of the Local Transport Plan.

The focus on improved pedestrian movement and city centre environment meant that a conventional cost-benefit assessment rated the overall package as negative. This led to delays in the DfT approving the major scheme bid. However, Nottingham City Council pressed ahead with the implementation of the Maid Marian Way element, using general Local Transport Plan funding. The scheme was procured, designed and delivered entirely by Nottingham City Council.

People/disciplines involved

Close working relationships between urban design officers, highway engineers and transport planners were achieved. Construction managers were included early in the design process, exploiting the opportunities of in-house contracting. The experience built confidence in council officers working together and managing large-scale schemes. This prompted the setting up of a city development team, to bring together a wide range of skills and professions.

Notable issues

The project also gave momentum to a growing public and political interest in streetscape design. This led to the publication of a comprehensive streetscape design manual in September 2004, updated in August 2006. This has raised awareness of good design across the council, and among contractors, statutory undertakers, and other partners.

Communication and consultation involved some imaginative measures:

- a programmed series of events and meetings with businesses
- hotels promoting 'quiet days' during construction when noisy operations were avoided
- regular monthly meetings for bus and taxi operators, focusing on minimising disruption during construction
- articles written by a local food writer, observing progress from a nearby restaurant

- where tree planting had to wait until the appropriate season, the word 'tree' appeared across the temporary paving
- an imaginative series of handouts to keep the public informed, explaining the logic of the scheme
- a programme of artworks and events celebrating the new pedestrian connection.

The multi-disciplinary in-house team meant a more informed approach to safety auditing than might otherwise have been expected. After extensive discussions, traffic movements at the Friar Lane junction were simplified, with no vehicles entering Maid Marian Way from Friar Lane. This enabled road safety officers to feel confident with the proposals. Other technical challenges included the use of 'puffin' pedestrian crossings, and providing an adequately wide central median. This meant a direct - as opposed to staggered - pedestrian route could be provided, linking the two separate signalised crossings (see photo CS47).

Funding

The £2.9 million cost of the Maid Marian Way scheme was met through Local Transport Plan funding and by the East Midlands Regional Development Agency - specifically for environmental enhancements. An additional £11.7 million of Local Transport Plan funding became available by 2003 to support a wide-ranging strategy for Nottingham's city centre called 'Turning Point'. The scheme for Maid Marian Way was also part of the city's 'Big Wheel' transport plans for Greater Nottingham.

Technical Data

Dates	Scheme construction began in May 2003 and was substantially completed by August 2004.
Volumes	2010: 24-hour weekday flow = 27,840 vehicles (am peak hour 1,970; pm peak hour 1,960)
Speeds	Post-scheme mean speeds (north of Friar Lane): northbound 24mph (85th percentile 28mph); southbound 16mph (85th percentile 21mph)
Road Safety	Analysis of accidents has shown no detriment to safety as a result of removing the guard rail. In each of the years 2000-2002, there was a single Vulnerable Road User (VRU) casualty at the Friar Lane junction (a cyclist in all three cases). There were no VRU casualties in 2003-2005, but a total of six VRUs in the three years 2006-2008, comprising four pedestrians, one cyclist and one motorcyclist. Of the four pedestrian casualties, three were intoxicated at the time and the fourth was a child walking down the carriageway backwards.
Costs	£2.9 million (£2.35 million from Local Transport Plan; £650,000 from Regional Development Agency for environmental enhancements)

Evaluation

Benefits

The remarkable transformation of Maid Marian Way highlights the effort required to overcome the worst legacies of segregation as a highway design philosophy. It also shows how changing the highway alone can't change the whole place:

- the architecture and urban design of the surroundings do little to foster a distinctive sense of place
- much remains to be done to integrate the street into the fabric of Nottingham.

Nevertheless, a street identified as one of the least loved in the country has been transformed into a legible and functional space. In comparison with its previous layout, its barrier effect is largely overcome.

A survey of pedestrian movements between April 2003 and April 2005 suggested that the Friar Lane route across Maid Marian Way has attracted considerably more people: a 56 per cent increase in weekday pedestrians and a 29 per cent increase among Saturday shoppers. It

feels comfortable to cross the busy road - a pedestrian journey across Maid Marian Way is no longer the hostile experience it once was.

Problems

The scheme involved the clearance of the previous planting on the median to the north and south of Friar Lane. This was due to the reduction in width of the median itself, and to increase the visual connection across the street. However, this meant the loss of some mature trees. Although 80 new trees were planted on both the median and the - now wider - footways, it will be some years before they have grown enough to provide enclosure for the street.

There were problems with the new low-level planting between the trees on the median. The 2004 planting scheme was not strong enough to withstand winter salting, and failed to restrict pedestrians from crossing in mid-block locations. It was replanted with denser vegetation, coupled with a 1m-high 'post and wire' fence to stop pedestrians crossing until the planting could become established.

Although transformed from its former configuration, the central junction still feels highly engineered. Greater emphasis could have been given to the continuity and importance of Friar Lane, stressing the connection between castle and city centre without compromising safety or traffic flows on the main road. An integral tactile language as part of the overall design would have been preferable – and this is now to be addressed.

Conclusion

The Maid Marian Way scheme kick-started a positive change to Nottingham's public image that was taken on by the rest of the Turning Point project. Tackling the worst aspects of Maid Marian Way was an essential component in reconnecting the fabric of the city. This project demonstrates what can be achieved by bringing together the skills and imagination of several professions to rebalance the multiple functions of streets and public spaces.

The scheme demonstrates how problem inner city ring roads can be transformed. However, it also highlights – for example at the Mount Street junction – the tensions that still exist between traffic capacity and safety concerns, and the desire to deliver more walkable and high-amenity streets.

Some of its worst attributes have been removed and high quality connections have been provided. However, more work is required for Maid Marian Way to become an urban boulevard that is supportive of the full range of city centre movement patterns and other activities.

Maid Marian Way remains perhaps the best UK example of a ring road that has been transformed despite retaining its strategic traffic function. Maid Marian Way shows how – with a strong, shared commitment to change – soulless traffic conduits can be made into lively city streets.

Further Information

- Turning Point (http://www.nottinghamcity.gov.uk/index.aspx?articleid=2805)
- Big Wheel (http://www.thebigwheel.org.uk/)

Project Team

- Ben Webster, Urban design officer
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Technical housing standards – nationally described space standard

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Technical housing standards – nationally described space standard

Introduction

1. This standard deals with internal space within new dwellings and is suitable for application across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.
2. The requirements of this standard for bedrooms, storage and internal areas are relevant only in determining compliance with this standard in new dwellings and have no other statutory meaning or use.

Using the space standard

3. The standard Gross Internal Areas set out in Table 1 are organised by storey height to take account of the extra circulation space needed for stairs to upper floors, and deal separately with one storey dwellings (typically flats) and two and three storey dwellings (typically houses).
4. Individual dwelling types are expressed with reference to the number of bedrooms (denoted as ‘b’) and the number of bedspaces (or people) that can be accommodated within these bedrooms (denoted as ‘p’). A three bedroom (3b) home with one double bedroom (providing two bed spaces) and two single bedrooms (each providing one bed space) is therefore described as 3b4p.
5. This allows for different combinations of single and double/twin bedrooms to be reflected in the minimum Gross Internal Area. The breakdown of the minimum Gross Internal Area therefore allows not only for the different combinations of bedroom size, but also for varying amounts of additional living, dining, kitchen and storage space; all of which are related to the potential occupancy.
6. Relating internal space to the number of bedspaces is a means of classification for assessment purposes only when designing new homes and seeking planning approval (if a local authority has adopted the space standard in its Local Plan). It does not imply actual occupancy, or define the minimum for any room in a dwelling to be used for a specific purpose other than in complying with this standard.
7. Minimum floor areas and room widths for bedrooms and minimum floor areas for storage are also an integral part of the space standard. They cannot be used in isolation from other parts of the design standard or removed from it.

8. The Gross Internal Area of a dwelling is defined as the total floor space measured between the internal faces of perimeter walls[1] that enclose the dwelling. This includes partitions, structural elements, cupboards, ducts, flights of stairs and voids above stairs. The Gross Internal Area should be measured and denoted in square metres (m^2).
9. The Gross Internal Areas in this standard will not be adequate for wheelchair housing (Category 3 homes in Part M of the Building Regulations) where additional internal area is required to accommodate increased circulation and functionality to meet the needs of wheelchair households.

Technical requirements

10. The standard requires that:
    a. the dwelling provides at least the gross internal floor area and built-in storage area set out in Table 1 below
    b. a dwelling with two or more bedspaces has at least one double (or twin) bedroom
    c. in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m^2 and is at least 2.15m wide
    d. in order to provide two bedspaces, a double (or twin bedroom) has a floor area of at least 11.5m^2
    e. one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide
    f. any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage (if the area under the stairs is to be used for storage, assume a general floor area of 1m^2 within the Gross Internal Area)
    g. any other area that is used solely for storage and has a headroom of 900-1500mm (such as under eaves) is counted at 50% of its floor area, and any area lower than 900mm is not counted at all
    h. a built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements, but should not reduce the effective width of the room below the minimum widths set out above. The built-in area in excess of 0.72m^2 in a double bedroom and 0.36m^2 in a single bedroom counts towards the built-in storage requirement
    i. the minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area

[1] The internal face of a perimeter wall is the finished surface of the wall. For a detached house, the perimeter walls are the external walls that enclose the dwelling, and for other houses or apartments they are the external walls and party walls.

Table 1 - Minimum gross internal floor areas and storage (m^2)

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	
4b	5p	90	97	103	3.0
	6p	99	106	112	
	7p	108	115	121	
	8p	117	124	130	
5b	6p	103	110	116	3.5
	7p	112	119	125	
	8p	121	128	134	
6b	7p	116	123	129	4.0
	8p	125	132	138	

*** Notes (added 19 May 2016):**

1. Built-in storage areas are included within the overall GIAs and include an allowance of $0.5m^2$ for fixed services or equipment such as a hot water cylinder, boiler or heat exchanger.

2. GIAs for one storey dwellings include enough space for one bathroom and one additional WC (or shower room) in dwellings with 5 or more bedspaces. GIAs for two and three storey dwellings include enough space for one bathroom and one additional WC (or shower room). Additional sanitary facilities may be included without increasing the GIA provided that all aspects of the space standard have been met.

3. Where a 1b1p has a shower room instead of a bathroom, the floor area may be reduced from $39m^2$ to $37m^2$, as shown bracketed.

4. Furnished layouts are not required to demonstrate compliance.



Planning (Listed Buildings and Conservation Areas) Act 1990

CHAPTER 9

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Planning (Listed Buildings and Conservation Areas) Act 1990

CHAPTER 9

A Table showing the derivation of the provisions of this consolidation Act will be found at the end of the Act. The Table has no official status.

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Planning (Listed Buildings and Conservation Areas) Act 1990

1990 CHAPTER 9

An Act to consolidate certain enactments relating to special controls in respect of buildings and areas of special architectural or historic interest with amendments to give effect to recommendations of the Law Commission. [24th May 1990]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

LISTED BUILDINGS

CHAPTER 1

LISTING OF SPECIAL BUILDINGS

Listing of buildings of special architectural or historic interest.

1.—(1) For the purposes of this Act and with a view to the guidance of local planning authorities in the performance of their functions under this Act and the principal Act in relation to buildings of special architectural or historic interest, the Secretary of State shall compile lists of such buildings, or approve, with or without modifications, such lists compiled by the Historic Buildings and Monuments Commission for England (in this Act referred to as "the Commission") or by other persons or bodies of persons, and may amend any list so compiled or approved.

(2) The Secretary of State shall not approve any list compiled by the Commission if the list contains any building situated outside England.

(3) In considering whether to include a building in a list compiled or approved under this section, the Secretary of State may take into account not only the building itself but also—

(a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and

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(b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.

(4) Before compiling, approving (with or without modifications) or amending any list under this section the Secretary of State shall consult—

(a) in relation to buildings which are situated in England, with the Commission; and

(b) with such other persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.

(5) In this Act "listed building" means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; and for the purposes of this Act—

(a) any object or structure fixed to the building;

(b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before lst July 1948,

shall be treated as part of the building.

(6) Schedule 1 shall have effect for the purpose of making provision as to the treatment as listed buildings of certain buildings formerly subject to building preservation orders.

Publication of lists.

2.—(1) As soon as possible after any list has been compiled or approved under section 1 or any amendments of such a list have been made, a copy of so much of the list as relates to any district or London borough or, as the case may be, of so much of the amendments as so relates, certified by or on behalf of the Secretary of State to be a true copy, shall be deposited—

(a) in the case of a London borough, with the council of the borough and with the chief officer of the Commission; and

(b) in the case of a district—

(i) with the district council;

(ii) with the county planning authority whose area or any part of whose area includes the district, or any part of it; and

(iii) where the district council are not the district planning authority, with that authority.

(2) Any copy deposited under subsection (1) shall be a local land charge, and the council with whom a copy is deposited shall be treated for the purposes of the Local Land Charges Act 1975 as the originating authority as respects the charge constituted by the deposit.

1975 c.76.

(3) As soon as possible after the inclusion of any building in a list under section 1 (whether it is included when the list is compiled, approved or amended) or as soon as possible after any such list has been amended by the exclusion of any building from it—

(a) the Secretary of State shall inform the council of the district or London borough in whose area the building is situated of the inclusion or exclusion; and

(b) the council shall serve a notice in the prescribed form on every owner and occupier of the building, stating that the building has been included in or excluded from the list.

(4) The Secretary of State shall keep available for public inspection free of charge at reasonable hours and at a convenient place, copies of all lists and amendments of lists, compiled, approved or made by him under section 1.

(5) Every authority with whom copies of any list or amendments are deposited under this section shall similarly keep available copies of so much of any such list or amendment as relates to buildings within their area.

(6) For the purposes of subsection (5) the Commission shall be taken to be an authority whose area is Greater London.

Temporary listing: building preservation notices.

3.—(1) If it appears to a local planning authority, other than a county planning authority, that a building in their area which is not a listed building—

(a) is of special architectural or historic interest; and

(b) is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest,

they may serve on the owner and occupier of the building a notice (in this Act referred to as a "building preservation notice").

(2) A building preservation notice served by a local planning authority shall—

(a) state that the building appears to them to be of special architectural or historic interest and that they have requested the Secretary of State to consider including it in a list compiled or approved under section 1; and

(b) explain the effect of subsections (3) to (5) and Schedule 2.

(3) A building preservation notice—

(a) shall come into force as soon as it has been served on both the owner and occupier of the building to which it relates; and

(b) subject to subsection (4), shall remain in force for six months from the date when it is served or, as the case may be, last served.

(4) A building preservation notice shall cease to be in force if the Secretary of State—

(a) includes the building in a list compiled or approved under section 1, or

(b) notifies the local planning authority in writing that he does not intend to do so.

(5) While a building preservation notice is in force with respect to a building, the provisions of this Act (other than section 59) and the principal Act shall have effect in relation to the building as if it were a listed building.

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(6) If, following the service of a building preservation notice, the Secretary of State notifies the local planning authority that he does not propose to include the building in a list compiled or approved under section 1, the authority shall immediately give notice of that decision to the owner and occupier of the building.

(7) Following such a notification by the Secretary of State no further building preservation notice in respect of the building shall be served by the local planning authority within the period of 12 months beginning with the date of the notification.

(8) The Commission shall, as respects any London borough, have concurrently with the council of that borough the functions of a local planning authority under this section; and references to the local planning authority shall be construed accordingly.

Temporary listing in urgent cases.

4.—(1) If it appears to the local planning authority to be urgent that a building preservation notice should come into force, they may, instead of serving the notice on the owner and occupier of the building, affix the notice conspicuously to some object on the building.

(2) The affixing of a notice under subsection (1) shall be treated for all the purposes of section 3, this section, sections 5 and 10 to 26 and Schedule 2 as service of the notice.

(3) A notice which is so affixed must explain that by virtue of being so affixed it is treated as being served for those purposes.

(4) The Commission shall, as respects any London borough, have concurrently with the council of that borough the functions of a local planning authority under this section; and references to the local planning authority shall be construed accordingly.

Provisions applicable on lapse of building preservation notice.

5. Schedule 2 to this Act shall have effect as respects the lapse of building preservation notices.

Issue of certificate that building not intended to be listed.

6.—(1) Where—

(a) application has been made for planning permission for any development involving the alteration, extension or demolition of a building; or

(b) any such planning permission has been granted;

the Secretary of State may, on the application of any person, issue a certificate stating that he does not intend to list the building.

(2) The issue of such a certificate in respect of a building shall—

(a) preclude the Secretary of State for a period of 5 years from the date of issue from exercising in relation to that building any of the powers conferred on him by section 1; and

(b) preclude the local planning authority for that period from serving a building preservation notice in relation to it.

(3) Notice of an application under subsection (1) shall be given to the local planning authority within whose area the building is situated at the same time as the application is submitted to the Secretary of State.

(4) In this section "local planning authority", in relation to a building in Greater London, includes the Commission.

CHAPTER II PART I

AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

Control of works in respect of listed buildings

Restriction on works affecting listed buildings.

7. Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised.

Authorisation of works: listed building consent.

8.—(1) Works for the alteration or extension of a listed building are authorised if—

(a) written consent for their execution has been granted by the local planning authority or the Secretary of State; and

(b) they are executed in accordance with the terms of the consent and of any conditions attached to it.

(2) Works for the demolition of a listed building are authorised if—

(a) such consent has been granted for their execution;

(b) notice of the proposal to execute the works has been given to the Royal Commission;

(c) after such notice has been given either—

(i) for a period of at least one month following the grant of such consent, and before the commencement of the works, reasonable access to the building has been made available to members or officers of the Royal Commission for the purpose of recording it; or

(ii) the Secretary of the Royal Commission, or another officer of theirs with authority to act on their behalf for the purposes of this section, has stated in writing that they have completed their recording of the building or that they do not wish to record it; and

(d) the works are executed in accordance with the terms of the consent and of any conditions attached to it.

(3) Where—

(a) works for the demolition of a listed building or for its alteration or extension are executed without such consent; and

(b) written consent is granted by the local planning authority or the Secretary of State for the retention of the works,

the works are authorised from the grant of that consent.

(4) In this section "the Royal Commission" means—

(a) in relation to England, the Royal Commission on the Historical Monuments of England; and

(b) in relation to Wales, the Royal Commission on Ancient and Historical Monuments in Wales.

(5) The Secretary of State may by order provide that subsection (2) shall have effect with the substitution for the references to the Royal Commission of references to such other body as may be so specified.

PART I

(6) Such an order—

(a) shall apply in the case of works executed or to be executed on or after such date as may be specified in the order; and

(b) may apply in relation to either England or Wales, or both.

(7) Consent under subsection (1), (2) or (3) is referred to in this Act as "listed building consent".

Offences.

9.—(1) If a person contravenes section 7 he shall be guilty of an offence.

(2) Without prejudice to subsection (1), if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent, he shall be guilty of an offence.

(3) In proceedings for an offence under this section it shall be a defence to prove the following matters—

(a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;

(b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter;

(c) that the works carried out were limited to the minimum measures immediately necessary; and

(d) that notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.

(4) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both; or

(b) on conviction on indictment to imprisonment for a term not exceeding twelve months or a fine, or both.

(5) In determining the amount of any fine to be imposed on a person convicted on indictment of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

Applications for listed building consent

Making of applications for listed building consent.

10.—(1) Except as provided in sections 12 to 15, an application for listed building consent shall be made to and dealt with by the local planning authority.

(2) Such an application shall be made in such form as the authority may require and shall contain—

(a) sufficient particulars to identify the building to which it relates, including a plan;

(b) such other plans and drawings as are necessary to describe the works which are the subject of the application; and

(c) such other particulars as may be required by the authority.

(3) Provision may be made by regulations under this Act with respect to—

(a) the manner in which such applications are to be made;

(b) the manner in which they are to be advertised; and

(c) the time within which they are to be dealt with by local planning authorities or, as the case may be, by the Secretary of State.

Certificates as to applicant's status etc.

11.—(1) Regulations under this Act may provide that an application for listed building consent shall not be entertained unless it is accompanied by one of the following certificates in the prescribed form and signed by or on behalf of the applicant—

(a) a certificate stating that, at the beginning of the period of 21 days ending with the date of the application, no person (other than the applicant) was the owner of any of the building to which the application relates;

(b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than himself) who at the beginning of that period were owners of any of the building to which the application relates;

(c) a certificate stating—

(i) that the applicant is unable to issue a certificate in accordance with paragraph (a) or (b);

(ii) that he has given the requisite notice of the application to such one or more of the persons mentioned in paragraph (b) as are specified in the certificate; and

(iii) that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons but has been unable to do so;

(d) a certificate stating—

(i) that the applicant is unable to issue a certificate in accordance with paragraph (a); and

(ii) that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in paragraph (b) but has been unable to do so.

(2) Where such provision is made any such certificate as is mentioned in subsection (1)(b) or (c) must set out—

(a) the names of the persons to whom the applicant has given the requisite notice of the application;

(b) the addresses at which notice was given to them; and

(c) the date of service of each such notice.

(3) Such regulations may require that any such certificate as is mentioned in subsection (1)(c) or (d) shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (which must not be earlier than the beginning of the period mentioned in subsection (1)(a)) been published in a local newspaper circulating in the locality in which the building is situated.

PART I

(4) Such regulations may also require that where an application is accompanied by such a certificate as is mentioned in subsection (1)(b),(c) or (d), the local planning authority—

(a) shall not determine the application before the end of the period of 21 days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or, if later, the date of publication of a notice as so mentioned;

(b) shall in determining the application take into account any representations relating to it which are made to them before the end of that period by any person who satisfies them that he is an owner of any of the building to which the application relates; and

(c) shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with paragraph (b).

(5) Such regulations may also make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision made by virtue of this section.

(6) If any person—

(a) issues a certificate which purports to comply with the requirements of regulations made by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or

(b) recklessly issues a certificate which purports to comply with those requirements and contains a statement which is false or misleading in a material particular,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Subject to subsection (5), in this section "owner" means a person who is for the time being the estate owner in respect of the fee simple or is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired.

Reference of certain applications to Secretary of State.

12.—(1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the local planning authority.

(2) A direction under this section may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.

(3) An application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

(4) Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant or the authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.

(5) The decision of the Secretary of State on any application referred to him under this section shall be final.

PART I

Duty to notify Secretary of State of applications.

13.—(1) If a local planning authority (other than a London borough council) to whom application is made for listed building consent, or a London borough council to whom such an application is made by the Commission, intend to grant listed building consent they shall first notify the Secretary of State of the application, giving particulars of the works for which the consent is required.

(2) The Secretary of State may within the period of 28 days beginning with the date of such a notification—

(a) direct the reference of the application to him under section 12; or

(b) give notice to the authority that he requires further time in which to consider whether to require such a reference.

(3) The local planning authority shall not grant listed building consent until—

(a) the period mentioned in subsection (2) has expired without the Secretary of State directing the reference of the application to him or giving them notice under paragraph (b) of that subsection; or

(b) the Secretary of State has notified them that he does not intend to require the reference of the application.

Duty of London borough councils to notify Commission.

14.—(1) Where an application for listed building consent is made to a local planning authority which is a London borough council—

(a) unless the authority have determined to refuse it, they shall notify the Commission of the application, giving particulars of the works for which the consent is required; and

(b) the authority shall not grant the consent unless they are authorised or directed to do so under subsection (2)(a).

(2) On receipt of such a notification the Commission may—

(a) subject to subsection (6), give the local planning authority directions as to the granting of the application or authorise them to determine the application as they think fit; or

(b) direct them to refuse the application.

(3) If the Commission intend to exercise either of their powers under subsection (2)(a), they shall notify the Secretary of State of the application giving particulars of the works for which the consent is required.

(4) Where the Commission direct the local planning authority under subsection (2)(b) to refuse listed building consent, the authority may, within 28 days from the date of the direction, notify the Secretary of State of the application giving particulars of the works for which the consent is required.

(5) The Secretary of State may within the period of 28 days beginning with the date of a notification under subsection (3) or (4)—

(a) direct the reference of the application to him; or

(b) give notice to the authority who notified him or, as the case may be, the Commission that he requires further time in which to consider whether to require such a reference.

PART I

(6) The Commission shall not direct the local planning authority under subsection (2)(a) to grant the application or authorise them to determine it as they think fit unless—

(a) the period mentioned in subsection (5) has expired without the Secretary of State directing the reference of the application to him or giving them notice under paragraph (b) of that subsection; or

(b) he has notified them that he does not intend to require the reference of the application.

(7) Where the local planning authority notify the Secretary of State as mentioned in subsection (4), they shall not refuse the application unless—

(a) a period of 28 days beginning with the date of the notification has expired without the Secretary of State directing the reference of the application to him or giving them notice under subsection (5)(b); or

(b) he has notified the authority that he does not intend to require the reference of the application.

(8) Where, after receiving notification under subsection (4), the Secretary of State directs the reference of the application to him, before determining the application he shall, if either the applicant or the authority or, as the case may be, the Commission so desire, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.

(9) Subsection (1) shall not apply where the application for listed building consent is made by the Commission.

Directions concerning notification of applications etc.

15.—(1) The Secretary of State may direct that, in the case of such descriptions of applications for listed building consent as he may specify, sections 13 and 14 shall not apply.

(2) Where a direction is in force under subsection (1) in respect of any description of application, local planning authorities may determine applications of that description in any manner they think fit, without notifying the Secretary of State or, as the case may be, the Commission.

(3) Before giving a direction under subsection (1) in respect of any description of application for consent to the demolition of a building in England, the Secretary of State shall consult the Commission.

(4) Where a direction is in force under subsection (1), the Secretary of State may direct a local planning authority that section 13 or, as the case may be, section 14 shall nevertheless apply—

(a) to a particular application for listed building consent; or

(b) to such descriptions of application for listed building consent as are specified in the direction;

and such a direction has effect in relation to any such application which has not been disposed of by the authority by their granting or refusing consent.

(5) Without prejudice to sections 10 to 14, the Secretary of State may give directions to local planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify him and such other persons as may be so specified—

(a) of any applications made to the authorities for listed building consent; and

(b) of the decisions taken by the authorities on those applications.

(6) Directions under subsection (1) or (5) may be given to authorities generally or to particular authorities or descriptions of authority.

Decision on application.

16.—(1) Subject to the previous provisions of this Part, the local planning authority or, as the case may be, the Secretary of State may grant or refuse an application for listed building consent and, if they grant consent, may grant it subject to conditions.

(2) In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

(3) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested in it.

Grant of consent subject to conditions

Power to impose conditions on grant of listed building consent.

17.—(1) Without prejudice to the generality of section 16(1), the conditions subject to which listed building consent may be granted may include conditions with respect to—

(a) the preservation of particular features of the building, either as part of it or after severance from it;

(b) the making good, after the works are completed, of any damage caused to the building by the works;

(c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.

(2) A condition may also be imposed requiring specified details of the works (whether or not set out in the application) to be approved subsequently by the local planning authority or, in the case of consent granted by the Secretary of State, specifying whether such details are to be approved by the local planning authority or by him.

(3) Listed building consent for the demolition of a listed building may be granted subject to a condition that the building shall not be demolished before—

(a) a contract for the carrying out of works of redevelopment of the site has been made; and

(b) planning permission has been granted for the redevelopment for which the contract provides.

Limit of duration of listed building consent.

18.—(1) Subject to the provisions of this section, every listed building consent shall be granted subject to the condition that the works to which it relates must be begun not later than the expiration of—

(a) five years beginning with the date on which the consent is granted; or

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(b) such other period (whether longer or shorter) beginning with that date as the authority granting the consent may direct, being a period which the authority considers appropriate having regard to any material considerations.

(2) If listed building consent is granted without the condition required by subsection (1), it shall be deemed to have been granted subject to the condition that the works to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.

(3) Nothing in this section applies to any consent to the retention of works granted under section 8(3).

Application for variation or discharge of conditions.

19.—(1) Any person interested in a listed building with respect to which listed building consent has been granted subject to conditions may apply to the local planning authority for the variation or discharge of the conditions.

(2) The application shall indicate what variation or discharge of conditions is applied for.

(3) Sections 10 to 15 apply to such an application as they apply to an application for listed building consent.

(4) On such an application the local planning authority or, as the case may be, the Secretary of State may vary or discharge the conditions attached to the consent, and may add new conditions consequential upon the variation or discharge, as they or he thinks fit.

Appeals

Right to appeal against decision or failure to take decision.

20.—(1) Where a local planning authority—

(a) refuse an application for listed building consent or grant it subject to conditions;

(b) refuse an application for the variation or discharge of conditions subject to which such consent has been granted or grant it and add new conditions; or

(c) refuse an application for approval required by a condition imposed on the granting of listed building consent with respect to details of works or grant it subject to conditions,

the applicant, if aggrieved by the decision, may appeal to the Secretary of State.

(2) A person who has made such an application may also appeal to the Secretary of State if the local planning authority have neither—

(a) given notice to the applicant of their decision on the application; nor

(b) in the case of such an application as is mentioned in paragraph (a) or (b) of subsection (1), given notice to the applicant that the application has been referred to the Secretary of State in accordance with directions given under section 12,

within the relevant period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.

(3) In this section "the relevant period" means—

(a) in the case of such an application as is mentioned in paragraph (a) or (b) of subsection (1), such period as may be prescribed; and

(b) in the case of such an application for approval as is mentioned in paragraph (c) of subsection (1), the period of eight weeks from the date of the receipt of the application.

(4) For the purposes of the application of sections 22(1) and 63(7)(b) in relation to an appeal under subsection (2) it shall be assumed that the authority decided to refuse the application in question.

Appeals: supplementary provisions.

21.—(1) An appeal under section 20 must be made by notice served in the prescribed manner within such period as may be prescribed.

(2) The period which may be prescribed under subsection (1) must not be less than—

(a) in the case of an appeal under subsection (1) of section 20, 28 days from the receipt by the applicant of notification of the decision; or

(b) in the case of an appeal under subsection (2) of that section, 28 days from the end of the relevant period (within the meaning of that section) or, as the case may be, the extended period there mentioned.

(3) The notice of appeal may include as the ground or one of the grounds of the appeal a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 1.

(4) In the case of a building with respect to which a listed building preservation notice is in force, the notice may include a claim that the building should not be included in such a list.

(5) Regulations under this Act may provide that an appeal in respect of an application for listed building consent or for the variation or discharge of conditions subject to which such consent has been granted shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one of those described in subsection (1) of section 11.

(6) Any such regulations may also include provisions corresponding to those which may be included in the regulations which may be made by virtue of section 11.

(7) If any person—

(a) issues a certificate which purports to comply with the requirements of regulations made by virtue of subsection (5) or (6) and contains a statement which he knows to be false or misleading in a material particular; or

(b) recklessly issues a certificate which purports to comply with those requirements and contains a statement which is false or misleading in a material particular,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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Determination of appeals.

22.—(1) The Secretary of State may allow or dismiss an appeal under section 20 or may reverse or vary any part of the authority's decision (whether or not the appeal relates to that part), and—

(a) may deal with the application as if it had been made to him in the first instance; and

(b) may exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.

(2) Before determining the appeal, the Secretary of State shall, if either the applicant or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(3) The decision of the Secretary of State on the appeal shall be final.

(4) Schedule 3 applies to appeals under section 20.

Revocation and modification of consent

Revocation and modification of listed building consent by local planning authority.

23.—(1) If it appears to the local planning authority that it is expedient to revoke or modify any listed building consent granted on an application under this Act, the authority may by order revoke or modify the consent to such extent as they consider expedient.

(2) In performing their functions under subsection (1) the local planning authority shall have regard to the development plan and to any other material considerations.

(3) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

Procedure for s. 23 orders: opposed cases.

24.—(1) Except as provided in section 25, an order made by a local planning authority under section 23 shall not take effect unless it is confirmed by the Secretary of State.

(2) Where a local planning authority submit such an order to the Secretary of State for confirmation they shall serve notice on—

(a) the owner of the building affected;

(b) the occupier of that building; and

(c) any other person who in their opinion will be affected by the order.

(3) The notice shall specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) If within that period a person on whom the notice is served so requires, the Secretary of State shall give such an opportunity both to that person and to the local planning authority before he confirms the order.

(5) The Secretary of State may confirm an order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

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Procedure for s. 23 orders: unopposed cases.

25.—(1) This section shall have effect where—

(a) the local planning authority have made an order under section 23 revoking or modifying a listed building consent granted by them; and

(b) the owner and occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order.

(2) Where this section applies, instead of submitting the order to the Secretary of State for confirmation the authority shall—

(a) advertise in the prescribed manner the fact that the order has been made, specifying in the advertisement—

(i) the period within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before and being heard by a person appointed by him for the purpose; and

(ii) the period at the end of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section without being confirmed by him;

(b) serve notice to the same effect on the persons mentioned in subsection (1)(b);

(c) send a copy of any such advertisement to the Secretary of State not more than three days after its publication.

(3) If—

(a) no person claiming to be affected by the order has given notice to the Secretary of State as mentioned in subsection (2)(a)(i) within the period referred to in that subsection; and

(b) the Secretary of State has not directed within that period that the order be submitted to him for confirmation,

the order shall take effect at the end of the period referred to in subsection (2)(a)(ii) without being confirmed by the Secretary of State as required by section 24(1).

(4) The period referred to in subsection (2)(a)(i) must not be less than 28 days from the date on which the advertisement first appears.

(5) The period referred to in subsection (2)(a)(ii) must not be less than 14 days from the end of the period referred to in subsection (2)(a)(i).

Revocation and modification of listed building consent by the Secretary of State.

26.—(1) If it appears to the Secretary of State that it is expedient that an order should be made under section 23 revoking or modifying any listed building consent granted on an application under this Act, he may himself make such an order revoking or modifying the consent to such extent as he considers expedient.

(2) In performing his functions under subsection (1) the Secretary of State shall have regard to the development plan and to any other material considerations.

(3) The Secretary of State shall not make an order under that subsection without consulting the local planning authority.

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(4) Where the Secretary of State proposes to make such an order he shall serve notice on—

(a) the owner of the building affected;

(b) the occupier of that building; and

(c) any other person who in his opinion will be affected by the order.

(5) The notice shall specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) If within that period a person on whom it is served so requires, before the Secretary of State makes the order he shall give such an opportunity both to him and to the local planning authority.

(7) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

(8) An order under this section shall have the same effect as if it had been made by the local planning authority under section 23 and confirmed by the Secretary of State under section 24.

CHAPTER III

RIGHTS OF OWNERS ETC.

Compensation

Compensation for refusal of consent to alteration, etc. of listed building.

27.—(1) This section shall have effect where—

(a) an application is made for listed building consent for the alteration or extension of a listed building;

(b) the works do not constitute development or they do so but the development is such that planning permission for it is granted by a development order; and

(c) the Secretary of State, either on appeal or on the reference of the application to him, refuses such consent or grants it subject to conditions.

(2) If, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that the value of the interest of any person in the land is less than it would have been if listed building consent had been granted or, as the case may be, had been granted unconditionally, the local planning authority shall pay that person compensation of an amount equal to the difference.

(3) In determining for the purposes of subsection (2) whether or to what extent the value of an interest in land is less than it would have been if listed building consent had been granted, or had been granted unconditionally—

(a) it shall be assumed that any subsequent application for listed building consent for the alteration or extension in question would be determined in the same way; but

(b) in the case of a refusal of listed building consent, regard shall be had to any undertaking given by the Secretary of State on that refusal to grant such consent for some other works to the building if an application were made for it.

(4) No compensation shall be payable under this section in respect of an interest in land in respect of which a notice is served under section 32 of this Act or under section 137 of the principal Act (circumstances in which purchase notices may be served) by virtue of subsection (1)(a) or (b) of that section, being a notice which takes effect.

(5) The local planning authority need not pay compensation under this section in respect of a building in respect of which a building preservation notice is in force unless and until the building is included in a list compiled or approved by the Secretary of State under section 1, but a claim for such compensation may be made before the building is so included.

Compensation where listed building consent revoked or modified.

28.—(1) This section shall have effect where listed building consent is revoked or modified by an order under section 23 (other than an order which takes effect by virtue of section 25).

(2) If on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the building—

(a) has incurred expenditure in carrying out works which are rendered abortive by the revocation or modification; or

(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the authority shall pay that person compensation in respect of that expenditure, loss or damage.

(3) Subject to subsection (4), no compensation shall be paid under this section in respect of—

(a) any works carried out before the grant of the listed building consent which is revoked or modified; or

(b) any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that consent.

(4) For the purposes of this section, expenditure incurred in the preparation of plans for the purposes of any works, or upon other similar matters preparatory to any works, shall be taken to be included in the expenditure incurred in carrying out those works.

Compensation for loss or damage caused by service of building preservation notice.

29.—(1) This section applies where a building preservation notice ceases to have effect without the building having been included in a list compiled or approved by the Secretary of State under section 1.

(2) Any person who at the time when the notice was served had an interest in the building shall, on making a claim to the authority within the prescribed time and in the prescribed manner, be entitled to be paid compensation by the local planning authority in respect of any loss or damage directly attributable to the effect of the notice.

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(3) The loss or damage in respect of which compensation is payable under subsection (2) shall include a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect to it.

Local planning authorities for compensation purposes.

30.—(1) Subject to subsection (2)—

(a) claims under section 27 shall be made to and paid by the local planning authority to whom the application for listed building consent was made;

(b) claims under section 28 shall be made to and paid by the local planning authority who made the order in question or, where it was made by the Secretary of State under section 26, the local planning authority who are treated as having made it under that section;

(c) claims under section 29 shall be made to and paid by the local planning authority who served the building preservation notice,

and references in those sections to a local planning authority shall be construed accordingly.

(2) The Secretary of State may after consultation with all the authorities concerned direct that where a local planning authority is liable to pay compensation under section 27, 28 or 29 in any particular case or class of case they shall be entitled to be reimbursed the whole of the compensation or such proportion of it as he may direct from one or more authorities specified in the direction.

(3) This section does not apply in Greater London.

General provisions as to compensation for depreciation under this Part. 1961 c.33.

31.—(1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) This section applies to any compensation which is payable under sections 27 to 29 in respect of depreciation of the value of an interest in land.

(3) Where an interest in land is subject to a mortgage—

(a) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

(4) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under sections 27 to 29 shall be referred to and determined by the Lands Tribunal.

(5) In relation to the determination of any such question, the provisions of sections 2 and 4 of the Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act. 1961 c.33.

Listed building purchase notices

Purchase notice on refusal or conditional grant of listed building consent.

32.—(1) Where—

(a) listed building consent in respect of a building is refused, or granted subject to conditions, or is revoked or modified by an order under section 23 or 26; and

(b) any owner of the building claims—

(i) that the conditions mentioned in subsection (2) are satisfied with respect to it and any land comprising the building, or contiguous or adjacent to it, and owned with it; and

(ii) that the conditions mentioned in subsection (3) are satisfied with respect to that land,

he may, within the prescribed time and in the prescribed manner, serve on the council of the district or London borough in which the building and land are situated a notice (in this Act referred to as a "listed building purchase notice") requiring that council to purchase his interest in the building and land in accordance with sections 33 to 37.

(2) The conditions mentioned in subsection (1)(b)(i) are—

(a) that the building and land in respect of which the notice is served have become incapable of reasonably beneficial use in their existing state;

(b) in a case where listed building consent has been granted subject to conditions with respect to the execution of the works or has been modified by the imposition of such conditions, that the land cannot be rendered capable of such use by the carrying out of the works in accordance with those conditions; and

(c) in any case, that the land cannot be rendered capable of such use by the carrying out of any other works for which listed building consent has been granted or for which the local planning authority or the Secretary of State has undertaken to grant such consent.

(3) The conditions mentioned in subsection (1)(b)(ii) are that the use of the land is substantially inseparable from that of the building and that it ought to be treated, together with the building, as a single holding.

(4) In determining for the purpose of subsection (2) what is or would in any particular circumstances be a reasonably beneficial use of land, no account shall be taken of any prospective use which would involve the carrying out of new development or any works requiring listed building consent which might be executed to the building, other than works for which the local planning authority or the Secretary of State have undertaken to grant such consent.

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(5) References in sections 33 to 37 to the land are to the building and the land in respect of which the notice under subsection (1) is served.

Action by council on whom listed building purchase notice served.

33.—(1) The council on whom a listed building purchase notice is served by an owner shall serve on him a notice stating either—

(a) that the council are willing to comply with the purchase notice; or

(b) that another local authority or statutory undertakers specified in the notice under this subsection have agreed to comply with it in their place; or

(c) that for reasons so specified the council are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place and that they have transmitted to the Secretary of State a copy of the purchase notice and of the notice under this subsection.

(2) A notice under subsection (1) must be served before the end of the period of three months beginning with the date of service of the listed building purchase notice.

(3) Where such a notice as is mentioned in paragraph (a) or (b) of subsection (1) has been duly served, the council or, as the case may be, the other local authority or statutory undertakers specified in the notice shall be deemed—

(a) to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of section 47; and

(b) to have served a notice to treat in respect of it on the date of service of the notice under that subsection.

(4) Where the council propose to serve such a notice as is mentioned in subsection (l)(c), they shall first send to the Secretary of State a copy of—

(a) the proposed notice; and

(b) the listed building purchase notice which was served on them.

Procedure on reference of listed building purchase notice to Secretary of State.

34.—(1) Where a copy of a listed building purchase notice is sent to the Secretary of State under section 33(4), he shall consider whether to confirm the notice or to take other action under section 35 in respect of it.

(2) Before confirming such a notice or taking such other action, the Secretary of State shall give notice of his proposed action—

(a) to the person who served the notice;

(b) to the council on whom it was served;

(c) outside Greater London—

(i) to the county planning authority and also, where that authority is a joint planning board, to the county council; and

(ii) if the district council on whom the purchase notice in question was served is a constituent member of a joint planning board, to that board; and

(d) if the Secretary of State proposes to substitute any other local authority or statutory undertakers for the council on whom the notice was served, to them.

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(3) A notice under subsection (2) shall specify the period (which must not be less than 28 days from its service) within which any of the persons on whom it is served may require the Secretary of State to give him an opportunity of appearing before and being heard by a person appointed by him for the purpose.

(4) If any of those persons so require, before the Secretary of State confirms the listed building purchase notice or takes any other action under section 35 in respect of it, he shall give such an opportunity to each of them.

(5) If after any of those persons have appeared before and been heard by the appointed person, it appears to the Secretary of State to be expedient to take action under section 35 otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.

Action by Secretary of State in relation to listed building purchase notice.

35.—(1) Subject to the following provisions of this section, if the Secretary of State is satisfied that the conditions specified in section 32(2)(a) to (c) are satisfied in the case of any listed building purchase notice, he shall confirm the notice.

(2) If the Secretary of State is satisfied that those conditions are fulfilled only in respect of part of the land, he shall confirm the notice only in respect of that part and the notice shall have effect accordingly.

(3) The Secretary of State shall not confirm the notice unless he is satisfied that the land comprises such land contiguous or adjacent to the building as is in his opinion required—

(a) for preserving the building or its amenities, or

(b) for affording access to it, or

(c) for its proper control or management.

(4) If it appears to the Secretary of State to be expedient to do so he may, instead of confirming the notice—

(a) in the case of a notice served on account of the refusal of listed building consent for any works, grant such consent for those works;

(b) in the case of a notice served on account of such consent being granted subject to conditions, revoke or amend those conditions so far as it appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of those works;

(c) in the case of a notice served on account of such consent being revoked by an order under section 23 or 26, cancel the order revoking the consent; or

(d) in the case of a notice served on account of such consent being modified by such an order by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the works in respect of which the consent was granted.

(5) If it appears to the Secretary of State that the land (or any part of it) could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out—

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(a) of any other works for which listed building consent ought to be granted, or

(b) of any development for which planning permission ought to be granted,

he may, instead of confirming the listed building purchase notice (or confirming it so far as it relates to that part), direct that if an application is made for such consent for those works or, as the case may be, for planning permission for that development, it shall be granted.

(6) If it appears to the Secretary of State, having regard to the probable ultimate use of the building or its site, that it is expedient to do so, he may, if he confirms the notice, modify it either in relation to the whole or any part of the land, by substituting another local authority or statutory undertakers for the council on whom the notice was served.

(7) Any reference in section 34 to the taking of action by the Secretary of State under this section includes a reference to the taking by him of a decision not to confirm the notice on the grounds that any of the conditions referred to in subsection (1) are not satisfied.

Effect of Secretary of State's action in relation to listed building purchase notice.

36.—(1) Where the Secretary of State confirms a listed building purchase notice, the council on whom the notice was served shall be deemed—

(a) to be authorised to acquire the owner's interest in the land compulsorily in accordance with the provisions of section 47; and

(b) to have served a notice to treat in respect of it on such date as the Secretary of State may direct.

(2) If before the end of the relevant period the Secretary of State has neither—

(a) confirmed the listed building purchase notice; nor

(b) notified the owner by whom it was served that he does not propose to confirm it; nor

(c) taken any such action in respect of it as is mentioned in subsection (4) or (5) of section 35,

the notice shall be deemed to be confirmed at the end of that period and the council on whom it was served shall be deemed to have been authorised as mentioned in subsection (1)(a) and to have served a notice to treat in respect of the owner's interest at the end of that period.

(3) Where a listed building purchase notice is confirmed in respect of only part of the land, references in this section to the owner's interest in the land are references to the owner's interest in that part.

(4) Where a listed building purchase notice is modified under section 35(6) by the substitution of another local authority or statutory undertakers for the council on whom the notice was served, the reference in subsection (1) to that council is to that other local authority or those statutory undertakers.

(5) In this section "the relevant period" means, subject to subsection (6) below—

(a) the period of nine months beginning with the date of the service of the listed building purchase notice; or

(b) if it ends earlier, the period of six months beginning with the date on which a copy of the notice was sent to the Secretary of State.

(6) The relevant period does not run if the Secretary of State has before him at the same time both—

(a) a copy of the listed building purchase notice sent to him under section 33(4); and

(b) a notice of appeal under section 20 or section 39 relating to any of the land to which the listed building purchase notice relates.

(7) Where any decision by the Secretary of State to confirm or not to confirm a listed building purchase notice (including any decision to confirm the notice only in respect of part of the land, or to give any direction as to the granting of listed building consent or planning permission) is quashed under section 63, the notice shall be treated as cancelled but the owner may serve a further notice in its place.

(8) For the purposes of determining whether such a further notice has been served within the period prescribed for the service of listed building purchase notices, the decision concerning listed building consent on account of which the notice has been served shall be treated as having been made on the date on which the Secretary of State's decision was quashed.

Reduction of compensation on acquisition where s. 28 compensation payable.

37. Where compensation is payable under section 28 in respect of expenditure incurred in carrying out any works to a building, any compensation which then becomes payable in respect of the acquisition of an interest in the land in pursuance of a listed building purchase notice shall be reduced by an amount equal to the value of those works.

CHAPTER IV

ENFORCEMENT

Power to issue listed building enforcement notice.

38.—(1) Where it appears to the local planning authority—

(a) that any works have been or are being executed to a listed building in their area; and

(b) that the works are such as to involve a contravention of section 9(1) or (2),

they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a notice under this section (in this Act referred to as a "listed building enforcement notice").

(2) A listed building enforcement notice shall specify the alleged contravention and require such steps as may be specified in the notice to be taken within such period as may be so specified—

(a) for restoring the building to its former state; or

(b) if the authority consider that such restoration would not be reasonably practicable or would be undesirable, for executing such further works specified in the notice as they consider necessary to alleviate the effect of the works which were carried out without listed building consent; or

(c) for bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with.

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(3) A listed building enforcement notice shall specify the date on which it is to take effect (in this section referred to as "the specified date").

(4) A copy of a listed building enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the specified date—

(a) on the owner and on the occupier of the building to which it relates; and

(b) on any other person having an interest in that building which in the opinion of the authority is materially affected by the notice.

(5) The local planning authority may withdraw a listed building enforcement notice (without prejudice to their power to issue another) at any time before it takes effect.

(6) If they do so, they shall immediately give notice of the withdrawal to every person who was served with a copy of the notice.

(7) Where a listed building enforcement notice imposes any such requirement as is mentioned in subsection (2)(b), listed building consent shall be deemed to be granted for any works of demolition, alteration or extension of the building executed as a result of compliance with the notice.

Appeal against listed building enforcement notice.

39.—(1) A person having an interest in the building to which a listed building enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice on any of the following grounds—

(a) that the building is not of special architectural or historic interest;

(b) that the matters alleged to constitute a contravention of section 9(1) or (2) do not involve such a contravention;

(c) that the contravention of that section alleged in the notice has not taken place;

(d) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;

(e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;

(f) that copies of the notice were not served as required by section 38(4);

(g) except in relation to such a requirement as is mentioned in section 38(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;

(h) that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed;

(i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;

(j) that steps required to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building;

(k) that steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.

(2) An appeal under this section must be made by notice in writing to the Secretary of State before the date specified in the listed building enforcement notice as that on which it is to take effect.

(3) Where such an appeal is brought the listed building enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(4) A person who gives notice of appeal under this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed, a statement in writing—

(a) specifying the grounds on which he is appealing against the listed building enforcement notice; and

(b) giving such further information as may be prescribed.

(5) If, where more than one ground is specified in the statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) Where any person has appealed to the Secretary of State under this section against a notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(7) In this section "relevant occupier" means a person who—

(a) on the date on which the listed building enforcement notice is issued occupies the building to which the notice relates by virtue of a licence in writing; and

(b) continues so to occupy the building when the appeal is brought.

Appeals: supplementary provisions.

40.—(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 39, and in particular, but without prejudice to the generality of this subsection may—

(a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;

(b) specify the matters to be included in such a statement;

(c) require the authority or the appellant to give such notice of such an appeal as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the building in question is situated;

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(d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) Subject to section 41(4), the Secretary of State shall, if either the appellant or the local planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) Schedule 3 applies to appeals under section 39.

Determination of appeals under s. 39.

41.—(1) On the determination of an appeal under section 39, the Secretary of State shall give directions for giving effect to the determination, including where appropriate directions for quashing the listed building enforcement notice or for varying its terms.

(2) On such an appeal if the Secretary of State is satisfied that to do so will not cause injustice to the appellant or to the local planning authority, he may—

(a) correct any informality, defect or error in the listed building enforcement notice, or

(b) give directions for varying its terms.

(3) The Secretary of State—

(a) may dismiss such an appeal if the appellant fails to comply with section 39(4) within the prescribed time; and

(b) may allow such an appeal and quash the listed building enforcement notice if the local planning authority fail to comply within the prescribed period with any requirement imposed by regulations made by virtue of section 40(1)(a),(b) or (d).

(4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the listed building enforcement notice under paragraph (b) of that subsection he need not comply with section 40(2).

(5) Where it would otherwise be a ground for determining an appeal in favour of the appellant that a person required to be served with a copy of the listed building enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

(6) On the determination of an appeal the Secretary of State may—

(a) grant listed building consent for the works to which the listed building enforcement notice relates or for part only of those works;

(b) discharge any condition or limitation subject to which listed building consent was granted and substitute any other condition, whether more or less onerous;

(c) if he thinks fit, exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.

(7) Any listed building consent granted by the Secretary of State under subsection (6) shall be treated as granted on an application for the same consent under section 10 and the Secretary of State's decision in relation to the grant shall be final.

Execution of works required by listed building enforcement notice.

42.—(1) If any of the steps specified in the listed building enforcement notice have not been taken within the compliance period, the authority may—

(a) enter the land and take those steps, and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Where a listed building enforcement notice has been served in respect of a building—

(a) any expenses incurred by the owner or occupier of the building for the purpose of complying with it, and

(b) any sums paid by the owner of the building under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by it,

shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

(3) Regulations under this Act may provide that all or any of the following sections of the Public Health Act 1936, namely— 1936 c. 49.

(a) section 276 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

(b) section 289 (power to require the occupier of any premises to permit works to be executed by the owner of the premises);

(c) section 294 (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a listed building enforcement notice.

(4) Regulations under subsection (3) applying all or any of section 289 of that Act may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.

(5) Regulations under subsection (3) may also provide for the charging on the land on which the building stands of any expenses recoverable by a local planning authority under subsection (1).

(6) Where any expenses are recoverable by a local planning authority by virtue of this section, those expenses shall be recoverable as a simple contract debt in any court of competent jurisdiction.

(7) In this section and in section 43 references to "the compliance period", in relation to a listed building enforcement notice, are references to the period specified in the notice as that within which the steps specified in it are to be taken, or such extended period as the local planning authority may allow for the taking of those steps.

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Penalties for non-compliance with listed building enforcement notice.

43.—(1) Where a listed building enforcement notice has been served on the person who at the time when the notice was served was the owner of the building to which it relates, and any steps required by the notice have not been taken within the compliance period, then subject to the provisions of this section, that person shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, or

(b) on conviction on indictment, to a fine.

(2) Where proceedings have been brought under subsection (1) against a person ("the original owner") who ceased to be the owner of the building before the end of the compliance period, if he—

(a) duly lays information to that effect; and

(b) gives the prosecution not less than three clear days' notice of his intention,

he shall be entitled to have the person who then became the owner of the building ("the subsequent owner") brought before the court in the proceedings.

(3) Where in such proceedings—

(a) it is proved that any steps required by the notice have not been taken within the compliance period; and

(b) the original owner proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent owner,

then—

(i) the subsequent owner may be convicted of the offence; and

(ii) if the original owner also proves that he took all reasonable steps to secure compliance with the notice, he shall be acquitted of the offence.

(4) If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and liable—

(a) on summary conviction, to a fine not exceeding £200 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled; or

(b) on conviction on indictment, to a fine.

Effect of listed building consent on listed building enforcement notice.

44.—(1) If, after the issue of a listed building enforcement notice, consent is granted under section 8(3)—

(a) for the retention of any work to which the notice relates; or

(b) permitting the retention of works without compliance with some condition subject to which a previous listed building consent was granted,

the notice shall cease to have effect in so far as it requires steps to be taken involving the works not being retained or, as the case may be, for complying with that condition.

(2) The fact that such a notice has wholly or partly ceased to have effect under subsection (1) shall not affect the liability of any person for an offence in respect of a previous failure to comply with that notice.

Commission to have concurrent enforcement functions in London.

45. The Commission shall, as respects any London borough, have concurrently with the council of that borough the functions of a local planning authority under sections 38 to 43; and references to the local planning authority in those provisions shall be construed accordingly.

Enforcement by the Secretary of State.

46.—(1) If it appears to the Secretary of State to be expedient that a listed building enforcement notice should be issued in respect of any land, he may issue such a notice.

(2) Before the Secretary of State serves a notice under subsection (1) he shall consult—

(a) the local planning authority; and

(b) if the land is situated in England, the Commission.

(3) A listed building enforcement notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority.

(4) In relation to a listed building enforcement notice issued by the Secretary of State, sections 42 and 43 shall apply as if for any reference in those sections to the local planning authority there were substituted a reference to the Secretary of State.

(5) References in this section to the local planning authority shall in the case of an authority for an area outside Greater London be construed as references to the district planning authority.

CHAPTER V

PREVENTION OF DETERIORATION AND DAMAGE

Compulsory acquisition of listed building in need of repair

Compulsory acquisition of listed building in need of repair.

47.—(1) If it appears to the Secretary of State that reasonable steps are not being taken for properly preserving a listed building he—

(a) may authorise the appropriate authority to acquire compulsorily under this section the building and any relevant land; or

(b) may himself compulsorily acquire them under this section.

1981 c.67.

(2) The Acquisition of Land Act 1981 shall apply to compulsory acquisition under this section.

(3) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless—

(a) in the case of the acquisition of a building situated in England otherwise than by the Commission, he has consulted with the Commission; and

(b) in any case, he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.

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(4) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within 28 days after the service of the notice required by section 12 of that Act of 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act, apply to a magistrates' court acting for the petty sessions area within which the building is situated for an order staying further proceedings on the compulsory purchase order.

(5) If on an application under subsection (4) the court is satisfied that reasonable steps have been taken for properly preserving the building, the court shall make an order accordingly.

(6) Any person aggrieved by the decision of a magistrates' court on an application under subsection (4) may appeal against the decision to the Crown Court.

(7) In this section—

"the appropriate authority" means—

(a) the council of the county or district in which the building is situated, or

(b) in the case of a building situated in Greater London, the Commission or the council of the London borough in which the building is situated, or

(c) in the case of a building situated outside Greater London, the joint planning board for the area in which the building is situated; or

(d) in the case of a building situated within the Broads, the Broads Authority;

"relevant land", in relation to any building, means the land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

Repairs notice as preliminary to acquisition under s. 47.

48.—(1) The compulsory purchase of a building under section 47 shall not be started by the appropriate authority or by the Secretary of State unless at least two months previously the authority or, as the case may be, the Secretary of State has served on the owner of the building a notice under this section (in this section referred to as a "repairs notice")—

(a) specifying the works which the appropriate authority or, as the case may be, the Secretary of State considers reasonably necessary for the proper preservation of the building; and

(b) explaining the effect of sections 47 to 50,

and the repairs notice has not been withdrawn.

(2) Where—

(a) a building is demolished after a repairs notice has been served in respect of it by an appropriate authority or the Secretary of State, but

(b) the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished,

the demolition of the building shall not prevent the authority or the Secretary of State from being authorised under section 47 to acquire compulsorily the site of the building.

(3) An appropriate authority or the Secretary of State may at any time withdraw a repairs notice served by them on any person; and if they do so, they shall immediately give him notice of the withdrawal.

(4) The Secretary of State shall consult with the Commission before he serves or withdraws a repairs notice in relation to a building situated in England.

(5) Where a repairs notice has been served on a person in respect of a building, he shall not be entitled to serve a listed building purchase notice in respect of it—

(a) until the expiration of three months beginning with the date of the service of the repairs notice; or

(b) if during that period the compulsory acquisition of the building is begun under section 47, unless and until the compulsory acquisition is discontinued.

(6) For the purposes of this section a compulsory acquisition—

(a) is started when the notice required by section 12 of the Acquisition of Land Act 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act is served; and 1981 c.67.

(b) is discontinued—

(i) in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order; and

(ii) in any other case, when the order is withdrawn or the Secretary of State decides not to confirm it.

(7) In this section "appropriate authority" has the same meaning as in section 47.

Compensation on compulsory acquisition of listed building.

49. Subject to section 50, for the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which immediately before the date of the compulsory purchase order was listed, it shall be assumed that listed building consent would be granted for any works—

(a) for the alteration or extension of the building; or

(b) for the demolition of the building for the purpose of development of any class specified in Schedule 3 to the principal Act (development not constituting new development),

other than works in respect of which such consent has been applied for before the date of the order and refused by the Secretary of State, or granted by him subject to conditions, the circumstances having been such that on that refusal or grant compensation became payable under section 27.

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Minimum compensation in case of listed building deliberately left derelict.

50.—(1) Where the appropriate authority within the meaning of section 47—

(a) propose to acquire a building compulsorily under that section; and

(b) are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or redevelopment of the site or any adjoining site,

they may include in the compulsory purchase order as submitted to the Secretary of State for confirmation a direction for minimum compensation.

(2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under section 47, he may, if he is satisfied as mentioned in subsection (1)(b), include a direction for minimum compensation in the compulsory purchase order.

1981 c.67.

(3) Without prejudice to so much of section 12 of the Acquisition of Land Act 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act (notices stating effect of compulsory purchase order or, as the case may be, draft order) as requires the notice to state the effect of the order, the notice required to be served in accordance with that provision shall—

(a) include a statement that a direction for minimum compensation has been included in the order or, as the case may be, in the draft order prepared by the Secretary of State in accordance with Schedule 1 to that Act; and

(b) explain the meaning of the expression "direction for minimum compensation".

(4) A direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the

1961 c.33.

contrary in the Land Compensation Act 1961, the principal Act, or this Act —

(a) that planning permission would not be granted for any development or re-development of the site of the building; and

(b) that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to and maintaining it in a proper state of repair.

(5) If a compulsory purchase order is confirmed or made with the inclusion of a direction for minimum compensation, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.

(6) Where such a direction is included in a compulsory purchase order or, as the case may be, in a draft order prepared by the Secretary of State, any person having an interest in the building may, within 28 days after the service of the notice mentioned in subsection (3), apply to a magistrates' court acting for the petty sessions area in which the building is situated for an order that no such direction be included in the compulsory purchase order as confirmed or made by the Secretary of State.

(7) If the court to which an application is made under subsection (6) is satisfied that the building in respect of which the application is made has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1)(b) the court shall make the order applied for.

(8) A person aggrieved by the decision of a magistrates' court on an application under subsection (6) may appeal against the decision to the Crown Court.

(9) The rights conferred by subsections (6) and (8) shall not prejudice those conferred by section 47(4) and (6).

Ending of rights over land compulsorily acquired.

51.—(1) Subject to the provisions of this section, upon the completion of a compulsory acquisition of land under section 47—

(a) all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished, and

(b) any such apparatus shall vest in the acquiring authority.

(2) Subsection (1) shall not apply—

(a) to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking, or

(b) to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system, or

(c) to any telecommunication apparatus kept installed for the purposes of any such system.

(3) In respect of any right or apparatus not falling within subsection (2), subsection (1) shall have effect subject—

(a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) shall not apply to any right or apparatus specified in the direction; and

(b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.

(4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.

(5) Any compensation payable under this section shall be determined in accordance with the Land Compensation Act 1961. 1961 c.33.

Acquisition by agreement

Acquisition of land by agreement.

52.—(1) The council of any county, district or London borough or a joint planning board for an area outside Greater London may acquire by agreement—

(a) any building appearing to them to be of special architectural or historic interest; and

(b) any land comprising or contiguous or adjacent to such a building which appears to the Secretary of State to be required—

(i) for preserving the building or its amenities, or

(ii) for affording access to it, or

(iii) for its proper control or management.

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1965 c.56.

(2) The provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8, 10 and 31, shall apply in relation to the acquisition of land under subsection (1), but references in that Part to the execution of the works shall be construed as including references to—

(a) any erection, construction or carrying out of buildings or works authorised by section 237 of the principal Act; and

(b) any erection, construction or carrying out of buildings or works on behalf of a Minister or statutory undertakers on land acquired by that Minister or those undertakers, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

Management of acquired buildings

Management of listed buildings acquired under this Act.

53.—(1) Where—

(a) a local authority or joint planning board acquire any building or other land under section 47(1) or 52(1)(a) or (b); or

(b) the Commission acquire any building or other land under section 47(1),

they may make such arrangements as to its management, use or disposal as they consider appropriate for the purpose of its preservation.

(2) Where the Secretary of State acquires any building or other land under section 47(1), he may—

(a) make such arrangements as he thinks fit as to the management, custody or use of the building or land; and

(b) dispose of or otherwise deal with any such building or land as he may from time to time determine.

(3) The Commission may be a party to such arrangements as are mentioned in subsection (2) if they relate to property situated in England.

Urgent preservation

Urgent works to preserve unoccupied listed buildings.

54.—(1) A local authority may execute any works which appear to them to be urgently necessary for the preservation of a listed building in their area.

(2) If it appears to the Secretary of State that any works are urgently necessary for the preservation of a listed building—

(a) if the building is in England, he shall authorise the Commission to execute any works specified in the authorisation which appear to him to be urgently necessary for its preservation; or

(b) if the building is in Wales, he may himself execute any works which appear to him to be urgently necessary for its preservation.

(3) The works which may be executed under this section may consist of or include works for affording temporary support or shelter for the building.

(4) If the building is occupied works may be carried out only to those parts which are not in use.

(5) The owner of the building must be given not less than seven days notice in writing of the intention to carry out the works and, in the case of works authorised under subsection (2)(a), the Commission shall give that notice.

(6) A notice under subsection (5) shall describe the works proposed to be carried out.

(7) As respects buildings in Greater London, the functions of a local authority under this section are exercisable concurrently by the Commission and the relevant London borough council.

Recovery of expenses of works under s. 54.

55.—(1) This section has effect for enabling the expenses of works executed under section 54 to be recovered by the authority who carried out the works, that is to say the local authority, the Commission or the Secretary of State or, in the case of works carried out by the Commission on behalf of the Secretary of State, the Secretary of State.

(2) That authority may give notice to the owner of the building requiring him to pay the expenses of the works.

(3) Where the works consist of or include works for affording temporary support or shelter for the building—

(a) the expenses which may be recovered include any continuing expenses involved in making available the apparatus or materials used; and

(b) notices under subsection (2) in respect of any such continuing expenses may be given from time to time.

(4) The owner may within 28 days of the service of the notice represent to the Secretary of State—

(a) that some or all of the works were unnecessary for the preservation of the building; or

(b) in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time; or

(c) that the amount specified in the notice is unreasonable; or

(d) that the recovery of that amount would cause him hardship,

and the Secretary of State shall determine to what extent the representations are justified.

(5) The Secretary of State shall give notice of his determination, the reasons for it and the amount recoverable—

(a) to the owner of the building; and

(b) if the authority who gave notice under subsection (2) is a local authority or the Commission, to them.

(6) Any expenses recoverable by virtue of this section shall be recoverable as a simple contract debt in any court of competent jurisdiction.

Dangerous structure orders in respect of listed buildings.
1984 c. 55.
1939 c. xcvii.

56. Before taking any steps with a view to—

(a) the making of an order in respect of a listed building under section 77(1)(a) of the Building Act 1984 or section 65 or 69(1) of the London Building Acts (Amendment) Act 1939; or

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(b) the service of a notice under section 79(1) of that Act of 1984 or section 62(2) of that Act of 1939,

a local planning authority shall consider whether they should instead exercise their powers under sections 47 and 48 or section 54.

Grants for repair and maintenance

Power of local authority to contribute to preservation of listed buildings etc.

57.—(1) A local authority may contribute towards the expenses incurred or to be incurred in the repair or maintenance—

(a) of a listed building which is situate in or in the vicinity of their area; or

(b) of a building in their area which is not listed but appears to them to be of architectural or historic interest.

(2) At the time of making such a contribution the local authority may also contribute towards the expenses incurred, or to be incurred, in the upkeep of any garden occupied with the building and contiguous or adjacent to it.

(3) A contribution under this section may be made by grant or loan.

(4) A contribution by way of loan may be made upon such terms and conditions as the local authority may determine including (but without prejudice to the foregoing) a term that the loan shall be free of interest.

(5) A local authority—

(a) may renounce their right to repayment of such a loan or any interest for the time being outstanding, and

(b) by agreement with the borrower may otherwise vary any of the terms and conditions on which such a loan is made.

(6) A local authority may require as a condition of the making by them of a contribution under this section by way of grant towards the expenses of the repair or maintenance or upkeep of any property that the person to whom the grant is made shall enter into an agreement with them for the purpose of enabling the public to have access to the property or part of it during such period and at such times as the agreement may provide.

(7) In this section and in section 58 "local authority" means—

(a) the council of a county, borough or district,

(b) a joint planning board constituted under section 2 of the principal Act, and

(c) in relation to a building or land in the Broads, the Broads Authority.

Recovery of grants under s. 57.

58.—(1) If, during the period of three years beginning with the day on which a grant is made under section 57 towards the repair or maintenance or upkeep of any property ("the grant property"), the grantee disposes of the interest held by him in the property on that day or any part of that interest, by way of sale or exchange or lease for a term of not less than 21 years, the local authority may recover the amount of the grant, or such part of it as they think fit, from the grantee in any court of competent jurisdiction.

(2) If the grantee gives the whole of that interest to any person (whether directly or indirectly, but otherwise than by will) subsection (1) shall have effect as if the donee were the grantee.

(3) If the grantee gives part of that interest to any person (whether directly or indirectly, but otherwise than by will) subsection (1) shall have effect as if any disposal or part disposal of that interest by the donee were a disposal by the grantee.

(4) If any condition imposed on the making of a grant to which this section applies is contravened or not complied with, the grantor may recover the amount of the grant, or such part of it as he thinks fit, from the grantee.

(5) Nothing in this section entitles a grantor to recover amounts in the aggregate exceeding the amount of the grant (for example by virtue of a breach of more than one condition or disposals of several parts of an interest in the grant property).

Damage to listed buildings

Acts causing or likely to result in damage to listed buildings.

59.—(1) If, with the intention of causing damage to a listed building, any relevant person does or permits the doing of any act which causes or is likely to result in damage to the building, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person is a relevant person for the purpose of subsection (1) if apart from that subsection he would be entitled to do or permit the act in question.

(3) Subsection (1) does not apply to an act for the execution—

(a) of works authorised by planning permission granted or deemed to be granted in pursuance of an application under the principal Act; or

(b) of works for which listed building consent has been given under this Act.

(4) If a person convicted of an offence under this section fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which the failure continues.

CHAPTER VI

MISCELLANEOUS AND SUPPLEMENTAL

Exceptions for church buildings and ancient monuments

Exceptions for ecclesiastical buildings and redundant churches.

60.—(1) The provisions mentioned in subsection (2) shall not apply to any ecclesiastical building which is for the time being used for ecclesiastical purposes.

(2) Those provisions are sections 3, 4, 7 to 9, 47, 54 and 59.

(3) For the purposes of subsection (1), a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.

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(4) For the purposes of sections 7 to 9 a building shall be taken to be used for the time being for ecclesiastical purposes if it would be so used but for the works in question.

(5) The Secretary of State may by order provide for restricting or excluding the operation of subsections (1) to (3) in such cases as may be specified in the order.

(6) An order under this section may—

(a) make provision for buildings generally, for descriptions of building or for particular buildings;

(b) make different provision for buildings in different areas, for buildings of different religious faiths or denominations or according to the use made of the building;

(c) make such provision in relation to a part of a building (including, in particular, an object or structure falling to be treated as part of the building by virtue of section 1(5)) as may be made in relation to a building and make different provision for different parts of the same building;

(d) make different provision with respect to works of different descriptions or according to the extent of the works;

(e) make such consequential adaptations or modifications of the operation of any other provision of this Act or the principal Act, or of any instrument made under either of those Acts, as appear to the Secretary of State to be appropriate.

(7) Sections 7 to 9 shall not apply to the execution of works for the demolition, in pursuance of a pastoral or redundancy scheme (within the meaning of the Pastoral Measure 1983), of a redundant building (within the meaning of that Measure) or a part of such a building.

1983 No. 1.

Exceptions for ancient monuments etc. 1979 c.46.

61.—(1) The provisions mentioned in subsection (2) shall not apply to any building for the time being included in the schedule of monuments compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979.

(2) Those provisions are sections 3, 4, 7 to 9, 47, 54 and 59.

Validity of instruments, decisions and proceedings

Validity of certain orders and decisions.

62.—(1) Except as provided by section 63, the validity of—

(a) any order under section 23 or 26 (whether before or after it has been confirmed); or

(b) any such decision by the Secretary of State as is mentioned in subsection (2),

shall not be questioned in any legal proceedings whatsoever.

(2) Those decisions are—

(a) any decision on an application referred to the Secretary of State under section 12 or on an appeal under section 20;

(b) any decision to confirm or not to confirm a listed building purchase notice including—

(i) any decision not to confirm such a notice in respect of part of the land to which it relates, and

(ii) any decision to grant any consent, or give any direction, in lieu of confirming such a notice, either wholly or in part;

(c) any decision to grant listed building consent under paragraph (a) of section 41(6) or to discharge a condition or limitation under paragraph (b) of that section.

(3) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any such decision as is mentioned in subsection (2).

Proceedings for questioning validity of other orders, decisions and directions.

63.—(1) If any person is aggrieved by any such order or decision as is mentioned in section 62(1) and wishes to question its validity on the grounds—

(a) that it is not within the powers of this Act, or

(b) that any of the relevant requirements have not been complied with in relation to it,

he may make an application to the High Court under this section.

(2) Without prejudice to subsection (1), if the authority directly concerned with any such order or decision wish to question its validity on any of those grounds, the authority may make an application to the High Court under this section.

(3) An application under this section must be made within six weeks from the date on which the order is confirmed (or, in the case of an order under section 23 which takes effect under section 25 without confirmation, the date on which it takes effect) or, as the case may be, the date on which the action is taken.

(4) On any application under this section the High Court—

(a) may by interim order suspend the operation of the order or decision, the validity of which is questioned by the application, until the final determination of the proceedings; and

(b) if satisfied—

(i) that the order or decision is not within the powers of this Act, or

(ii) that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to it,

may quash that order or decision.

(5) References in this section to the confirmation of an order include the confirmation of an order subject to modifications.

(6) In this section "the relevant requirements", in relation to any order or decision, means any requirements of this Act or of the Tribunals and Inquiries Act 1971 or of any order, regulations or rules made under either of those Acts which are applicable to that order or decision. 1971 c.62.

(7) For the purposes of subsection (2) the authority directly concerned with an order or decision is—

(a) in relation to any such decision as is mentioned in section 62(2)(b)—

(i) the council on whom the listed building purchase notice was served, and

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(ii) in a case where the Secretary of State has modified the notice wholly or in part by substituting another local authority or statutory undertakers for that council, also that authority or those statutory undertakers; and

(b) otherwise, the authority who—

(i) made the order or decision to which the proceedings in question relate, or

(ii) referred the matter to the Secretary of State, or

(iii) if the order was made by him, are the authority named in it.

Validity of listed building enforcement notices.

64. The validity of a listed building enforcement notice shall not, except by way of an appeal under section 39, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

Appeals to High Court relating to listed building enforcement notices.

65.—(1) Where the Secretary of State gives a decision in proceedings on an appeal under section 39 against a listed building enforcement notice, the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.

(2) At any stage of the proceedings on any such appeal, the Secretary of State may state any question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court.

(3) A decision of the High Court on a case stated by virtue of subsection (2) shall be deemed to be a judgment of the court within the meaning of section 16 of the Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).

1981 c.54.

(4) In relation to any proceedings in the High Court or the Court of Appeal brought by virtue of this section the power to make rules of court shall include power to make rules—

(a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the Secretary of State; and

(b) providing for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.

(5) No appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.

(6) In this section "decision" includes a direction or order, and references to the giving of a decision shall be construed accordingly.

(7) In the case of a listed building enforcement notice issued by the Commission subsection (1) shall apply as if the reference to the local planning authority were a reference to the Commission.

Special considerations affecting planning functions PART I

General duty as respects listed buildings in exercise of planning functions.

66.—(1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

(2) Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provisions of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings.

(3) The reference in subsection (2) to a local authority includes a reference to a joint planning board and a board reconstituted in pursuance of Schedule 17 to the Local Government Act 1972. 1972 c.70.

Publicity for applications affecting setting of listed buildings.

67.—(1) This section applies where an application for planning permission for any development of land is made to a local planning authority and the development would, in the opinion of the authority, affect the setting of a listed building.

(2) The local planning authority shall—

(a) publish in a local newspaper circulating in the locality in which the land is situated; and

(b) for not less than seven days display on or near the land,

a notice indicating the nature of the development in question and naming a place within the locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice under paragraph (a).

(3) In a case where the land is situated in England, the local planning authority shall send a copy of the notice to the Commission.

(4) Where the Secretary of State, after consulting with the Commission, notifies a local planning authority in writing that subsection (3) shall not affect the authority as regards any notice relating to any kind of application specified in the notification, then that subsection shall not affect the authority as regards any such notice.

(5) The Secretary of State shall send the Commission a copy of any notification made under subsection (4).

(6) The application shall not be determined by the local planning authority before—

(a) the expiry of the period of 21 days referred to in subsection (2); or

(b) if later, the expiry of the period of 21 days beginning with the date on which the notice required by that subsection to be displayed was first displayed.

(7) In determining any application for planning permission to which this section applies, the local planning authority shall take into account any representations relating to the application which are received by them before the periods mentioned in subsection (6) have elapsed.

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(8) Subsection (3) of section 63 of the principal Act (references to applications for planning permission to include applications for permission to retain existing works and uses) does not apply to the construction of this section.

Reference to Commission of planning applications involving listed buildings in Greater London.

68.—(1) Without prejudice to his powers by virtue of section 74(1) of the principal Act, the Secretary of State may by regulations provide for any application for planning permission to which this section applies to be referred to the Commission before it is dealt with by the local planning authority.

(2) This section applies to an application for planning permission for any development in Greater London which would, in the opinion of the local planning authority to which the application is made, involve the demolition, in whole or in part, or a material alteration, of a listed building.

(3) Regulations under this section may—

(a) provide for the Commission to give the referring authority directions as to the manner in which an application is to be dealt with; and

(b) provide that an application which satisfies such conditions as may be specified in the regulations need not be referred to the Commission.

PART II

CONSERVATION AREAS

Designation

Designation of conservation areas.

69.—(1) Every local planning authority—

(a) shall from time to time determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and

(b) shall designate those areas as conservation areas.

(2) It shall be the duty of a local planning authority from time to time to review the past exercise of functions under this section and to determine whether any parts or any further parts of their area should be designated as conservation areas; and, if they so determine, they shall designate those parts accordingly.

(3) The Secretary of State may from time to time determine that any part of a local planning authority's area which is not for the time being designated as a conservation area is an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance; and, if he so determines, he may designate that part as a conservation area.

(4) The designation of any area as a conservation area shall be a local land charge.

Designation of conservation areas: supplementary provisions.

70.—(1) The functions of a local planning authority under section 69 and this section shall also be exercisable in Greater London by the Commission.

(2) Before making a determination under section 69 the Commission shall consult the council of each London borough of which any part is included in the area to which the proposed determination relates.

(3) Before making a determination under section 69(3) the Secretary of State shall consult the local planning authority.

(4) Before designating any area in Greater London as a conservation area the Commission shall obtain the consent of the Secretary of State.

(5) A local planning authority shall give notice of the designation of any part of their area as a conservation area under section 69(1) or (2) and of any variation or cancellation of any such designation—

(a) to the Secretary of State; and

(b) if it affects an area in England and the designation or, as the case may be, the variation or cancellation was not made by the Commission, to the Commission.

(6) The Secretary of State shall give notice of the designation of any part of the area of a local planning authority as a conservation area under section 69(3) and of any variation or cancellation of any such designation—

(a) to the authority; and

(b) if it affects an area in England, to the Commission.

(7) A notice under subsection (5) or (6) shall contain sufficient particulars to identify the area affected.

(8) Notice of any such designation, variation or cancellation as is mentioned in subsection (5) or (6), with particulars of its effect, shall be published in the London Gazette and in at least one newspaper circulating in the area of the local planning authority, by that authority or, as the case may be, the Secretary of State.

General duties of planning authorities

Formulation and publication of proposals for preservation and enhancement of conservation areas.

71.—(1) It shall be the duty of a local planning authority from time to time to formulate and publish proposals for the preservation and enhancement of any parts of their area which are conservation areas.

(2) Proposals under this section shall be submitted for consideration to a public meeting in the area to which they relate.

(3) The local planning authority shall have regard to any views concerning the proposals expressed by persons attending the meeting.

General duty as respects conservation areas in exercise of planning functions.

72.—(1) In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

(2) The provisions referred to in subsection (1) are the planning Acts and Part I of the Historic Buildings and Ancient Monuments Act 1953.

1953 c.49.

PART II

Publicity for applications affecting conservation areas.

73.—(1) Where an application for planning permission for any development of land is made to a local planning authority and the development would, in the opinion of the authority, affect the character or appearance of a conservation area, subsections (2) to (7) of section 67 shall apply as they apply in the circumstances mentioned in subsection (1) of that section.

(2) Subsection (3) of section 63 of the principal Act (references to applications for planning permission to include applications for permission to retain existing works and uses) does not apply to the construction of this section.

Control of demolition

Control of demolition in conservation areas.

74.—(1) A building in a conservation area shall not be demolished without the consent of the appropriate authority (in this Act referred to as "conservation area consent").

(2) The appropriate authority for the purposes of this section is—

(a) in relation to applications for consent made by local planning authorities, the Secretary of State; and

(b) in relation to other applications for consent, the local planning authority or the Secretary of State.

(3) Sections 7 to 26, 28, 32 to 46, 56, 62 to 65, 66(1), 82(2) to (4), 83(1)(b),(3) and (4) and 90(2) to (4) have effect in relation to buildings in conservation areas as they have effect in relation to listed buildings subject to such exceptions and modifications as may be prescribed by regulations.

(4) Any such regulations may make different provision—

(a) in relation to applications made by local planning authorities, and

(b) in relation to other applications.

Cases in which s. 74 does not apply.

75.—(1) Section 74 does not apply to—

(a) listed buildings;

(b) ecclesiastical buildings which are for the time being used for ecclesiastical purposes;

(c) buildings for the time being included in the schedule of monuments compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979; or

1979 c.46.

(d) buildings in relation to which a direction under subsection (2) is for the time being in force.

(2) The Secretary of State may direct that section 74 shall not apply to any description of buildings specified in the direction.

(3) A direction under subsection (2) may be given either to an individual local planning authority exercising functions under that section or to local planning authorities generally.

(4) The Secretary of State may vary or revoke a direction under subsection (2) by a further direction under that subsection.

(5) For the purposes of subsection (1)(b), a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.

(6) For the purposes of sections 7 to 9 as they apply by virtue of section 74(3) a building shall be taken to be used for the time being for ecclesiastical purposes if it would be so used but for the works in question.

(7) The Secretary of State may by order provide for restricting or excluding the operation of subsection (1)(b) in such cases as may be specified in the order.

(8) An order under subsection (7) may—

(a) make provision for buildings generally, for descriptions of building or for particular buildings;

(b) make different provision for buildings in different areas, for buildings of different religious faiths or denominations or according to the use made of the building;

(c) make such provision in relation to a part of a building (including, in particular, an object or structure falling to be treated as part of the building by virtue of section 1(5)) as may be made in relation to a building and make different provision for different parts of the same building;

(d) make different provision with respect to works of different descriptions or according to the extent of the works;

(e) make such consequential adaptations or modifications of the operation of any other provision of this Act or the principal Act, or of any instrument made under either of those Acts, as appear to the Secretary of State to be appropriate.

(9) Regulations under this Act may provide that subsections (5) to (8) shall have effect subject to such exceptions and modifications as may be prescribed, and any such regulations may make different provision—

(a) in relation to applications made by local planning authorities, and

(b) in relation to other applications.

(10) Any proceedings on or arising out of an application for conservation area consent made while section 74 applies to a building shall lapse if it ceases to apply to it, and any such consent granted with respect to the building shall also lapse.

(11) The fact that that section has ceased to apply to a building shall not affect the liability of any person to be prosecuted and punished for an offence under section 9 or 43 committed with respect to the building while that section did apply to it.

Urgent works to preserve unoccupied buildings in conservation areas.

76.—(1) If it appears to the Secretary of State that the preservation of a building in a conservation area is important for maintaining the character or appearance of that area, he may direct that section 54 shall apply to it as it applies to listed buildings.

(2) The Secretary of State shall consult the Commission before giving a direction under subsection (1) in respect of a building in England.

PART II *Grants*

Grants and loans for preservation or enhancement of conservation areas.

77.—(1) If in the opinion of the Commission any relevant expenditure has made or will make a significant contribution towards the preservation or enhancement of the character or appearance of any conservation area situated in England or any part of such an area, they may make grants or loans for the purposes of defraying the whole or part of that expenditure.

(2) If in the opinion of the Secretary of State any relevant expenditure has made or will make a significant contribution towards the preservation or enhancement of the character or appearance of any conservation area situated in Wales or any part of such an area, he may make grants or loans for the purposes of defraying the whole or part of that expenditure.

(3) Expenditure is relevant for the purposes of subsection (1) or (2) if it has been or is to be incurred in or in connection with, or with a view to the promotion of, such preservation or enhancement as is mentioned in that subsection.

(4) A grant or loan under this section may be made subject to such conditions as the Commission or, as the case may be, the Secretary of State may think fit to impose.

(5) Any loan under subsection (1) shall be made on such terms as to repayment, payment of interest and otherwise as the Commission may determine.

(6) Any loan under subsection (2) shall be made on such terms as to repayment, payment of interest and otherwise as the Secretary of State may with the approval of the Treasury determine.

(7) Unless the making of a grant or loan under this section appears to the Secretary of State to be a matter of immediate urgency, before making the grant or loan, the Secretary of State shall consult the Historic Buildings Council for Wales as to its making and the conditions subject to which it should be made.

(8) The Secretary of State may pay such remuneration and allowances as he may with the approval of the Treasury determine to any member of the Historic Buildings Council for Wales by whom services are rendered in connection with any question as to the exercise of his powers under this section.

(9) If any such member is also a member of the House of Commons, those payments shall extend only to allowances in respect of travelling and subsistence expenses, and any other expenses necessarily incurred by him in connection with those services.

Recovery of grants under s. 77.

78.—(1) This section applies to any grant under section 77 made on terms that it shall be recoverable under this section.

(2) A grant shall only be regarded as made on those terms if before or on making the grant the grantor gives the grantee notice in writing—

(a) summarising the effect of this section; and

(b) if the grant is made for the purpose of defraying the whole or part of expenditure in relation to any particular property ("the grant property"), specifying the recovery period.

(3) In this section "the recovery period" means the period, beginning with the day on which the grant is made and ending not more than ten years after that day, during which the grant is to be recoverable in accordance with subsection (4).

(4) If during the recovery period the grantee disposes of the interest which was held by him in the grant property on the day on which the grant was made or any part of that interest by way of sale or exchange or lease for a term of not less than 21 years, the grantor may recover the amount of the grant, or such part of it as the grantor thinks fit, from the grantee.

(5) If the grantee gives the whole of that interest to any person (whether directly or indirectly, but otherwise than by will) subsection (4) shall have effect as if the donee were the grantee.

(6) If the grantee gives part of that interest to any person (whether directly or indirectly, but otherwise than by will) subsection (4) shall have effect as if any disposal or part disposal of that interest by the donee were a disposal by the grantee.

(7) If any condition imposed on the making of a grant to which this section applies is contravened or not complied with, the grantor may recover the amount of the grant, or such part of it as he thinks fit, from the grantee.

(8) Nothing in this section entitles a grantor to recover amounts in the aggregate exceeding the amount of the grant (for example by virtue of a breach of more than one condition or disposals of several parts of an interest in the grant property).

Town schemes

Town scheme agreements.

79.—(1) The Commission and one or more local authorities in England, or the Secretary of State and one or more local authorities in Wales, may enter an agreement (in this Act referred to as a "town scheme agreement") that a specified sum of money shall be set aside for a specified period of years for the purpose of making grants for the repair of buildings which are—

(a) included in a list compiled for the purposes of such an agreement by the parties to the agreement, or by them and other such authorities, or

(b) shown on a map prepared for those purposes by the parties, or by them and such other authorities.

(2) Before such a list is compiled or such a map is prepared by the Secretary of State and any local authorities as respects any buildings in Wales they shall consult the Historic Buildings Council for Wales.

(3) In this section "local authority" means—

(a) a county council;

(b) a district council;

(c) in relation to any building situated within the Broads, the Broads Authority;

(d) a London borough council or the Common Council of the City of London;

(e) the Council of the Isles of Scilly.

PART II

Grants for repairing of buildings in town schemes.

80.—(1) The Commission may make grants for the purpose of defraying the whole or part of any expenditure incurred or to be incurred in the repair of any building which—

(a) is the subject of a town scheme agreement;

(b) is situated in a conservation area in England; and

(c) appears to the Commission to be of architectural or historic interest.

(2) The Secretary of State may make grants for the purpose of defraying the whole or part of any expenditure incurred or to be incurred in the repair of any building which—

(a) is the subject of a town scheme agreement;

(b) is situated in a conservation area in Wales; and

(c) appears to him to be of architectural or historic interest.

(3) A grant under this section may be made subject to conditions imposed by the Commission or, as the case may be, the Secretary of State for such purposes as the Commission or, as the case may be, the Secretary of State thinks fit.

(4) Unless the making of a grant under this section appears to the Secretary of State to be a matter of immediate urgency, before he makes such a grant he may consult with the Historic Buildings Council for Wales as to the making of the grant and as to the conditions subject to which it should be made.

(5) The Commission or the Secretary of State may—

(a) pay any grant under this section to any authority which is a party to a town scheme agreement; and

(b) make arrangements with any such authority for the way in which the agreement is to be carried out.

(6) Those arrangements may include such arrangements for the offer and payment of grants under this section as the parties may agree.

(7) Section 78(4) to (8) shall apply to a grant under this section as it applies to a grant under that section, but taking the recovery period to be three years beginning with the day on which the grant is made.

PART III

GENERAL

Authorities exercising functions under Act

Authorities exercising functions under Act.

81. In this Act "local planning authority" shall be construed in accordance with Part I of the principal Act and Schedule 4 to this Act (which makes further provision as to the exercise of functions under this Act).

Special cases

Application of Act to land and works of local planning authorities.

82.—(1) In relation to land of a local planning authority, section 1(1), (2) and (4) and sections 2, 39(6), 42(6) and 55(6) shall have effect subject to such exceptions and modifications as may be prescribed.

PART III

(2) The provisions mentioned in subsection (3) shall have effect for the purpose of applications by local planning authorities relating to the execution of works for the demolition, alteration or extension of listed buildings, subject to such exceptions and modifications as may be prescribed.

(3) Those provisions are sections 1(3), (5) and (6), 3 to 5, 7 to 29, 32 to 50 (except sections 39(6) and 42(6)), 60(1) to (4) (as it applies as respects the provisions mentioned in this subsection), 62 to 65, 67(2)(b), (6) and (7), 73(1), Schedules 1 and 2, paragraph 2 of Schedule 4 (as it applies to Schedule 1) and paragraph 4(1) of Schedule 4 (as it applies as respects the provisions mentioned in this subsection).

(4) Regulations under this section may in particular provide—

(a) for the making of applications for listed building consent to the Secretary of State; and

(b) for the issue or service by him of notices under section 2(3) and the provisions mentioned in subsection (3).

Exercise of powers in relation to Crown land.

83.—(1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section—

(a) a building which for the time being is Crown land may be included in a list compiled or approved by the Secretary of State under section 1;

(b) any restrictions imposed or powers conferred by sections 1 to 26, 32 to 46, 54 to 56, 59 to 61, 66(1), 67, 68, 73 or 76 or Schedule 1, 2 or 3 shall apply and be exercisable in relation to Crown land to the extent of any interest in it for the time being held otherwise than by or on behalf of the Crown;

(c) any power to acquire land compulsorily under section 47 may be exercised in relation to any interest in the land which is for the time being held otherwise than by or on behalf of the Crown.

(2) Except with the consent of the appropriate authority—

(a) no notice shall be issued or served under section 38 in relation to land which for the time being is Crown land;

(b) no interest in land which for the time being is Crown land shall be acquired compulsorily under section 47.

(3) No listed building enforcement notice shall be issued in respect of works executed by or on behalf of the Crown in respect of a building which was Crown land at the time when the works were executed.

(4) No listed building purchase notice shall be served in relation to any interest in Crown land unless—

(a) an offer has been previously made by the owner of that interest to dispose of it to the appropriate authority on terms that the price payable for it—

(i) shall be equal to the compensation which would be payable in respect of it if it were acquired in pursuance of such a notice, or

(ii) in default of agreement, shall be determined in a similar manner to that in which that compensation would be determined; and

(b) that offer has been refused by the appropriate authority.

PART III

(5) In this section—

"Crown land" means land in which there is a Crown interest or a Duchy interest;

"Crown interest" means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;

" Duchy interest" means an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall.

(6) A person who is entitled to occupy Crown land by virtue of a licence in writing shall be treated as having an interest in land for the purposes of subsection (1)(b) so far as applicable to sections 1 to 26, 38 to 46, 54 to 56, 59 to 61, 66(1), 67, 68, 73 and 76 and Schedule 1, 2 or 3.

(7) For the purposes of this section "the appropriate authority", in relation to any land—

(a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners;

(b) in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;

(c) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;

(d) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall appoints;

(e) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.

(8) If any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

Application for listed building or conservation area consent in anticipation of disposal of Crown land.

84.—(1) This section has effect for the purpose of enabling Crown land, or an interest in Crown land, to be disposed of with the benefit of listed building consent or conservation area consent.

(2) Notwithstanding the interest of the Crown in the land in question, an application for any such consent may be made—

(a) by the appropriate authority; or

(b) by any person authorised by that authority in writing;

and, subject to subsections (3) and (4), all the statutory provisions relating to the making and determination of any such application shall accordingly apply as if the land were not Crown land.

(3) Any listed building consent or conservation area consent granted by virtue of this section shall apply only—

(a) to works carried out after the land in question has ceased to be Crown land; and

(b) so long as that land continues to be Crown land, to works carried out by virtue of a private interest in the land.

(4) The Secretary of State may by regulations—

(a) modify or exclude any of the statutory provisions referred to in subsection (2) in their application by virtue of that subsection and any other statutory provisions in their application to consents granted or made by virtue of this section;

(b) make provision for requiring a local planning authority to be notified of any disposal of, or of an interest in, any Crown land in respect of which an application has been made by virtue of this section; and

(c) make such other provision in relation to the making and determination of applications by virtue of this section as he thinks necessary or expedient.

(5) This section shall not be construed as affecting any right to apply for any listed building consent or conservation area consent in respect of Crown land in a case in which such an application can be made by virtue of a private interest in the land.

(6) In this section—

"statutory provisions" means provisions contained in or having effect under any enactment;

"private interest" means an interest which is neither a Crown interest nor a Duchy interest;

and references to the disposal of an interest in Crown land include references to the grant of an interest in such land.

(7) Subsections (5), (7) and (8) of section 83 apply for the purposes of this section as they apply for the purposes of that section.

(8) A person who is entitled to occupy Crown land by virtue of a licence in writing shall be treated for the purposes of this section as having an interest in land and references to the disposal or grant of an interest in Crown land and to a private interest in such land shall be construed accordingly.

British Coal.

85.—(1) The Secretary of State for the Environment and the Secretary of State for Energy with the consent of the Treasury may by regulations direct that any of the provisions of sections 1(1) to (5), 2(1) to (3), 51, 52, 83, 88 (except subsection (3)) and 90(1) to (6) relating to statutory undertakers and land of such undertakers and any of the other provisions of this Act as they have effect for the purposes of any of those provisions shall apply to the British Coal Corporation as if it were a statutory undertaker.

(2) Such regulations may apply those provisions subject to such adaptations, modifications and exceptions as may be specified in the regulations.

PART III

Ecclesiastical property. 1981 c.67.

86.—(1) Without prejudice to the provisions of the Acquisition of Land Act 1981 with respect to notices served under that Act, where under any of the provisions of this Act a notice or copy of a notice is required to be served on an owner of land, and the land is ecclesiastical property, a similar notice or copy of a notice shall be served on the Church Commissioners.

(2) Where the fee simple of any ecclesiastical property is in abeyance—

(a) if the property is situated in England, then for the purposes of section 11, this subsection (other than paragraph (b)) and sections 62, 63 and 83(1) and any other provisions of this Act so far as they apply or have effect for the purposes of any of those provisions, the fee simple shall be treated as being vested in the Church Commissioners;

(b) in any case, the fee simple shall, for the purposes of a compulsory acquisition of the property under section 47, be treated as being vested in the Church Commissioners, and any notice to treat shall be served, or be deemed to have been served, accordingly.

(3) Any compensation payable under section 29 in respect of land which is ecclesiastical property—

(a) shall be paid to the Church Commissioners, and

(b) shall be applied by them for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising or disposing of the proceeds of such a sale.

(4) In this section "ecclesiastical property" means land belonging to an ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

Settled land. 1925 c.15.

87. The classes of works specified in Part II of Schedule 3 to the Settled Land Act 1925 (which specifies improvements which may be paid for out of capital money, subject to provisions under which repayment out of income may be required to be made) shall include works specified by the Secretary of State as being required for properly maintaining a listed building which is settled land within the meaning of that Act.

Miscellaneous provisions

Rights of entry.

88.—(1) Any person duly authorised in writing by the Secretary of State may at any reasonable time enter any land for the purpose of surveying any building on it in connection with a proposal to include the building in, or exclude it from, a list compiled or approved under section 1.

(2) Any person duly authorised in writing by the Secretary of State, a local planning authority or, where the authorisation relates to a building situated in Greater London, the Commission may at any reasonable time enter any land for any of the following purposes—

(a) surveying it in connection with any proposal by the authority or the Secretary of State to make, issue or serve any order or notice under any of the provisions of sections 1 to 26, 38, 40, 46, 54, 55, 60, 68, 75 or 76 or under any order or regulations made under any of them, or any notice under section 48;

(b) ascertaining whether any such order or notice has been complied with;

(c) ascertaining whether an offence has been, or is being, committed with respect to any building on the land, under section 9, 11 or 43;

(d) ascertaining whether any such building is being maintained in a proper state of repair.

(3) Any person duly authorised in writing by the Secretary of State, a local authority or, where the authorisation relates to a building situated in Greater London, the Commission may at any reasonable time enter any land for any of the following purposes—

(a) ascertaining whether an offence has been or is being committed under section 59;

(b) ascertaining whether any of the functions conferred by section 54 should or may be exercised in connection with the land; or

(c) exercising any of those functions in connection with the land.

(4) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local planning authority may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation payable by the authority under section 27, 28 or 29 in respect of any land.

(5) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local authority having power to acquire land under sections 47 to 52 may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land or in connection with any claim for compensation in respect of any such acquisition.

(6) Subject to subsection (7), any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals in it.

(7) Section 325 of the principal Act (supplementary provisions as to rights of entry) applies in relation to this section as it applies in relation to section 324 of that Act taking the reference in section 325(8) to section 324(8) as a reference to subsection (6) of this section.

Application of certain general provisions of principal Act.

89.—(1) Subject to subsection (2), the following provisions of the principal Act shall apply for the purposes of this Act as they apply for the purposes of that Act, namely—

section 320 (local inquiries),

section 322 (orders as to costs of parties where no inquiry held),

section 323 (procedure on certain appeals and applications),

section 329 (service of notices),

section 330 (power to require information as to interests in land),

section 331 (offences by corporations).

(2) Section 331 of that Act shall not apply to offences under section 59 of this Act.

PART III
Financial provisions.

90.—(1) Where—

(a) compensation is payable by a local authority under this Act in consequence of any decision or order given or made under Chapters I, II or IV of Part I or sections 32 to 37, 60 or Schedule 3; and

(b) the decision or order in consequence of which it is payable was given or made wholly or partly in the interest of a service which is provided by a government department and the cost of which is defrayed out of money provided by Parliament,

the Minister responsible for the administration of that service may pay that authority a contribution of such amount as he may with the consent of the Treasury determine.

(2) Any local authority and any statutory undertakers may contribute towards any expenses incurred by a local planning authority in or in connection with the performance of any of their functions under the provisions of Chapters I to V of Part I (other than sections 27 to 31, 53, 54, 55, 57, 58) and sections 66 and 68 and Schedule 1.

(3) Where any expenses are incurred by a local authority in the payment of compensation payable in consequence of anything done under Chapters I, II or IV of Part I or sections 32 to 37, 56, 59, 60, 66(1), 67, 68 or 73, the Secretary of State may, if it appears to him to be expedient to do so, require any other local authority to contribute towards those expenses such sum as appears to him to be reasonable, having regard to any benefit accruing to that authority by reason of the proceeding giving rise to the compensation.

(4) For the purposes of subsections (2) and (3), contributions made by a local planning authority towards the expenditure of a joint advisory committee shall be deemed to be expenses incurred by that authority for the purposes for which that expenditure is incurred by the committee.

(5) The council of a county may direct that any expenses incurred by them under the provisions specified in subsection (6) shall be treated as special expenses of a county council chargeable upon such part of the county as may be specified in the directions.

(6) Those provisions are—

(a) sections 1(1) to (5), 2(1) to (3), 51, 52, 64, 65, 66(2), 82(1) and (4)(b), 83, 86 (except subsection (2)(a)), 87, 88 (except subsection (3)) and subsections (1) to (4) of this section and any other provisions of the planning Acts in so far as they apply, or have effect for the purposes of, any of those provisions; and

(b) sections 1(6), 3, 4, 5, 7 to 29, 32 to 50 (except 39(6) and 42(6)), 60(1) to (4), 61, 66(1), 67(2)(b),(6) and (7), 73(1) (so far as it applies to section 67(2)(b), (6) and (7)), 82(2), (3) and (4)(a) and Schedules 1, 2 and 3.

(7) There shall be paid out of money provided by Parliament—

(a) any sums necessary to enable the Secretary of State to make any payments becoming payable by him under sections 27 to 29;

(b) any expenses incurred by any government department (including the Secretary of State) in the acquisition of land under sections 47 to 52 or in the payment of compensation under section 51(4) or 88(7) or under subsection (1);

(c) any administrative expenses incurred by the Secretary of State for the purposes of this Act. PART III

(8) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

PART IV

SUPPLEMENTAL

Interpretation.

91.—(1) In this Act, except in so far as the context otherwise requires—

"building preservation notice" has the meaning given in section 3(1);

"the Commission" means the Historic Buildings and Monuments Commission for England;

"conservation area" means an area for the time being designated under section 69;

"conservation area consent" has the meaning given in section 74(1);

"listed building" has the meaning given in section 1(5);

"listed building consent" has the meaning given in section 8(7);

"listed building enforcement notice" has the meaning given in section 38(1);

"listed building purchase notice" has the meaning given in section 32(1);

"local planning authority" shall be construed in accordance with section 81;

"prescribed", except in relation to matters expressly required or authorised by this Act to be prescribed in some other way, means prescribed by regulations under this Act;

"the principal Act" means the Town and Country Planning Act 1990; 1990 c. 8.

"town scheme agreement" has the meaning given in section 79.

(2) Subject to subsections (6) and (7) and except in so far as the context otherwise requires, the following expressions have the same meaning as in the principal Act—

"the 1962 Act"

"acquiring authority"

"the Broads"

"building"

"compulsory acquisition"

"development"

"development order"

"development plan"

"disposal"

"enactment"

"functions"

"government department"

"joint planning board"

PART IV

"land"

"lease"

"local authority"

"London borough"

"minerals"

"Minister"

"new development"

"owner"

"the planning Acts"

"planning permission"

"public gas supplier"

"use"

"Valuation Office",

but this subsection does not affect the meaning of "owner" in section 11.

(3) In this Act "statutory undertakers" has the same meaning as in the principal Act except that—

(a) in sections 33 to 36 it shall be deemed to include references to a public telecommunications operator;

(b) in sections 33 to 36, 51(2)(a) and 90(2) it shall be deemed to include the Post Office, the Civil Aviation Authority, a public gas supplier, a holder of a licence under section 6 of the Electricity Act 1989, the National Rivers Authority and every water or sewerage undertaker.

1989 c. 29.

(4) References in the planning Acts to any of the provisions mentioned in section 82 include, except where the context otherwise requires, references to those provisions as modified under that section.

(5) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of any enactment, is to be deemed to be served.

(6) In sections 33 to 36, 53(1) 54, 55 and 88(3) "local authority", in relation to a building or land in the Broads, includes the Broads Authority.

(7) For the purposes of subsection (1)(b) of section 57 and subsection (2) of that section as it applies for the purposes of that subsection the definition of "building" in the principal Act shall apply with the omission of the words "but does not include any plant or machinery comprised in a building".

Application of Act to Isles of Scilly.

92.—(1) The Secretary of State shall, after consultation with the Council of the Isles of Scilly, by order provide for the application to those Isles of the provisions of this Act specified in subsection (2) as if those Isles were a separate county.

PART IV

(2) The provisions referred to in subsection (1) are—

(a) sections 1(1) to (5), 2(1) to (3), 51, 52, 64, 65, 66(2), 82(1) and (4)(b), 83, 84, 86 (except subsection (2)(a)), 87, 88 (except subsection (3)), 90(1) to (4) and any other provisions of the planning Acts in so far as they apply, or have effect for the purposes of, any of those provisions; and

(b) sections 1(6), 3, 4, 5, 7 to 29, 32 to 50 (except 39(6) and 42(6)), 60(1) to (4), 61, 66(1), 67(2)(b),(6) and (7), 73(1) (so far as it applies to section 67(2)(b), (6) and (7)), 75(1), (5) and (6), 82(2), (3) and (4)(a) and Schedules 1, 2 and 3.

(3) The Secretary of State, may, after consultation with the Council of the Isles of Scilly, by order provide for the application to those Isles of sections 2(4) and (5), 53 to 55, 59, 67(1) to (6), 69 to 72, 73(1), 74 to 76 and 88(3) and paragraph 4 of Schedule 4 as if those Isles were a separate county or district.

(4) Any order under this section may provide for the application of provisions to the Isles subject to such modifications as may be specified in the order.

Regulations and orders.

93.—(1) The Secretary of State may make regulations under this Act—

(a) for prescribing the form of any notice, order or other document authorised or required by any of the provisions of this Act to be served, made or issued by any local authority;

(b) for any purpose for which regulations are authorised or required to be made under this Act.

(2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.

(3) Any statutory instrument containing regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) The power to make orders under sections 8(5), 60, 75(7) and 92 shall be exercisable by statutory instrument.

(5) Any statutory instrument which contains an order under section 60 or 75(7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Any order under section 60 or 75(7) may contain such supplementary and incidental provisions as may appear to the Secretary of State appropriate.

1978 c. 30.

(7) Without prejudice to section 14 of the Interpretation Act 1978, any power conferred by this Act to make an order shall include power to vary or revoke any such order by a subsequent order.

Short title, commencement and extent.

94.—(1) This Act may be cited as the Planning (Listed Buildings and Conservation Areas) Act 1990.

1990 c. 11.

(2) Except as provided in Schedule 4 to the Planning (Consequential Provisions) Act 1990, this Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

(3) This Act extends to England and Wales only.

SCHEDULES

Section 1(6).

SCHEDULE 1

BUILDINGS FORMERLY SUBJECT TO BUILDING PRESERVATION ORDERS

1. Subject to paragraph 2, every building which immediately before lst January 1969 was subject to a building preservation order under Part III of the 1962 Act, but was not then included in a list compiled or approved under section 32 of that Act, shall be deemed to be a listed building.

2.—(1) The Secretary of State may at any time direct, in the case of any building, that paragraph 1 shall no longer apply to it.

(2) The local planning authority in whose area a building in respect of which such a direction is given is situated shall, on being notified of the direction, give notice of it to the owner and occupier of the building.

(3) Before giving such a direction in relation to a building situated in England, the Secretary of State shall consult with the Commission who shall in turn consult with the local planning authority and the owner and occupier of the building.

(4) Before giving such a direction in relation to a building not situated in England, the Secretary of State shall consult with the local planning authority and the owner and occupier of the building.

3. In the case of a building to which paragraph 1 applies—

(a) a notice of appeal under section 20 may include a claim that the Secretary of State should give a direction under paragraph 2 with respect to the building and on such an appeal the Secretary of State may give such a direction; and

(b) such a direction may also be given on an appeal under section 39.

Section 5.

SCHEDULE 2

LAPSE OF BUILDING PRESERVATION NOTICES

1. This Schedule applies where a building preservation notice ceases to be in force by virtue of—

(a) the expiry of the six month period mentioned in subsection (3)(b) of section 3; or

(b) the service of a notification by the Secretary of State under subsection (4)(b) of that section.

2. The fact that the notice has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 9 or 43 committed with respect to the building while it was in force.

3. Any proceedings on or arising out of an application for listed building consent with respect to the building made while the notice was in force and any such consent granted while it was in force shall lapse.

4.—(1) Any listed building enforcement notice served by the local planning authority while the building preservation notice was in force shall cease to have effect.

(2) Any proceedings on it under sections 38 to 40 shall lapse.

(3) Notwithstanding sub-paragraph (1), section 42(1) and (2) shall continue to have effect as respects any expenses incurred by the local authority, owner or occupier as mentioned in that section and with respect to any sums paid on account of such expenses. SCH. 2

SCHEDULE 3

Sections 22 and 40.

DETERMINATION OF CERTAIN APPEALS BY PERSON APPOINTED BY SECRETARY OF STATE

Determination of appeals by appointed person

1.—(1) The Secretary of State may by regulations prescribe the classes of appeals under sections 20 and 39 which are to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.

(2) Appeals of a prescribed class shall be so determined except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State.

(3) Regulations made for the purpose of this paragraph may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.

(4) This paragraph shall not affect any provision in this Act or any instrument made under it that an appeal shall lie to, or a notice of appeal shall be served on, the Secretary of State.

(5) A person appointed under this paragraph is referred to in this Schedule as "an appointed person".

Powers and duties of appointed person

2.—(1) An appointed person shall have the same powers and duties—

(a) in relation to an appeal under section 20, as the Secretary of State has under subsection (1) of section 22 and paragraph 2 of Schedule 1; and

(b) in relation to an appeal under section 39, as he has under section 41(1), (2), (5) or (6) and paragraph 2 of Schedule 1.

(2) Sections 22(2) and 40(2) shall not apply to an appeal which falls to be determined by an appointed person, but before it is determined the Secretary of State shall ask the appellant and the local planning authority whether they wish to appear before and be heard by the appointed person.

(3) If both the parties express a wish not to appear and be heard the appeal may be determined without their being heard.

(4) If either of the parties expresses a wish to appear and be heard, the appointed person shall give them both an opportunity of doing so.

(5) Where an appeal has been determined by an appointed person, his decision shall be treated as that of the Secretary of State.

(6) Except as provided by sections 62 to 65, the validity of that decision shall not be questioned in any proceedings whatsoever.

(7) It shall not be a ground of application to the High Court under section 63, or of appeal to the High Court under section 65, that an appeal ought to have been determined by the Secretary of State and not by an appointed person, unless the appellant or the local planning authority challenge the appointed person's power to determine the appeal before his decision on the appeal is given.

(8) Where in any enactment (including this Act) there is a reference to the Secretary of State in a context relating or capable of relating—

(a) to an appeal under section 20 or 39, or

SCH. 3

(b) to anything done or authorised or required to be done by, to or before the Secretary of State on or in connection with any such appeal,

then so far as the context permits it shall be construed, in relation to an appeal determined or falling to be determined by an appointed person, as a reference to him.

Determination of appeals by Secretary of State

3.—(1) The Secretary of State may, if he thinks fit, direct that an appeal which would otherwise fall to be determined by an appointed person shall instead be determined by the Secretary of State.

(2) Such a direction shall state the reasons for which it is given and shall be served on the appellant, the local planning authority, any person who made representations relating to the subject matter of the appeal which the authority were required to take into account by regulations made under section 11(4) and, if any person has been appointed under paragraph 1, on him.

(3) Where in consequence of such a direction an appeal under section 20 or 39 falls to be determined by the Secretary of State himself, the provisions of this Act which are relevant to the appeal shall, subject to the following provisions of this paragraph, apply to the appeal as if this Schedule had never applied to it.

(4) The Secretary of State shall give the appellant, the local planning authority and any person who has made such representations as are referred to in sub-paragraph (2) an opportunity of appearing before and being heard by a person appointed by the Secretary of State for that purpose if—

(a) the reasons for the direction raise matters with respect to which any of those persons have not made representations; or

(b) in the case of the appellant and the local planning authority, either of them was not asked in pursuance of paragraph 2(2) whether they wished to appear before and be heard by the appointed person, or expressed no wish in answer to that question, or expressed a wish to appear and be heard but was not given an opportunity of doing so.

(5) Except as provided by sub-paragraph (4), the Secretary of State need not give any person an opportunity of appearing before and being heard by a person appointed for the purpose, or of making fresh representations or making or withdrawing any representations already made.

(6) In determining the appeal the Secretary of State may take into account any report made to him by any person previously appointed to determine it.

4.—(1) The Secretary of State may by a further direction revoke a direction under paragraph 3 at any time before the determination of the appeal.

(2) Such a further direction shall state the reasons for which it is given and shall be served on the person, if any, previously appointed to determine the appeal, the appellant, the local planning authority and any person who made representations relating to the subject matter of the appeal which the authority were required to take into account by regulations made under section 11(4).

(3) Where such a further direction has been given the provisions of this Schedule relevant to the appeal shall apply, subject to sub-paragraph (4), as if no direction under paragraph 3 had been given.

(4) Anything done by or on behalf of the Secretary of State in connection with the appeal which might have been done by the appointed person (including any arrangements made for the holding of a hearing or local inquiry) shall unless that person directs otherwise, be treated as having been done by him.

Appointment of another person to determine appeal

5.—(1) At any time before the appointed person has determined the appeal the Secretary of State may—

(a) revoke his appointment; and

(b) appoint another person under paragraph 1 to determine the appeal instead.

(2) Where such a new appointment is made the consideration of the appeal or any inquiry or other hearing in connection with it shall be begun afresh.

(3) Nothing in sub-paragraph (2) shall require—

(a) the question referred to in paragraph 2(2) to be asked again with reference to the new appointed person if before his appointment it was asked with reference to the previous appointed person (any answers being treated as given with reference to the new appointed person); or

(b) any person to be given an opportunity of making fresh representations or modifying or withdrawing any representations already made.

Local inquiries and hearings

6.—(1) Whether or not the parties to an appeal have asked for an opportunity to appear and be heard, an appointed person—

(a) may hold a local inquiry in connection with the appeal; and

(b) shall do so if the Secretary of State so directs.

(2) Where an appointed person—

(a) holds a hearing by virtue of paragraph 2(4); or

(b) holds an inquiry by virtue of this paragraph,

an assessor may be appointed by the Secretary of State to sit with the appointed person at the hearing or inquiry to advise him on any matters arising, notwithstanding that the appointed person is to determine the appeal.

(3) Subject to sub-paragraph (4), the costs of any such hearing or inquiry shall be paid by the Secretary of State.

(4) Section 250(2) to (5) of the Local Government Act 1972 (local inquiries: evidence and costs) applies to an inquiry held by virtue of this paragraph with the following adaptations— 1972 c.70.

(a) for the references in subsection (4) (recovery of costs of holding the inquiry) to the Minister causing the inquiry to be held, there shall be substituted references to the Secretary of State; and

(b) for the reference in subsection (5) (orders as to the costs of the parties) to the Minister causing the inquiry to be held, there shall be substituted a reference to the appointed person or the Secretary of State.

(5) Subject to sub-paragraph (6), at any such inquiry oral evidence shall be heard in public and documentary evidence shall be open to public inspection.

(6) If the Secretary of State is satisfied in the case of any such inquiry—

(a) that giving evidence of a particular description or, as the case may be, making it available for inspection would be likely to result in the disclosure of information as to any of the matters mentioned in sub-paragraph (7); and

(b) that the public disclosure of that information would be contrary to the national interest,

he may direct that evidence of the description indicated in the direction shall only be heard or, as the case may be, open to inspection at that inquiry by such persons or persons of such descriptions as he may specify in that direction.

SCH. 3

(7) The matters referred to in sub-paragraph (6)(a) are—

(a) national security; and

(b) the measures taken or to be taken to ensure the security of any premises or property.

(8) The appointed person or the Secretary of State has the same power to
1972 c. 70. make orders under section 250(5) of the Local Government Act 1972 (orders with respect to costs of the parties) in relation to proceedings under this Schedule which do not give rise to an inquiry as he has in relation to such an inquiry.

Supplementary provisions

1971 c.62. 7.—(1) The Tribunals and Inquiries Act 1971 shall apply to a local inquiry or other hearing held in pursuance of this Schedule as it applies to a statutory inquiry held by the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by an appointed person.

(2) Where an appointed person is an officer of the Department of the Environment or the Welsh Office the functions of determining an appeal and doing anything in connection with it conferred on him by this Schedule shall be
1967 c.13. treated for the purposes of the Parliamentary Commissioner Act 1967—

(a) if he was appointed by the Secretary of State for the time being having general responsibility in planning matters in relation to England, as functions of that Department; and

(b) if he was appointed by the Secretary of State for the time being having general responsibility in planning matters in relation to Wales, as functions of the Welsh Office.

Section 81.

SCHEDULE 4

FURTHER PROVISIONS AS TO EXERCISE OF FUNCTIONS BY DIFFERENT AUTHORITIES

1. Subsection (3) of section 1 of the principal Act (which provides that outside London, the metropolitan counties and the Isles of Scilly planning functions are exercisable by both county and district planning authorities) shall have effect subject to paragraphs 2, 4 and 5, and that section and section 2 of the principal Act (joint planning boards) shall have effect subject to paragraph 3.

2. Subject to sections 4, 6, 7 and 8 of the principal Act (which make provision as to the exercise of planning functions in National Parks, enterprise zones, urban development areas and housing action areas) and to the following provisions, outside Greater London the functions of a local planning authority under sections 7 to 26, 38, 42, paragraph 2(2) of Schedule 1 and Schedule 2 shall be exercised by the district planning authority.

3.—(1) Any application for listed building consent under section 10 shall, if relating to land in a National Park, be made to the district planning authority who shall, unless it falls to be determined by them, send it on to the county planning authority.

(2) Where any such application relating to land in a National Park falls to be determined by a county planning authority, that authority shall before determining it consult with the district planning authority for the area in which the land to which the application relates is situated.

4.—(1) Subject to sections 4(3) and (4), 6, 7 and 8 of the principal Act, the functions of a local planning authority under sections 67(2) and (3), 69, 70 and 74 and paragraph 2(3) and (4) of Schedule 1 shall be exercisable—

(a) in Greater London or a metropolitan county, by the local planning authority;

(b) in any part of a National Park outside a metropolitan county, by the county planning authority; and

(c) elsewhere, by the district planning authority;

but outside a National Park a county planning authority shall also have power to make determinations and designations under section 69.

(2) Before making a determination under section 69 a county planning authority shall consult the council of each district of which any part is included in the area to which the proposed determination relates.

(3) Where it is the duty of the district planning authority to take the steps required by section 67(2) in relation to an application which falls to be determined by the county planning authority, the district planning authority shall as soon as possible after taking those steps notify the county planning authority of the steps which they have taken and the date on which they took them.

5. For the purposes of sections 3 and 4, 7 to 26, 38, 42, 56, 66(1), 67, 69 to 75, 82, 84 and 88(2)(c) and (d) and the provisions of this Schedule so far as they relate to those provisions, the Broads Authority shall be the sole district planning authority in respect of the Broads, and in relation to a building or land within the Broads—

(a) the references to the district planning authority in section 2(1)(b)(iii) and in paragraph 4(1)(c) of this Schedule, so far as that paragraph relates to paragraph 2(3) and (4) of Schedule 1, include that Authority; and

(b) for the purposes of sections 6 and 88(2)(a) and (b) "local planning authority" includes that Authority.

6. The validity of any consent or determination granted or made or purported to be granted or made by a local planning authority in respect of an application for listed building consent or conservation area consent shall not be called in question in any legal proceedings, or in any proceedings under this Act which are not legal proceedings, on the ground that the consent or determination should have been granted or made by some other local planning authority.

7.—(1) The Secretary of State may from time to time direct a district planning authority to submit to him for his approval within a period specified in the direction the arrangements which the authority propose to make to obtain specialist advice in connection with their functions under sections 3, 4, 8, 10 to 26, 38, 42, 66(1), 69 to 72, 74 and 75.

(2) If the Secretary of State is not satisfied about any such arrangements he may direct the district planning authority and another local planning authority specified in the direction—

(a) to enter into an agreement under section 113 of the Local Government Act 1972 for the placing at the disposal of the district planning authority, for the purpose of giving them any such specialist advice, of the services of officers employed by that other authority who are qualified to give such advice; or 1972 c. 70.

(b) to enter into arrangements, containing terms specified in the direction or terms on lines laid down by him, for the discharge by that other authority of any of those functions.

(3) Before giving a direction under sub-paragraph (2) the Secretary of State shall consult with the district planning authority and the other authority concerned.

TABLE OF DERIVATIONS

Notes:

1. The following abbreviations are used in this Table:—

1953 c. 49 =	The Historic Buildings and Ancient Monuments Act 1953
1962 c. 36 =	The Local Authorities (Historic Buildings) Act 1962
1969 c. 22 =	The Redundant Churches and Other Religious Buildings Act 1969
1969 c. 48 =	The Post Office Act 1969
1971 c. 78 =	The Town and Country Planning Act 1971
1972 c. 42 =	The Town and Country Planning (Amendment) Act 1972
1972 c. 70 =	The Local Government Act 1972
1974 c. 7 =	The Local Government Act 1974
1974 c. 32 =	The Town and Country Amenities Act 1974
1975 c. 10 =	The Statute Law (Repeals) Act 1975
1975 c. 76 =	The Local Land Charges Act 1975
1977 c. 38 =	The Administration of Justice Act 1977
1978 c. 30 =	The Interpretation Act 1978
1979 c. 46 =	The Ancient Monuments and Archaeological Areas Act 1979
1980 c. 43 =	The Magistrates' Courts Act 1980
1980 c. 65 =	The Local Government, Planning and Land Act 1980
1981 c. 41 =	The Local Government and Planning (Amendment) Act 1981
1981 c. 54 =	The Supreme Court Act 1981
1981 c. 67 =	The Acquisition of Land Act 1981
1982 c. 16 =	The Civil Aviation Act 1982.
1982 c. 21 =	The Planning Inquiries (Attendance of Public) Act 1982
1982 c. 30 =	The Local Government (Miscellaneous Provisions) Act 1982
1982 c. 48 =	The Criminal Justice Act 1982
1983 c. 47 =	The National Heritage Act 1983
1984 c. 10 =	The Town and Country Planning Act 1984
1984 c. 12 =	The Telecommunications Act 1984
1985 c. 51 =	The Local Government Act 1985
1986 c. 44 =	The Gas Act 1986
1986 c. 63 =	The Housing and Planning Act 1986
1987 c. 3 =	The Coal Industry Act 1987
1988 c. 4 =	The Norfolk and Suffolk Broads Act 1988
1989 c. 15 =	The Water Act 1989
1989 c. 29 =	The Electricity Act 1989

2. The Table does not show the effect of Transfer of Function orders.

3. The letter R followed by a number indicates that the provision gives effect to the Recommendation bearing that number in the Law Commission's Report on the Consolidation of Certain Enactments relating to Town and Country Planning (Cmnd. 958).

4. The entry "drafting" indicates a provision of a mechanical or editorial nature only affecting the arrangement of the consolidation.

Provision	Derivation
1 (1)	1971 c. 78 s. 54(1); 1983 c. 47 Sch. 4 para. 16(2).
(2)	1971 c. 78 s. 54(1)(part); 1983 c. 47 Sch. 4 para. 16(2).
(3)	1971 c. 78 s. 54(2).
(4)	1971 c. 78 s. 54(3); 1983 c. 47 Sch. 4 para. 16(3).
(5)	1971 c. 78 s. 54(9); 1986 c. 63 Sch. 9 para. 1(1).
(6)	Drafting.
2 (1)	1971 c. 78 s. 54(4),(5); 1972 c. 70 s. 179(3), Sch. 16 para. 28, Sch. 30; 1985 c. 51 Sch. 2 para. 1(3); R 34.
(2)	1971 c. 78 s. 54(6); 1972 c. 70 Sch. 30; 1975 c. 76 Sch. 1.
(3)	1971 c. 78 s. 54(7); 1972 c. 70 s. 179(3), Sch. 30.
(4)	1971 c. 78 s. 54(8).
(5)	1971 c. 78 s. 54(8); 1985 c. 51 Sch. 2 para. 1(3); R 34.
(6)	1971 c. 78 s. 54(8);1985 c. 51 Sch. 2 para. 1(3).
3 (1)	1971 c. 78 s. 58(1); 1980 c. 65 Sch. 15 para. 12; 1985 c. 51 Sch. 2 para. 1(5).
(2)	1971 c. 78 s. 58(1); 1980 c. 65 Sch. 15 para. 12; 1985 c. 51 Sch. 2 para. 1(5).
(3)	1971 c. 78 s. 58(3); 1980 c. 65 Sch. 15 para. 12; 1985 c. 51 Sch. 2 para. 1(5).
(4)	1971 c. 78 s. 58(3); 1980 c. 65 Sch. 15 para. 12; 1985 c. 51 Sch. 2 para. 1(5).
(5)	1971 c. 78 s. 58(4)(part).
(6)	1971 c. 78 s. 58(5)(a); 1980 c. 65 Sch. 15 para. 12; 1985 Sch. 2 para. 1(5).
(7)	1971 c. 78 s. 58(5)(b); 1980 c. 65 Sch. 15 para. 12; 1985 c. 51 Sch. 2 para. 1(5).
(8)	1971 c. 78 s. 58(7); 1985 c. 51 Sch. 2 para. 1(5)(c).
4 (1) to (3)	1971 c. 78 s. 58(6); 1972 c. 42 s. 7(1); 1985 c. 51 Sch. 2 para. 1(5).
(4)	1971 c. 78 s. 58(7); 1985 c. 51 Sch. 2 para. 1(5)(c).
5	Drafting
6 (1)	1971 c. 78 s. 54A(1); 1980 c. 65 Sch. 15 para. 5.
(2)	1971 c. 78 s. 54A(2); 1980 c. 65 Sch. 15 para. 5; R 35.
(3)	1971 c. 78 s. 54A(3); 1980 c. 65 Sch. 15 para. 5.
(4)	1971 c. 78 s. 54A(4); 1980 c. 65 Sch. 15 para. 5; 1985 c. 51 Sch. 2 para. 1(4).
7	1971 c. 78 s. 55(1)(part); 1980 c. 65 Sch. 15 para. 6(1).
8(1), (2)	1971 c. 78 s. 55(2);1980 c. 65 Sch. 34,Pt X; R 36.
(3)	1971 c. 78 s. 55(2A); 1980 c. 65 Sch. 15 para. 6(2).

Provision	Derivation
(4) to (6)	1971 c. 78 s. 55(3).
(7)	1971 c. 78 s. 55(3A); 1980 c. 65 Sch. 15 para. 6(3).
9 (1)	1971 c. 78 s. 55(1)(part).
(2)	1971 c. 78 s. 55(4); 1986 c. 63 Sch. 11 para. 19.
(3)	1971 c. 78 s. 55(6); 1986 c. 63 Sch. 9 para. 2(1).
(4), (5)	1971 c. 78 s. 55(5); 1980 c. 43 s. 32(2); 1982 c. 48 s. 74(1).
10 (1)	1971 c. 78 s. 56(6) (part), Sch. 11 para. 1(1A) (part); 1986 c. 63 Sch. 9 para. 9.
(2)	1971 c. 78 Sch. 11 para. 1(1); 1986 c. 63 Sch. 9 para. 9.
(3)	1971 c. 78 Sch. 11 para. 1(1A); 1986 c. 63 Sch. 9 para. 9.
11 (1) to (5)	1971 c. 78 s. 27(1) (except (cc)), (2),(4), 29(3), Sch. 11 para. 2(1).
(6)	1971 c. 78 Sch. 11 para. 2(2); 1982 c. 48 ss. 38, 46.
(7)	1971 c. 78 s. 27(7), Sch. 11 para. 2(1).
12 (1)	1971 c. 78 Sch. 11 para. 4(1).
(2)	1971 c. 78 Sch. 11 para. 4(2).
(3)	1971 c. 78 Sch. 11 para. 4(3).
(4)	1971 c. 78 Sch. 11 para. 4(4).
(5)	1971 c. 78 Sch. 11 para. 4(5).
13 (1)	1971 c. 78 Sch. 11 para. 5(1), (3); 1985 c. 51 Sch. 2 para. 1(17).
(2)	1971 c. 78 Sch. 11 para. 5(1).
(3)	1971 c. 78 Sch. 11 para. 5(2); 1986 c. 63 Sch. 9 para. 10(1).
14 (1)	1971 c. 78 Sch. 11 para. 6(1); 1985 c. 51 Sch. 2 para. 1(17)(b).
(2)	1971 c. 78 Sch. 11 para. 6(2); 1985 c. 51 Sch. 2 para. 1(17)(b).
(3)	1971 c. 78 Sch. 11 para. 6(3); 1985 c. 51 Sch. 2 para. 1(17)(b).
(4)	1971 c. 78 Sch. 11 para. 6(5); 1985 c. 51 Sch. 2 para. 1(17)(b).
(5)	1971 c. 78 Sch. 11 para. 6(4),(6); 1985 c. 51 Sch. 2 para. 1 (17)(b); 1986 c. 63 Sch. 9 para. 10.
(6)	1971 c. 78 Sch. 11 para. 6(3),(4); 1985 c. 51 Sch. 2 para. 1(17)(b); 1986 c. 63 Sch. 9 para. 10.
(7)	1971 c. 78 Sch. 11 para. 6(5); 1985 c. 51 Sch. 2 para. 1(17)(b).
(8)	1971 c. 78 Sch. 11 para. 6(7); 1985 c. 51 Sch. 2 para. 1(17)(b).
(9)	1971 c. 78 Sch. 11 para. 6(8); 1985 c. 51 Sch. 2 para. 1(17)(b).
15 (1)	1971 c. 78 Sch. 11 para. 7(1); 1986 c. 63 Sch. 9 para. 11(2).
(2)	1971 c. 78 Sch. 11 para. 7(1); 1985 c. 51 Sch. 2 para. 1(17)(c).
(3)	1971 c. 78 Sch. 11 para. 7(1A); 1986 c. 63 Sch. 9 para. 11(2).
(4)	1971 c. 78 Sch. 11 para. 7(1B); 1986 c. 63 Sch. 9 para. 11(3).
(5)	1971 c. 78 Sch. 11 para. 7(2).
(6)	1971 c. 78 Sch. 11 para. 7(3); 1986 c. 63 Sch. 9 para. 11(4).
16 (1)	1971 c. 78 s. 56(3)(part),(4); 1980 c. 65 Sch. 15 para. 9.
(2)	1971 c. 78 s. 56(3) (part); 1980 c. 65 Sch. 15 para. 8.
(3)	1971 c. 78 Sch. 11 para. 1(2).
17 (1)	1971 c. 78 s. 56(4A); 1980 c. 65 Sch. 15 para. 9.
(2)	1971 c. 78 s. 56(4B); 1986 c. 63 Sch. 9 para. 3(1).

Provision	Derivation
(3)	1971 c. 78 s. 56(5); 1980 c. 65 Sch. 15 para. 10.
18 (1)	1971 c. 78 s. 56A(1); 1980 c. 65 Sch. 15 para. 11.
(2)	1971 c. 78 s. 56A(2); 1980 c. 65 Sch. 15 para. 11.
(3)	1971 c. 78 s. 56A(5); 1980 c. 65 Sch. 15 para. 11.
19 (1)	1971 c. 78 s. 56B(1); 1986 c. 63 Sch. 9 para. 4.
(2)	1971 c. 78 s. 56B(2); 1986 c. 63 Sch. 9 para. 4.
(3)	1971 c. 78 s. 56B(2); 1986 c. 63 Sch. 9 para. 4.
(4)	1971 c. 78 s. 56B(3); 1986 c. 63 Sch. 9 para. 4.
20 (1)	1971 c. 78 s. 56B(2)(part), Sch. 11 para. 8(1); 1986 c. 63 Sch. 9 para. 3(2), para. 4.
(2), (3)	1971 c. 78 Sch. 11 para. 9; 1986 c. 63 Sch. 9 para. 3(3).
(4)	1971 c. 78 Sch. 11 para. 9(1) (part); 1986 c. 63 Sch. 9 para. 3(3); R 8(a).
21 (1)	1971 c. 78 Sch. 11 para. 8(1), 9; 1986 c. 63 Sch. 9 para. 3(2),(3).
(2)	1971 c. 78 Sch. 11 para. 8(1),9; 1986 c. 63 Sch. 9 para. 3(2),(3).
(3), (4)	1971 c. 78 Sch. 11 para. 8(2) (part).
(5), (6)	1971 c. 78 s. 56B(2)(part), Sch. 11 para. 2(part); 1986 c. 63 Sch. 9 para. 4.
(7)	1971 c. 78 Sch. 11 para. 2(2); 1982 c. 48 ss. 38, 46.
22 (1)	1971 c. 78 Sch. 11 para. 8(3).
(2)	1971 c. 78 Sch. 11 para. 8(4).
(3)	1971 c. 78 Sch. 11 para. 8(5).
(4)	1971 c. 78 Sch. 11 para. 8(6).
23 (1), (2)	1971 c. 78 Sch. 11 para. 10(1).
(3)	1971 c. 78 Sch. 11 para. 10(4).
24 (1)	1971 c. 78 Sch. 11 para. 10(2) (part).
(2) to (4)	1971 c. 78 Sch. 11 para. 10(3).
(5)	1971 c. 78 Sch. 11 para. 10(2) (part).
25 (1)	1971 c. 78 Sch. 11 para. 12(1), (6); 1980 c. 65 Sch. 15 para. 25.
(2)	1971 c. 78 Sch. 11 para. 12(2),(3),(4); 1980 c. 65 Sch. 34 Pt. X.
(3)	1971 c. 78 Sch. 11 para. 12(5).
(4)	1971 c. 78 Sch. 11 para. 12(2)(a).
(5)	1971 c. 78 Sch. 11 para. 12(2)(b).
26	1971 c. 78 Sch. 11 para. 11; 1974 c. 7 Sch. 6 para. 25(14).
27 (1)	1971 c. 78 s. 171(1).
(2)	1971 c. 78 s. 171(2).
(3)	1971 c. 78 s. 171(3).
(4)	1971 c. 78 s. 171(4).
(5)	1971 c. 78 s. 173(1) (part),(2).
28 (1),(2)	1971 c. 78 s. 172(1).
(3)	1971 c. 78 s. 172(3).
(4)	1971 c. 78 s. 172(2).

Provision	Derivation
29 (1)	1971 c. 78 s. 173(1),(3).
(2)	1971 c. 78 s. 173(3).
(3)	1971 c. 78 s. 173(4).
30 (1)	1972 c. 70 Sch. 16 para. 34(1),(2); R 37.
(2)	1972 c. 70 Sch. 16 para. 34(3).
(3)	1972 c. 70 Sch. 16 para. 52.
31 (1)	1971 c. 78 s. 178(1).
(2)	1971 c. 78 s. 178(2).
(3)	1971 c. 78 s. 178(3).
(4)	1971 c. 78 s. 179(1).
(5)	1971 c. 78 s. 179(2).
32 (1)	1971 c. 78 s. 190(1),(3),(5); 1972 c. 70 s. 179(3); 1975 c. 10 Sch. Pt. XII.
(2)	1971 c. 78 s. 190(1); 1975 c. 10 Sch. Pt. XII.
(3)	1971 c. 78 s. 190(3).
(4)	1971 c. 78 s. 190(2).
(5)	1971 c. 78 s. 190(3),drafting.
33 (1),(2)	1971 c. 78 Sch. 19 para. 1(1); 1986 c. 63 Sch. 11 para. 5(2)(a).
(3)	1971 c. 78 Sch. 19 para. 1(2).
(4)	1971 c. 78 Sch. 19 para. 1(3); 1986 c. 63 Sch. 11 para. 5(2)(b).
34 (1)	1971 c. 78, s. 182(1), Sch. 19 para. 1(3).
(2)	1971 c. 78 s. 182(2), Sch. 19 para. 1(3); 1972 c. 70 Sch. 16 paras. 37, 52.
(3),(4)	1971 c. 78 s. 182(3), Sch. 19 para. 1(3).
(5)	1971 c. 78 s. 182(4), Sch. 19 para. 1(3).
35 (1),(2)	1971 c. 78 Sch. 19 para. 2(1).
(3)	1971 c. 78 Sch. 19 para. 2(2).
(4)	1971 c. 78 Sch. 19 para. 2(3),(4).
(5)	1971 c. 78 Sch. 19 para. 2(5),(6).
(6)	1971 c. 78 Sch. 19 para. 2(7).
(7)	1971 c. 78 Sch. 19 para. 2(8).
36 (1)	1971 c. 78 Sch. 19 para. 3(1).
(2)	1971 c. 78 Sch. 19 para. 3(2).
(3)	1971 c. 78 Sch. 19 para. 3(3)(a).
(4)	1971 c. 78 Sch. 19 para. 3(1).
(5)	1971 c. 78 Sch. 19 para. 3(3)(b); 1986 c. 63 Sch. 11 para. 7(2).
(6)	1971c. 78 Sch. 19 para. 3(3A); 1986 c. 63 Sch. 11 para. 7(2).
(7)	1971 c. 78 Sch. 19 para. 3(4); R 38.
(8)	1971 c. 78 Sch. 19 para. 3(5); R 39.
37	1971 c. 78 Sch. 19 para. 4.
38 (1)	1971 c. 78 s. 96(1),(2); 1981 c. 41 Sch. para. 9.
(2)	1971 c. 78 s. 96(1); 1981 c. 41 Sch. para. 9.
(3)	1971 c. 78 s. 96(3),(4); 1981 c. 41 Sch. para. 9.
(4)	1971 c. 78 s. 96(3); 1981 c. 41 Sch. para. 9.

Provision	Derivation
(5) to (7)	1971 c. 78 s. 96(5) to (7); 1981 c. 41 Sch. para. 9.
39 (1)	1971 c. 78 s. 97(1); 1981 c. 41 Sch. para. 9; 1984 c. 10 s. 4(2); 1986 c. 63 Sch. 9 para. 2(2).
(2)	1971 c. 78 s. 97(1),(2); 1981 c. 41 Sch. para. 9.
(3)	1971 c. 78 s. 97(9); 1981 c. 41 Sch. para. 9.
(4)	1971 c. 78 s. 97(3); 1981 c. 41 Sch. para. 9.
(5)	1971 c. 78 s. 97(8); 1981 c. 41 Sch. para. 9.
(6)	1971 c. 78 s. 110(2)(part).
(7)	1984 c. 10 s. 4(2).
40 (1)	1971 c. 78 ss. 88(5), 97(4); 1981 c. 41 Sch. paras. 1, 9.
(2)	1971 c. 78 s. 97(6); 1981 c. 41 Sch. para. 9.
(3)	1971 c. 78 s. 97(10); 1981 c. 41 Sch. para. 9.
41 (1)	1971 c. 78 s. 97A(1); 1981 c. 41 Sch. para. 9.
(2)	1971 c. 78 s. 97A(2); 1981 c. 41 Sch. para. 9.
(3)	1971 c. 78 s. 97(5); 1981 c. 41 Sch. para. 9.
(4)	1971 c. 78 s. 97(7); 1981 c. 41 Sch. para. 9.
(5)	1971 c. 78 s. 97A(3); 1981 c. 41 Sch. para. 9.
(6)	1971 c. 78 s. 97A(4); 1981 c. 41 Sch. para. 9.
(7)	1971 c. 78 s. 97A(5); 1981 c. 41 Sch. para. 9.
42 (1)	1971 c. 78 s. 99(1).
(2)	1971 c. 78 s. 99(2).
(3)	1971 c. 78 ss. 91(3),(4), 99(3); 1974 c. 7 Sch. 8.
(4)	1971 c. 78 ss. 91(3), 99(3).
(5)	1971 c. 78 s. 99(3).
(6)	1971 c. 78 s. 111.
(7)	1971 c. 78 s. 99(1).
43 (1)	1971 c. 78 s. 98(1); 1980 c. 43 s. 32(2),(9); 1982 c. 48 s. 74(1).
(2)	1971 c. 78 s. 98(2).
(3)	1971 c. 78 s. 98(3).
(4)	1971 c. 78 s. 98(4); 1980 c. 43 s. 32(2),(9); 1981 c. 41 Sch. para. 10; 1986 c. 63 Sch. 11 para. 13.
44(1)	1971 c. 78 s. 99A(1), (2); 1980 c. 65 Sch. 15 para. 17.
(2)	1971 c. 78 s. 99A(3); 1980 c. 65 Sch. 15 para. 17.
45	1971 c. 78 s. 99B; 1985 c. 51 Sch. 2 para. 1(7).
46(1)	1971 c. 78 ss. 100(1), 276(5A); 1981 c. 41 Sch. paras. 11, 24; 1985 c. 51 Sch. 17.
(2)	1971 c. 78 ss. 100(1), 276(5A); 1981 c. 41 Sch. paras. 11, 24; 1983 c. 47 Sch. 4 para. 17; 1985 c. 51 Sch. 17.
(3)	1971 c. 78 ss. 100(1), 276(5A); 1981 c. 41 Sch. para. 11; 1983 c. 47 Sch.4 para. 17; 1985 c. 51 Sch. 17.
(4)	1971 c. 78 ss. 100(2), 276(5B); 1981 c. 41 Sch. paras. 11, 24; R 40.
(5)	1972 c. 70 Sch. 16 paras. 47(2), 52.
47(1)	1971 c. 78 s. 114(1) to (3); 1972 c. 70 Sch. 30; 1985 c. 51 Sch. 2 para. 1(9); 1988 c. 4 Sch. 3 para. 15.

Provision	Derivation
(2)	1971 c. 78 s. 114(5); 1981 c. 67 Sch. 4 para. 1, Sch. 6 Pt. I.
(3)	1971 c. 78 s. 114(3A), (4); 1983 c. 47 Sch. 4 para. 19; 1985 c. 51 Sch. 2 para. 1(9).
(4)	1971 c. 78 s. 114(6); 1981 c. 67 Sch. 4 para. 21(1),(2); R 41.
(5)	1971 c. 78 s. 114(6); 1981 c. 67 Sch. 4 para. 21(1),(2).
(6)	1971 c. 78 s. 114(7).
(7)	1971 c. 78 s. 114(1), (1A); 1972 c. 70 s. 179(3),Sch. 16 paras. 31, 52; 1988 c. 4 Sch. 3 para. 16.
48(1)	1971 c. 78 s. 115(1); 1985 c. 51 Sch. 2 para. 1(10)(a).
(2)	1971 c. 78 s. 115(2); 1985 c. 51 Sch. 2 para. 1(10)(b).
(3)	1971 c. 78 s. 115(3); 1985 c. 51 Sch. 2 para. 1(10)(b).
(4)	1971 c. 78 s. 115(3A); 1983 c. 47 Sch. 4 para. 20; 1985 c. 51 Sch. 2 para. 1(10)(c).
(5)	1971 c. 78 ss. 180(5), 190(4); R 12.
(6)	1971 c. 78 ss. 115(4), 180(6), 190(4); 1981 c. 67 Sch. 4 para. 21(3); 1985 c. 51 Sch. 2 para. 1(10)(d); R 12, R 41.
(7)	1971 c. 78 ss. 114(1), 115(5); 1972 c. 70 s. 179(3), Sch. 16 paras. 31, 52; 1988 c. 4 Sch. 3 para. 16.
49	1971 c. 78 s. 116; 1974 c. 32 s. 6.
50(1)	1971 c. 78 s. 117(1), (8); 1974 c. 7 Sch. 6 para. 25(8); 1985 c. 51 Sch. 2 para. 1(11)(a); 1988 c. 4 Sch. 3 para. 17; R 42.
(2)	1971 c. 78 s. 117(2).
(3)	1971 c. 78 s. 117(3); 1974 c. 7 Sch. 6 para. 25(8); 1981 c. 67 Sch. 4 para. 21(4)(b); R 41.
(4)	1971 c. 78 s. 117(4).
(5)	1971 c. 78 s. 117(4).
(6)	1971 c. 78 s. 117(5); 1974 c. 7 Sch. 6 para. 25(8), Sch. 8; 1981 c. 67 Sch. 4 para. 21(5)(b); 1985 c. 51 Sch. 2 para. 1(11)(b).
(7)	1971 c. 78 s. 117(5).
(8)	1971 c. 78 s. 117(6).
(9)	1971 c. 78 s. 117(7).
51(1)	1971 c. 78 s. 118(1).
(2)	1971 c. 78 s. 118(2); 1984 c. 12 Sch. 4 para. 53(3).
(3) to (5)	1971 c. 78 s. 118(3) to (5).
52(1)	1971 c. 78 s. 119(1); 1972 c. 70 s. 179(3), Sch. 16 paras. 31, 52, Sch. 30.
(2)	1971 c. 78 ss. 119(3), 132(4)(a),(c).
53(1)	1971 c. 78 s. 126(1); 1972 c. 70 Sch. 16 paras. 31, 52; 1985 c. 51 Sch. 2 para. 1(12); R 43.
(2)	1953 c. 49 s. 5(3); 1971 c. 78 s. 126(2).
(3)	1953 c. 49 s. 5(3A); 1983 c. 47 Sch. 4 para. 6(2).
54(1)	1971 c. 78 s. 101(1); 1986 c. 63 Sch. 9 para. 7.
(2)	1971 c. 78 s. 101(1),(5)(c); 1986 c. 63 Sch. 9 para. 7.
(3)	1971 c. 78 s. 101(1); 1986 c. 63 Sch. 9 para. 7.
(4)	1971 c. 78 s. 101(3); 1986 c. 63 Sch. 9 para. 7.
(5),(6)	1971 c. 78 s. 101(4); 1986 c. 63 Sch. 9 para. 7.

Provision	Derivation
(7)	1971 c. 78 s. 101(5)(a); 1986 c. 63 Sch. 9 para. 7.
55(1) to (5)	1971 c. 78 s. 101A(1) to (5); 1986 c. 63 Sch. 9 para. 7.
(6)	1971 c. 78 s. 111; R 40.
56	1971 c. 78 s. 56C(1); 1986 c. 63 Sch. 9 para. 6(1).
57(1) to (3)	1962 c. 36 s. 1(1).
(4),(5)	1962 c. 36 s. 1(2).
(6)	1962 c. 36 s. 1(3).
(7)	1962 c. 36 s. 1(4),(5); 1988 c. 4. Sch. 3 para. 4.
58(1)	1962 c. 36 s. 2(1).
(2),(3)	1962 c. 36 s. 2(2).
(4)	1962 c. 36 s. 2(2); R 44.
(5)	1962 c. 36 s. 2(3); R 45.
59(1)	1971 c. 78 s. 57(1)(part); 1982 c. 48 ss. 38, 46.
(2)	1971 c. 78 s. 57(1)(part).
(3)	1971 c. 78 s. 57(2).
(4)	1971 c. 78 s. 57(3); 1982 c. 48 ss. 38, 46; 1986 c. 63 Sch. 11 para. 13.
60(1) to (3)	1971 c. 78 ss. 56(1), 57(1), 58(2), 101(3), 114(3); 1979 c. 46 Sch. 4 para. 11; 1986 c. 63 Sch. 9 para. 7.
(4)	1971 c. 78 s. 56(1)(a).
(5)	1971 c. 78 s. 58AA(1); 1986 c. 63 Sch. 9 para. 5(1).
(6)	1971 c. 78 s. 58AA(2); 1986 c. 63 Sch. 9 para. 5(1).
(7)	1969 c. 22 s. 2; 1971 c. 78 Sch. 23 Pt II; 1978 c. 30 ss. 17(2)(a), 22(3).
61	1971 c. 78 ss. 56(1)(part), 57(1), 58(2), 101(3), 114(3); 1979 c. 46 Sch. 4 para. 11; 1986 c. 63 Sch. 9 para. 7.
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Historic England

The Setting of Heritage Assets

Historic Environment Good Practice Advice in Planning Note 3 (Second Edition)



Summary

This document sets out guidance, against the background of the National Planning Policy Framework (NPPF) and the related guidance given in the Planning Practice Guide (PPG), on managing change within the settings of heritage assets, including archaeological remains and historic buildings, sites, areas, and landscapes.

It gives general advice on understanding setting, and how it may contribute to the significance of heritage assets and allow that significance to be appreciated, as well as advice on how views contribute to setting. The suggested staged approach to taking decisions on setting can also be used to assess the contribution of views to the significance of heritage assets. The guidance has been written for local planning authorities and those proposing change to heritage assets.

It replaces The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 – 1st edition, 2015 and Seeing the History in the View: A Method for assessing Heritage Significance within Views (English Heritage, 2011).

It is one of three related Good Practice Advice (GPA) Notes, along with *GPA1 The Historic Environment in Local Plans* and *GPA2 Managing Significance in Decision-Taking in the Historic Environment*.

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HistoricEngland.org.uk/advice/planning/planning-system/

Front cover: York Water Gate, Victoria Embankment Gardens, City Of Westminster, Greater London.
Built for the Duke of Buckingham in 1626 to provide access to the Thames. View from south east.

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Introduction

1 The purpose of this Historic England Good Practice Advice note is to provide information on good practice to assist local authorities, planning and other consultants, owners, applicants and other interested parties in implementing historic environment policy in the National Planning Policy Framework (NPPF) and the related guidance in the national Planning Practice Guide (PPG). It should be read in conjunction with Good Practice Advice notes 1 (The Historic Environment in Local Plans) and 2 (Managing Significance in Decision-Taking in the Historic Environment). This good practice advice acknowledges the primacy of the NPPF and PPG, supporting the implementation of national policy, but does not constitute a statement of Government policy itself, nor does it seek to prescribe a single methodology or particular data sources. Alternative approaches may be equally acceptable, provided they are demonstrably compliant with legislation, national policies and objectives. This guidance, *Good Practice Advice 3 – The Setting of Heritage Assets* (2nd edition, 2017) supersedes *Good Practice Advice 3 – The Setting of Heritage Assets* (1st edition, 2015) and *Seeing the History in the View: A Method for assessing Heritage Significance within Views* (English Heritage, 2011).

2 The advice in this document, in accordance with the NPPF, emphasises that the information required in support of applications for planning permission and listed building consent should be no more than is necessary to reach an informed decision, and that activities to conserve or invest need to be proportionate to the significance of the heritage assets affected and the impact on the significance of those heritage assets. At the same time those taking decisions need enough information to understand the issues.

3 This note gives assistance concerning the assessment of the setting of heritage assets, given:

- the statutory obligation on decision-makers to have special regard to the desirability of preserving listed buildings and their settings, and
- the policy objectives in the NPPF and the PPG establishing the twin roles of setting (see boxes below): it can contribute to the significance of a heritage asset, and it can allow that significance to be appreciated. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the heritage asset's conservation, including sustaining significance (NPPF, paragraph 132).

4 This note therefore starts by giving general advice on understanding setting and how it may contribute to the significance of heritage assets, before adding advice on how views play a part in setting; it ends by suggesting a staged approach to taking decisions on the level of the contribution which setting and related views make to the significance of heritage assets (Part 2, paragraphs 17–42).

5 Consideration of the contribution of setting to the significance of heritage assets, and how it can enable that significance to be appreciated, will almost always include the consideration of views. The staged approach to taking decisions on setting given here can also be used to assess the contribution of a view, or views, to the significance of heritage assets and the ability to appreciate that significance.

6 Views, however, can of course be valued for reasons other than their contribution to heritage significance. They may, for example, be related to the appreciation of the wider landscape, where there may be little or no association with heritage assets. Landscape character and visual amenity are also related planning considerations. The assessment and management of views in

the planning process may therefore be partly or wholly separate from any consideration of the significance of heritage assets. This advice therefore directs readers elsewhere for approaches to landscape and visual impact assessment and amenity valuation (paragraphs 15 and 16).

Part 1: Settings and Views

NPPF Glossary: Setting of a heritage asset

The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral (NPPF, Annex 2: Glossary).

PPG: What is the setting of a heritage asset and how should it be taken into account?

The "setting of a heritage asset" is defined in the Glossary of the National Planning Policy Framework.

A thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not.

The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.

The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance.

When assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its on-going conservation (PPG, paragraph: 013, reference ID: 18a-013-20140306).

Difference between setting and curtilage, character, context and landscape

7 Setting is separate from the concepts of curtilage, character and context:

- Curtilage is a legal term describing an area around a building and, for listed structures, the extent of curtilage is defined by consideration of ownership, both past and present, functional association and layout. The setting of a heritage asset will include, but generally be more extensive than, its curtilage (if it has one) (see Identification and Designation of Heritage Assets: Listed Buildings in the Historic England *Heritage Protection Guide*).

- The historic character of a place is the group of qualities derived from its past uses that make it distinctive. This may include: its associations with people, now and through time; its visual aspects; and the features, materials, and spaces associated with its history, including its original configuration and subsequent losses and changes. Character is a broad concept, often used in relation to entire historic areas and landscapes, to which heritage assets and their settings may contribute.

- The context of a heritage asset is a non-statutory term used to describe any relationship between it and other heritage assets, which is relevant to its significance, including cultural, intellectual, spatial or functional. Contextual relationships apply irrespective of distance, sometimes extending well beyond what might be considered an asset's setting, and can include the relationship of one heritage asset to another of the same period or function, or with the same designer or architect. A range of additional meanings is available for the term 'context', for example in relation to archaeological context and to the context of new developments, as well as customary usages. Setting may include associative relationships that are sometimes referred to as 'contextual'.

- To avoid uncertainty in discussion of setting, a landscape is 'an area, as perceived by people, the character of which is the result of the action and interaction of natural and/or human factors' (Glossary, *Guidelines for Landscape and Visual Impact Assessment*, 3rd edition, published by the Landscape Institute and the Institute of Environmental Management and Assessment, p 157, based on the definition in the European Landscape Convention, European Treaty Series – No. 176, Florence, 20.x.2000, p 2).

The extent of setting

8 The NPPF makes it clear that the extent of the setting of a heritage asset 'is not fixed and may change as the asset and its surroundings evolve' (NPPF, Annex 2: Glossary). All of the following matters may affect considerations of the extent of setting:

- While setting can be mapped in the context of an individual application or proposal, it cannot be definitively and permanently described for all time as a spatially bounded area or as lying within a set distance of a heritage asset. This is because the surroundings of a heritage asset will change over time, and because new information on heritage assets may alter what might previously have been understood to comprise their setting and the values placed on that setting and therefore the significance of the heritage asset.

- Extensive heritage assets, such as historic parks and gardens, landscapes and townscapes, can include many heritage assets, historic associations between them and their nested and overlapping settings, as well as having a setting of their own. A conservation area is likely to include the settings of listed buildings and have its own setting, as will the hamlet, village or urban area in which it is situated (explicitly recognised in green belt designations).

The Courts have held that it is legitimate in appropriate circumstances to include within a conservation area the setting of buildings that form the heart of that area (R v Canterbury City Council ex parte David Halford, February 1992; CO/2794/1991). And NPPF paragraph 80, for example, makes it clear that historic towns are regarded as having a setting.

- Consideration of setting in urban areas, given the potential numbers and proximity of heritage assets, often overlaps with considerations both of townscape/urban design and of the character and appearance of conservation areas. Conflict between impacts on setting and other aspects of a proposal can be avoided or mitigated by working collaboratively and openly with interested parties at an early stage.

Setting and the significance of heritage assets

9 Setting is not itself a heritage asset, nor a heritage designation, although land comprising a setting may itself be designated (see below Designed settings). Its importance lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance. The following paragraphs examine some more general considerations relating to setting and significance.

The setting of World Heritage Sites may be protected as 'buffer zones' – see PPG, paragraph: 033 Reference ID: 2a-033-20140306.

- Change over time
  Settings of heritage assets change over time. Understanding this history of change will help to determine how further development within the asset's setting is likely to affect the contribution made by setting to the significance of the heritage asset. Settings of heritage assets which closely resemble the setting at the time the asset was constructed or formed are likely to contribute particularly strongly to significance but settings which have changed may also themselves enhance significance, for instance where townscape character has been shaped by cycles of change over the long term. Settings may also have suffered negative impact from inappropriate past developments and may be enhanced by the removal of the inappropriate structure(s).

- Cumulative change
  Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting; positive change could include the restoration of a building's original designed landscape or the removal of structures impairing key views of it (see also paragraph 40 for screening of intrusive developments).

- Access and setting
  Because the contribution of setting to significance does not depend on public rights or ability to access it, significance is not dependent on numbers of people visiting it; this would downplay such qualitative issues as the importance of quiet and tranquillity as an attribute of setting, constraints on access such as remoteness or challenging terrain, and the importance of the setting to a local community who may be few in number. The potential for

appreciation of the asset's significance may increase once it is interpreted or mediated in some way, or if access to currently inaccessible land becomes possible.

- **Buried assets and setting**

  Heritage assets that comprise only buried remains may not be readily appreciated by a casual observer. They nonetheless retain a presence in the landscape and, like other heritage assets, may have a setting. These points apply equally, in some rare cases, to designated heritage assets such as scheduled monuments or Protected Wreck Sites that are periodically, partly or wholly submerged, eg in the intertidal zone on the foreshore.

  - The location and setting of historic battles, otherwise with no visible traces, may include important strategic views, routes by which opposing forces approached each other and a topography and landscape features that played a part in the outcome.

  - Buried archaeological remains may also be appreciated in historic street or boundary patterns, in relation to their surrounding topography or other heritage assets or through the long-term continuity in the use of the land that surrounds them. While the form of survival of an asset may influence the degree to which its setting contributes to significance and the weight placed on it, it does not necessarily follow that the contribution is nullified if the asset is obscured or not readily visible.

- **Designed settings**

  Many heritage assets have settings that have been designed to enhance their presence and visual interest or to create experiences of drama or surprise. In these special circumstances, these designed settings may be regarded as heritage assets in their own right, for instance the designed landscape around a country house. Furthermore they may, themselves, have a wider setting: a park may form the immediate surroundings of a great house, while having its own setting that includes lines-of-sight to more distant heritage assets or natural features beyond the park boundary. Given that the designated area is often restricted to the 'core' elements, such as a formal park, it is important that the extended and remote elements of the design are included in the evaluation of the setting of a designed landscape. Reference is sometimes made to the 'immediate', 'wider' and 'extended' setting of heritage assets, but the terms should not be regarded as having any particular formal meaning. While many day-to-day cases will be concerned with development in the vicinity of an asset, development further afield may also affect significance, particularly where it is large-scale, prominent or intrusive. The setting of a historic park or garden, for instance, may include land beyond its boundary which adds to its significance but which need not be confined to land visible from the site, nor necessarily the same as the site's visual boundary. It can include:

  - land which is not part of the park or garden but which is associated with it by being adjacent and visible from it

  - land which is not part of the site but which is adjacent and associated with it because it makes an important contribution to the historic character of the site in some other way than by being visible from it, and

  - land which is a detached part of the site and makes an important contribution to its historic character either by being visible from it or in some other way, perhaps by historical association

- **Setting and urban design**

  As mentioned above (paragraph 8, The extent of setting), the numbers and proximity of heritage assets in urban areas mean that the protection and enhancement of setting is intimately linked to townscape and urban

design considerations. These include the degree of conscious design or fortuitous beauty and the consequent visual harmony or congruity of development, and often relates to townscape attributes such as enclosure, definition of streets and spaces and spatial qualities as well as lighting, trees, and verges, or the treatments of boundaries or street surfaces.

See *Managing Significance in Decision–Taking in the Historic Environment: Historic Environment Good Practice Advice in Planning 2* (2015) and *Conservation Area Designation, Appraisal and Management: Historic England Advice Note 1* (2016).

- Setting and economic viability

Sustainable development under the NPPF can have important positive impacts on heritage assets and their settings, for example by bringing an abandoned building back into use or giving a heritage asset further life. However, the economic viability of a heritage asset can be reduced if the contribution made by its setting is diminished by badly designed or insensitively located development. For instance, a new road scheme affecting the setting of a heritage asset, while in some cases increasing the public's ability or inclination to visit and/or use it, thereby boosting its economic viability and enhancing the options for the marketing or adaptive re-use of a building, may in other cases have the opposite effect.

Views and setting

10 The contribution of setting to the significance of a heritage asset is often expressed by reference to views, a purely visual impression of an asset or place which can be static or dynamic, long, short or of lateral spread, and include a variety of views of, from, across, or including that asset.

11 Views which contribute more to understanding the significance of a heritage asset include:

- those where the composition within the view was a fundamental aspect of the design or function of the heritage asset
- those where town- or village-scape reveals views with unplanned or unintended beauty
- those with historical associations, including viewing points and the topography of battlefields
- those with cultural associations, including landscapes known historically for their picturesque and landscape beauty, those which became subjects for paintings of the English landscape tradition, and those views which have otherwise become historically cherished and protected
- those where relationships between the asset and other heritage assets or natural features or phenomena such as solar or lunar events are particularly relevant

12 Assets, whether contemporaneous or otherwise, which were intended to be seen from one another for aesthetic, functional, ceremonial or religious reasons include:

- military and defensive sites
- telegraphs or beacons
- prehistoric funerary and ceremonial sites
- historic parks and gardens with deliberate links to other designed landscapes and remote 'eye-catching' features or 'borrowed' landmarks beyond the park boundary

13 Views may be identified and protected by local planning policies and guidance for the part they play in shaping our appreciation and understanding of England's historic environment, whether in rural or urban areas and whether designed to be seen as a unity or

as the cumulative result of a long process of development. This does not mean that additional views or other elements or attributes of setting do not merit consideration. Such views include:

- views identified as part of the plan-making process, such as those identified in the *London View Management Framework* (LVMF, Mayor of London 2010) and *Oxford City Council's View Cones* (2005) and *Assessment of the Oxford View Cones* (2015 Report)
- views identified in character area appraisals or in management plans, for example of World Heritage Sites
- important designed views from, to and within historic parks and gardens that have been identified as part of the evidence base for development plans, and
- views that are identified by local planning authorities when assessing development proposals

Where complex issues involving views come into play in the assessment of such views – whether for the purposes of providing a baseline for plan-making or for development management – a formal views analysis may be merited.

Landscape Assessment and Amenity

14 Analysis of setting is different from landscape assessment. While landscapes include everything within them, the entirety of very extensive settings may not contribute equally to the significance of a heritage asset, if at all. Careful analysis is therefore required to assess whether one heritage asset at a considerable distance from another, though intervisible with it – a church spire, for instance – is a major component of the setting, rather than just an incidental element within the wider landscape.

15 Assessment and management of both setting and views are related to consideration of the wider landscape, which is outside the scope of this advice note. Additional advice on views is available in *Guidelines for Landscape and Visual Impact Assessment*, 3rd edition, published by the Landscape Institute and the Institute of Environmental Management and Assessment (in partnership with Historic England).

> Being tall structures, church towers and spires are often widely visible across land- and townscapes but, where development does not impact on the significance of heritage assets visible in a wider setting or where not allowing significance to be appreciated, they are unlikely to be affected by small-scale development, unless that development competes with them, as tower blocks and wind turbines may. Even then, such an impact is more likely to be on the landscape values of the tower or spire rather than the heritage values, unless the development impacts on its significance, for instance by impacting on a designed or associative view.

16 Similarly, setting is different from general amenity. Views out from heritage assets that neither contribute to significance nor allow appreciation of significance are a matter of amenity rather than of setting.

Part 2: Setting and Views – A Staged Approach to Proportionate Decision-Taking

17 All heritage assets have significance, some of which have particular significance and are designated. The contribution made by their setting to their significance also varies. Although many settings may be enhanced by development, not all settings have the same capacity to accommodate change without harm to the significance of the heritage asset or the ability to appreciate it. This capacity may vary between designated assets of the same grade or of the same type or according to the nature of the change. It can also depend on the location of the asset: an elevated or overlooked location; a riverbank, coastal or island location; or a location within an extensive tract of flat land may increase the sensitivity of the setting (ie the capacity of

the setting to accommodate change without harm to the heritage asset's significance) or of views of the asset. This requires the implications of development affecting the setting of heritage assets to be considered on a case-by-case basis.

18 Conserving or enhancing heritage assets by taking their settings into account need not prevent change; indeed change may be positive, for instance where the setting has been compromised by poor development. Many places coincide with the setting of a heritage asset and are subject to some degree of change over time. NPPF policies, together with the guidance on their implementation in the Planning Policy Guidance (PPG), provide the framework for the consideration of change affecting the setting of undesignated and designated heritage assets as part of the decision-taking process (NPPF, paragraphs 131-135 and 137).

19 Amongst the Government's planning policies for the historic environment is that conservation decisions are based on a proportionate assessment of the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset. Historic England recommends the following broad approach to assessment, undertaken as a series of steps that apply proportionately to the complexity of the case, from straightforward to complex:

Step 1: Identify which heritage assets and their settings are affected

Step 2: Assess the degree to which these settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated

Step 3: Assess the effects of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it

Step 4: Explore ways to maximise enhancement and avoid or minimise harm

Step 5: Make and document the decision and monitor outcomes

Each of these steps is considered in more detail below.

For further information on Strategic Environmental Assessment and Environmental Impact Assessment, see *Sustainability Appraisal and Strategic Environmental Assessment: Historic England Advice Note 8* (2016).

Development proposals involving the setting of single and less significant assets and straightforward effects on setting may best be handled through a simple check-list approach and can usefully take the form of a short narrative statement for each assessment stage, supported by adequate plans and drawings, etc.

Cases involving more significant assets, multiple assets, or changes considered likely to have a major effect on significance will require a more detailed approach to analysis, often taking place within the framework of Environmental Impact Assessment procedures. Each of the stages may involve detailed assessment techniques and complex forms of analysis such as viewshed analyses, sensitivity matrices and scoring systems. Whilst these may assist analysis to some degree, as setting and views are matters of qualitative and expert judgement, they cannot provide a systematic answer. Historic England recommends that, when submitted as part of a Design and Access Statement, Environmental Statement or evidence to a public Inquiry, technical analyses of this type should be seen primarily as material supporting a clearly expressed and non-technical narrative argument that sets out 'what matters and why' in terms of the heritage significance and setting of the assets affected, together with the effects of the development upon them.

Step 1: Identify which heritage assets and their settings are affected

20 The setting of a heritage asset is 'the surroundings in which a heritage asset is experienced' (NPPF, Annex 2: Glossary). Where that experience is capable of being affected by a proposed development (in any way) then the proposed development can be said to affect the setting of that asset. The starting point of the analysis is to identify those heritage assets likely to be affected by the development proposal.

21 It is important that, at the pre-application or scoping stage, the local authority, having due regard to the need for proportionality:

- indicates whether it considers a proposed development has the potential to affect the setting of (a) particular heritage asset(s), or
- specifies an 'area of search' around the proposed development within which it is reasonable to consider setting effects, or
- advises the applicant to consider approaches such as a 'Zone of Visual Influence' or 'Zone of Theoretical Visibility' in relation to the proposed development in order to better identify heritage assets and settings that may be affected

A 'Zone of Visual Influence' defines the areas from which a development may potentially be totally or partially visible by reference to surrounding topography. However, such analysis does not take into account any landscape artefacts such as trees, woodland, or buildings, and for this reason a 'Zone of Theoretical Visibility' which includes these factors is to be preferred.

22 For developments that are not likely to be prominent or intrusive, the assessment of effects on setting may often be limited to the immediate surroundings, while taking account of the possibility that setting may change as a result of the removal of impermanent landscape or townscape features, such as hoardings or planting.

23 The area of assessment for a large or prominent development, such as a tall building in an urban environment or a wind turbine in the countryside or offshore, can often extend for a distance of several kilometres. In these circumstances, while a proposed development may affect the setting of numerous heritage assets, it may not impact on them all equally, as some will be more sensitive to change affecting their setting than others. Local planning authorities are encouraged to work with applicants in order to minimise the need for detailed analysis of very large numbers of heritage assets. They may give advice at the pre-application stage (or the scoping stage of an Environmental Statement) on those heritage assets, or categories of heritage asset, that they consider most sensitive as well as on the level of analysis they consider proportionate for different assets or types of asset.

24 Where spatially extensive assessments relating to large numbers of heritage assets are required, Historic England recommends that local planning authorities give consideration to the practicalities and reasonableness of requiring assessors to access privately owned land. In these circumstances, they should also address the extent to which assessors can reasonably be expected to gather and represent community interests and opinions on changes affecting settings.

25 Where the development proposal affects views which may be particularly helpful in allowing the significance of an asset to be appreciated and which are therefore part of the setting, it is often necessary to identify viewing points for assessment. An explanation why a particular viewing point has been selected will be needed. Sometimes a heritage asset is best appreciated while moving (for example, in a designed landscape, where its three-dimensional

formal qualities are an essential part of its significance). These, such as the changing views of the Tyne bridges viewed from the banks of the River Tyne or of the Tower of London from the south bank of the River Thames in London, are often termed 'kinetic' views.

Step 2: Assess the degree to which these settings and views make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated

26 The second stage of any analysis is to assess whether the setting of an affected heritage asset makes a contribution to its significance and the extent and/or nature of that contribution; both setting, and views which form part of the way a setting is experienced, may be assessed additionally for the degree to which they allow significance to be appreciated. We recommend that this assessment should first address the key attributes of the heritage asset itself and then consider:

- the physical surroundings of the asset, including its relationship with other heritage assets
- the asset's intangible associations with its surroundings, and patterns of use
- the contribution made by noises, smells, etc to significance, and
- the way views allow the significance of the asset to be appreciated

27 The box below provides a (non-exhaustive) checklist of the potential attributes of a setting that it may be appropriate to consider in order to define its contribution to the asset's heritage values and significance. Only a limited selection of the attributes listed will be of particular relevance to an asset. A sound assessment process will identify these at an early stage, focus on them, and be as clear as possible what emphasis attaches to them. In doing so, it will generally be useful to consider, insofar as is possible, the way these attributes have contributed to the significance of the asset in the past (particularly when it was first built, constructed or laid out), the implications of change over time, and their contribution in the present.

A handy way of visualising the contribution of setting to the significance of heritage assets may be diagrammatically to map past and present relationships between a heritage asset and its surroundings, weighting the mapped connections to demonstrate the relative contribution of the relationship to the significance of the asset or the ability to appreciate the significance. By setting out the relationships and considering the level of their contribution to significance, it is possible to gauge impact more transparently and more consistently.

Change can also have the effect of strengthening relationships, for example by removing visual impediments such that significance is better revealed; mapping thereby provides one mechanism for identifying opportunities for enhancement.

28 The local authority Historic Environment Record is an important source of information to support this assessment and, in most cases, will be able to provide information on the wider landscape context of the heritage asset as well as on the asset itself. Landscape Character Assessments, Historic Landscape Character Assessments, Conservation Area Appraisals, the Register of Parks and Gardens and the Parks & Gardens UK database are also important sources in this regard.

29 This assessment of the contribution to significance made by setting will provide the baseline for establishing the effects of a proposed development on significance, as set out in 'Step 3' below. It will, therefore, be focused on the need to support decision-taking in respect of the proposed development. A similar approach to

assessment may also inform the production of a strategic, management or conservation plan in advance of any specific development proposal, although the assessment of significance required for studies of this type will address the setting of the heritage asset 'in the round', rather than focusing on a particular development site.

30 An assessment of the contribution to significance of a view does not depend alone on the significance of the heritage assets in the view but on the way the view allows that significance to be appreciated. The view may be part of a landscape, townscape or other design intended to allow a particular attribute of the asset to be enjoyed, such as its reflection in a body of water. Heritage assets (sometimes of different periods) may have been deliberately linked by the creation of views which were designed to have a particular effect, adding meanings through visual cross-references. Composite or fortuitous views which are the cumulative result of a long history of development, particularly in towns and cities, may become cherished and may be celebrated in artistic representations. The ability to experience

Assessment Step 2 Checklist

The starting point for this stage of the assessment is to consider the significance of the heritage asset itself and then establish the contribution made by its setting. The following is a (non-exhaustive) check-list of potential attributes of a setting that may help to elucidate its contribution to significance. It may be the case that only a limited selection of the attributes listed is likely to be particularly important in terms of any single asset.

The asset's physical surroundings

- Topography
- Aspect
- Other heritage assets (including buildings, structures, landscapes, areas or archaeological remains)
- Definition, scale and 'grain' of surrounding streetscape, landscape and spaces
- Formal design eg hierarchy, layout
- Orientation and aspect
- Historic materials and surfaces
- Green space, trees and vegetation
- Openness, enclosure and boundaries
- Functional relationships and communications
- History and degree of change over time

Experience of the asset

- Surrounding landscape or townscape character
- Views from, towards, through, across and including the asset
- Intentional intervisibility with other historic and natural features
- Visual dominance, prominence or role as focal point
- Noise, vibration and other nuisances
- Tranquillity, remoteness, 'wildness'
- Busyness, bustle, movement and activity
- Scents and smells
- Diurnal changes
- Sense of enclosure, seclusion, intimacy or privacy
- Land use
- Accessibility, permeability and patterns of movement
- Degree of interpretation or promotion to the public
- Rarity of comparable survivals of setting
- Cultural associations
- Celebrated artistic representations
- Traditions

these same views today can illuminate the design principles and taste of our predecessors.

31 The impact of seasonal and day/night changes on a view or views needs to be considered, including other changes that may mean that a view at a particular point in time may not be representative of the experience over longer periods. Does summer foliage hide an asset that is visible in winter? Does artificial external lighting at night emphasise some aspects of an asset and leave others in the dark.

Step 3: Assess the effects of the proposed development, whether beneficial or harmful, on the significance or on the ability to appreciate it

32 The third stage of any analysis is to identify the effects a development may have on setting(s) and to evaluate the resultant degree of harm or benefit to the significance of the heritage asset(s). In some circumstances, this evaluation may need to extend to cumulative and complex impacts which may have as great an effect on heritage assets as large-scale development and which may not solely be visual.

33 The wide range of circumstances in which setting may be affected and the range of heritage assets that may be involved precludes a single approach for assessing effects. Different approaches will be required for different circumstances. In general, however, the assessment should address the attributes of the proposed development in terms of its:

- location and siting
- form and appearance
- wider effects
- permanence

34 The box (see below) provides a more detailed list of attributes of the development proposal that it may be appropriate to consider during the assessment process. This list is not intended to be exhaustive and not all attributes will apply to a particular development proposal. Depending on the level of detail considered proportionate to the purpose of the assessment, it would normally be appropriate to make a selection from the list, identifying those particular attributes of the development requiring further consideration and considering what emphasis attaches to each. The key attributes chosen for consideration can be used as a simple check-list, supported by a short explanation, as part of a Design and Access Statement, or may provide the basis for a more complex assessment process that might sometimes draw on quantitative approaches to assist analysis.

35 In particular, it would be helpful for local planning authorities to consider at an early stage whether development affecting the setting of a heritage asset can be broadly categorised as having the potential to enhance or harm the significance of the asset through the principle of development alone; through the scale, prominence, proximity or placement of development; or through its detailed design. Determining whether the assessment will focus on spatial, landscape and views analysis, on the application of urban design considerations, or on a combination of these approaches will clarify for the applicant the breadth and balance of professional expertise required for its successful delivery.

36 Cumulative assessment is required under the EU Directive on EIA. Its purpose is to identify impacts that are the result of introducing the development into the view in combination with other existing and proposed developments. The combined impact may not simply be the sum of the impacts of individual developments; it may be more, or less.

Assessment Step 3 Checklist

The following is a (non-exhaustive) check-list of the potential attributes of a development affecting setting that may help to elucidate its implications for the significance of the heritage asset. It may be that only a limited selection of these is likely to be particularly important in terms of any particular development.

Location and siting of development

- Proximity to asset
- Position in relation to relevant topography and watercourses
- Position in relation to key views to, from and across
- Orientation
- Degree to which location will physically or visually isolate asset

Form and appearance of development

- Prominence, dominance, or conspicuousness
- Competition with or distraction from the asset
- Dimensions, scale and massing
- Proportions
- Visual permeability (extent to which it can be seen through), reflectivity
- Materials (texture, colour, reflectiveness, etc)
- Architectural and landscape style and/or design
- Introduction of movement or activity
- Diurnal or seasonal change

Wider effects of the development

- Change to built surroundings and spaces
- Change to skyline, silhouette
- Noise, odour, vibration, dust, etc
- Lighting effects and 'light spill'
- Change to general character (eg urbanising or industrialising)
- Changes to public access, use or amenity
- Changes to land use, land cover, tree cover
- Changes to communications/accessibility/ permeability, including traffic, road junctions and car-parking, etc
- Changes to ownership arrangements (fragmentation/permitted development/etc)
- Economic viability

Permanence of the development

- Anticipated lifetime/temporariness
- Recurrence
- Reversibility

Step 4: Explore ways to maximise enhancement and avoid or minimise harm

37 Maximum advantage can be secured if any effects on the significance of a heritage asset arising from development likely to affect its setting are considered from the project's inception. Early assessment of setting may provide a basis for agreeing the scope and form of development, reducing the potential for disagreement and challenge later in the process.

38 Enhancement (see NPPF, paragraph 137) may be achieved by actions including:

- removing or re-modelling an intrusive building or feature
- replacement of a detrimental feature by a new and more harmonious one
- restoring or revealing a lost historic feature or view
- introducing a wholly new feature that adds to the public appreciation of the asset
- introducing new views (including glimpses or better framed views) that add to the public experience of the asset, or
- improving public access to, or interpretation of, the asset including its setting

39 Options for reducing the harm arising from development may include the repositioning of a development or its elements, changes to its design, the creation of effective long-term visual or acoustic screening, or management measures secured by planning conditions or legal agreements. For some developments affecting setting, the design of a development may not be capable of sufficient adjustment to avoid or significantly reduce the harm, for example where impacts are caused by fundamental issues such as the proximity, location, scale, prominence or noisiness of a development. In other cases, good design may reduce or remove the harm, or provide enhancement. Here the design quality may be an important consideration in determining the balance of harm and benefit.

40 Where attributes of a development affecting setting may cause some harm to significance and cannot be adjusted, screening may have a part to play in reducing harm. As screening can only mitigate negative impacts, rather than removing impacts or providing enhancement, it ought never to be regarded as a substitute for well-designed developments within the setting of heritage assets. Screening may have as intrusive an effect on the setting as the development it seeks to mitigate, so where it is necessary, it too merits careful design. This should take account of local landscape character and seasonal and diurnal effects, such as changes to foliage and lighting. The permanence or longevity of screening in relation to the effect on the setting also requires consideration. Ephemeral features, such as hoardings, may be removed or changed during the duration of the development, as may woodland or hedgerows, unless they enjoy statutory protection. Management measures secured by legal agreements may be helpful in securing the long-term effect of screening.

Step 5: Make and document the decision and monitor outcomes

41 It is good practice to document each stage of the decision-making process in a non-technical and proportionate way, accessible to non-specialists. This should set out clearly how the setting of each heritage asset affected contributes to its significance or to the appreciation of its significance, as well as what the anticipated effect of the development will be, including of any mitigation proposals. Despite the wide range of possible variables, normally this analysis should focus on a limited number of key attributes of the asset, its setting and the proposed development, in order to avoid undue complexity. Such assessment work is a potentially valuable resource and should be logged in the local Historic Environment Record.

42 The true effect of a development on setting may be difficult to establish from plans, drawings and visualisations. It may be helpful to review the success of a scheme and to identify any 'lessons learned' once a development affecting setting has been implemented that was intended to enhance, or was considered unlikely to detract from, the significance of a heritage asset. This will be particularly useful where similar developments are anticipated in the future.

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Technical Guidance Note | 02/21

Assessing landscape value outside national designations



Landscape Institute
Inspiring great places

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- Appendices cover: River Findhorn, Strathdearn, credit LUC.

1 Introduction

1.1 Purpose, aims and objectives

1.1.1 This technical guidance note (TGN) provides information and guidance[1] to landscape professionals and others who need to make judgments about the value of a landscape (outside national landscape designations[2]) in the context of the UK Town and Country Planning system. It is also intended to be of assistance to those who review these judgements, so that there is a common understanding of the approach.

1.1.2 Although the discussion that led to the drafting of this document was prompted by a need to interpret the (England) National Planning Policy Framework February 2019 (NPPF) term 'valued landscape', the main body of this TGN is intended to be independent of national policy, which differs across the four nations of the UK.

1.2 Structure

1.2.1 In Part 2, this TGN:

- *identifies the stages in the planning process at which landscape value might be assessed;*
- *reviews the tools available to enable practitioners to assess landscape value; and*
- *presents a list of factors that could be considered when identifying landscape value.*

1.2.2 Appendices provide:

- *a summary of historical background and context;*
- *a summary of the evolution of factors used to describe landscape value;*
- *a summary of policies and guidance relating to designated landscapes in the four nations of the UK;*
- *the Landscape Institute's understanding of the term 'valued landscape' as it is used in the context of the (England) NPPF; and*
- *an analysis of planning decisions and judgements concerned with the [England] NPPF term 'valued landscape'.*

1.3 Context and relationship to existing UK guidance

1.3.1 The TGN does not seek to provide an evaluative methodology that would replace those provided by other established advisory documents. It is intended to supplement existing advice to practitioners, such as guidance on Landscape Character Assessment and Landscape Sensitivity Assessment (Natural England, NatureScot, Natural Resources Wales, Marine Management Organisation), Local Landscape Designation (NatureScot, Natural Resources Wales) and Landscape and Visual Impact Assessment (the Landscape Institute and Institute of Environmental Management and Assessment). The TGN acknowledges and reflects all these important sources of guidance.

1.3.2 Although the history of how we value landscape is closely related to the concept of 'natural beauty' (summarised in **Appendix A2**), it is not the purpose of this document to define the expression 'natural beauty' and this TGN does not apply to national landscape designations.

[1] Some parts of the note are for information, some parts supplement existing guidance and other parts (e.g. **Appendix A4**) provide new guidance.
[2] Designation of nationally important landscapes is a matter for government and its agencies, some of whom have prepared technical guidance.

1.3.3 There is a difference between landscape value and the wider topic of environment value. For example, the assessment of Ecosystem Services (which combines quantitative and qualitative information) and Natural Capital Accounting (a quantitative approach) are two approaches to valuing the environment, of which landscape forms an important part. More information about these approaches can be found in the following LI Technical Information Notes (TIN):

- *TIN 02/2016 - Ecosystem Services;*
- *TIN 02/2018 - Natural Capital Accounting.*

1.4 Potential future revisions

1.4.1 Landscape offers multiple values, benefits and services and the way in which landscapes are valued by people is a dynamic process that can change over time. The landscape profession's understanding of landscape value is still evolving, particularly in light of the nature and climate emergency. This TGN is the Landscape Institute's current reflection on the subject of landscape value.

1.4.2 The wide range of comments on the consultation draft document suggested that further guidance would be welcome, including:

- *how the landscape design process can respond to value assessments;*
- *how value can be expressed in local plan policy;*
- *how the increased emphasis on 'beauty' in Government papers (in England) relates to landscape value; and*
- *how to interpret value in relation to other aspects of England's NPPF such as Local Green Spaces.*

1.4.3 It has not been possible to address all these as part of this TGN, although they could form topics for future TGNs.

1.4.4 This TGN is written in the context of current policy guidance and evaluation factors that have evolved since 1945 (see **Appendices A1** and **A2)**. The LI is committed to equity, diversity and inclusion within the landscape profession and emerging sources of 'evidence' of value, for example from social data, will feed into future revisions to this TGN.

.

2 Tools to enable practitioners to assess landscape value

This TGN uses the following definitions:

Landscape qualities = characteristics/ features of a landscape that are valued

This term is being used to distinguish landscape qualities from landscape characteristics which are elements, or combinations of elements, which make a particular contribution to landscape character. Landscape qualities (in the sense meant in this TGN) are usually referred to as 'special qualities' or 'special landscape qualities' in relation to nationally designated landscapes. For example, 'special qualities' is a statutory expression used in relation to National Parks, in policy for Scotland's local landscape designations, and is a term used informally to describe components of natural beauty set out in AONB Management Plans[3].

Landscape value = the relative value or importance attached to different landscapes by society on account of their landscape qualities (see Table 1).

The definition of landscape value used in this TGN draws on, and is compatible with, the GLVIA3 definition of landscape value as well as Natural England's definition (Landscape Institute and Institute of Environmental Management & Assessment, 2013; Tudor, 2014). The definition makes it clear that it is 'society' that assigns value to landscapes. However, landscape value means more than popularity and the Landscape Institute suggests that value assessments should be undertaken by a landscape professional, drawing on evidence from stakeholders where available.

2.1 Introduction

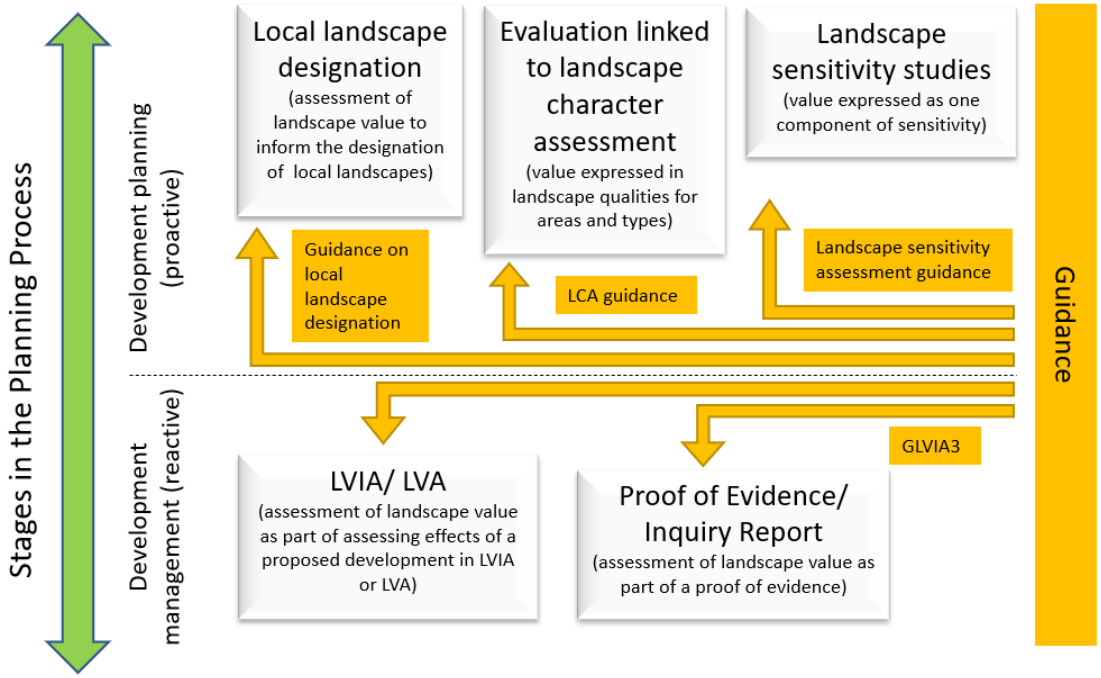
2.1.1 Assessments of landscape value (for landscapes which are outside, and not candidates for, national designation) may be required at different stages of the planning process, for example:

- *Local planning authorities (LPAs), neighbourhood planning groups and other parties at the evidence-gathering and plan-making stages;*
- *LPAs, applicants/appellants and others considering a site on which future development or other form of change is proposed, usually at the planning application or appeal stage.*

2.1.2 These scenarios are shown by **Figure 1**, along with the type of guidance that might feed in.

[3] National Parks are UK-wide. AONBs are found in England, Wales and Northern Ireland, and NSAs are unique to Scotland.

Figure 1: Assessing landscape value at different stages of the planning process



2.2 Assessing landscape value as part of plan making (development planning)

2.2.1 Landscape value at the local authority or neighbourhood level can be assessed and mapped spatially, i.e. through identifying areas for local landscape designation. Studies to support spatial designations should identify the landscape qualities of each area of landscape proposed for designation.

2.2.2 Landscape value can be assessed as an evaluation stage of a landscape character assessment or as a follow-on study. In this case landscape qualities will be identified in relation to individual character areas or types. Currently these are commonly described as 'valued landscape characteristics' or 'landscape qualities'.

2.2.3 Landscape value can also be assessed as part of a landscape sensitivity study, as landscape value is one of the two components of landscape sensitivity (the other being susceptibility). The areas to be assessed will depend on the purpose of the study.

2.2.4 The LI supports all approaches as they are all capable of highlighting the particular aspects of a landscape that are valued. Where value has been placed on a landscape by the local planning authority, this should ideally be defined in the development plan documents. Where value is not defined in the development plan, evaluations undertaken by local planning authorities and neighbourhood planning groups still form part of the evidence base.

Local landscape designations: the spatial approach

2.2.5 Although the guidance in this note is independent of policy, it is worth noting that different parts of the UK currently have different policy approaches to local landscape designations, as described in **Appendix A3**. Local landscape designation is supported by national policy in Scotland, Wales and Northern Ireland, but across England local landscape designations have been inconsistently applied due to past changes of emphasis in national planning guidance. Therefore, the absence of local landscape designations in England does not necessarily indicate there are no landscapes worthy of local designation. Additionally, in all nations, the lack of designation does not mean that a landscape has no value.

2.2.6 Guidance on how to identify local landscape designations has been produced in Scotland and Wales. This TGN is intended to support the approach set out in these guidance documents:

- *NatureScot and Historic Environment Scotland (2020) have jointly produced guidance on designating Local Landscape Areas (LLAs) in Scotland which is intended primarily for local authorities to use in taking forward their own designation process. The guidance acknowledges that local landscape designations are a valuable tool in the development plan toolbox and outlines the process for designating new LLAs and refreshing existing designations, noting that 'designations do not mean other places are unimportant or not valued' (paragraph **1.16**).*

- *NRW has published LANDMAP Guidance Note 1: LANDMAP and Special Landscape Areas (2017)[4] which sets out an approach for defining Special Landscape Areas in Wales using LANDMAP[5] information. These areas may be designated for 'their intrinsic physical, environmental, visual, cultural and historical importance, which may be considered unique, exceptional or distinctive to the local area' and they should be 'important for their distinctive character, qualities and sense of place'.*

2.2.7 The guidance produced by NatureScot and NRW may be helpful for other nations that do not have their own guidance.

2.2.8 Where local designations are used, the identification of their spatial boundaries and their landscape qualities should be supported by evidence.

2.2.9 **Table 1** of this TGN sets out a range of factors that could be considered to define the value of a landscape[6] and to inform the designation process. These factors are intended to be consistent with the factors set out in existing guidance in relation to local landscape designations in Scotland and Wales, as well as guidance in relation to national landscape designations (e.g. guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England). However, they are not intended to be an exhaustive list.

2.2.10 Stakeholder engagement and early collaboration with local communities will add depth to the assessment by helping the landscape professional to understand what people value about the local landscape. Community engagement should be encouraged whenever practicable in line with existing planning guidance.

Evaluative studies linked to landscape character assessment

2.2.11 The guidance on Landscape Character Assessment (The Countryside Agency and Scottish National Heritage, 2002), which is still in use in Scotland, acknowledges that 'most assessments will usually move beyond the characterisation stage to the stage of making judgements to inform particular decisions'[7]. Natural England's 2014 document, which replaced the 2002 guidance in England, also notes that landscape character assessment can be used to identify special qualities and inform judgements (Tudor, 2014). These evaluative studies can be undertaken as an extension to a landscape character assessment, or as a separate follow-on study. Such studies can include the identification of landscape qualities that contribute to the value of landscape areas or types[8]. **Table 1** of this TGN sets out a range of factors that could be considered as part of the process.

2.2.12 In these types of assessments, information from stakeholders (where available) about what is valued should inform the landscape professional's consideration of landscape value.

Landscape sensitivity studies

2.2.13 Landscape value is assessed as one of the two components of landscape sensitivity in strategic landscape sensitivity assessments. As explained in Natural England's *An Approach to Landscape Sensitivity Assessment – to Inform Spatial Planning and Land Management* (Tudor, 2019), landscape

[4] https://naturalresources.wales/media/680613/landmap-guidance-note-1-landmap-slas-2017.pdf https://gov.wales/sites/default/files/publications/2018-12/planning-policy-wales-edition-10.pdf

[5] LANDMAP is an all-Wales landscape resource where landscape characteristics, qualities and influences on the landscape are recorded and evaluated.

[6] It should be noted that designation is a process that may include factors other than landscape value.

[7] This is a two-stage process with the landscape character assessment being separate from subsequent assessments of value or sensitivity.

[8] It should be noted that, in Wales, LANDMAP already includes a range of criteria-based evaluations relating to the landscape.

sensitivity combines judgements about the susceptibility to the specific development type/development scenario or other change being considered together with the value(s) related to that landscape and visual resource.

2.2.14 Existing guidance on landscape sensitivity assessment should be followed where available. In addition to the guidance from Natural England above, Natural Resources Wales and NatureScot are also preparing guidance documents for Wales and Scotland which should be available soon. The Marine Management Organisation (MMO) has also published guidance on seascape sensitivity assessment (see further reading). The factors in **Table 1** of this TGN may be helpful to consider as part of the process of landscape sensitivity assessment.

2.3 Assessing landscape value of a site in its context (as part of development management)

2.3.1 The landscape value of a site in its context needs to be assessed as part of carrying out a Landscape and Visual Impact Assessment (LVIA) or Landscape and Visual Appraisal (LVA)[9]. Most commonly this will be as part of the assessment of a development proposal (for a planning application or appeal). The current guidance for LVIA/LVA is the third edition of *Guidelines for Landscape and Visual Impact Assessment* (GLVIA3; LI and IEMA, 2013) which states that the value of a landscape should be assessed as one of two components of landscape sensitivity[10]. Landscape value is the 'inherent' component, which is independent of the development proposal, while the other component, susceptibility, is development specific.

2.3.2 GLVIA3 recognises that landscape value is not always signified by designation: 'the fact that an area of landscape is not designated either nationally or locally does not mean that it does not have any value' (paragraph **5.26**). GLVIA3 recommends that when undertaking a LVIA/LVA in an undesignated area, landscape value should be determined through a review of existing assessments, policies, strategies and guidelines and, where appropriate, by new survey and analysis (paragraphs **5.27** and **5.28**). It is recommended that the process for identifying landscape value outside nationally designated areas is based upon a structured and transparent assessment process including community-based evidence where practical to do so.

2.3.3 The list of factors set out in Box 5.1 on page **84** of GLVIA3, which is a slightly modified form of the list of criteria from the 2002 landscape character assessment guidance, is described as an example of 'the range of factors that can help in the identification of valued landscapes'. It should be noted that they are not comprehensive nor intended to be prescriptive. Nevertheless, 'Box 5.1' has been widely used to inform judgements about landscape value as part of LVIA/LVA in the planning process.

2.3.4 Since GLVIA3 was published in 2013, appeal decisions, high court judgements and practitioners' experience have provided further information about the factors which can be considered in assessing landscape value outside nationally designated landscapes. These have been incorporated into **Table 1** of this TGN.

2.4 Range of factors that can be considered when identifying landscape value

2.4.1 **Table 1** sets out a range of factors that can be considered when identifying landscape value in any of the contexts described above. It also includes examples of potential indicators of value.

2.4.2 This broadly presents the same factors as Box 5.1 from GLVIA3 (and the 2002 Landscape Character Assessment Guidance), with the following changes:

- *'Conservation interests' is separated into natural heritage and cultural heritage factors (reflecting the approach in NatureScot's guidance on local landscape designations and Natural England's*

[9] Landscape and Visual Impact Assessments (LVIA) form part of an Environmental Impact Assessment (EIA). Landscape and Visual Appraisals (LVA) are standalone assessments.
[10] This is consistent with the approach set out in Tudor (2019).

Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England);

- *The term 'landscape condition' is used in place of 'landscape quality (condition)';*
- *'Rarity' and 'representativeness' are combined into a newly-named factor 'distinctiveness'; and*
- *A new factor, 'function' is included which addresses the value attached to landscapes which perform a clearly identifiable and valuable function.*

2.4.3 It should be noted that the factors are not presented in order of importance.

2.4.4 As with Box 5.1 in GLVIA3, **Table 1** is not intended to be an exhaustive list of factors to be considered when determining the value of landscapes, but to provide a range of factors and indicators that could be considered. This TGN is intended to be complementary to GLIVA3.

Table 1: Range of factors that can be considered when identifying landscape value

Factor	Definition	Examples[11] of indicators of landscape value	Examples of evidence[12]
Natural heritage	Landscape with clear evidence of ecological, geological, geomorphological or physiographic interest which contribute positively to the landscape	Presence of wildlife and habitats of ecological interest that contribute to sense of place Extent and survival of semi-natural habitat that is characteristic of the landscape type Presence of distinctive geological, geomorphological or pedological features Landscape which contains valued natural capital assets that contribute to ecosystem services, for example distinctive ecological communities and habitats that form the basis of ecological networks Landscape which makes an identified contribution to a nature recovery/ green infrastructure network	Landscape character assessment LANDMAP Geological Landscape and Landscape Habitats Aspects (in Wales) Ecological and geological designations SSSI citations and condition assessments Geological Conservation Review Habitat surveys Priority habitats Nature recovery networks/ nature pathways Habitat network opportunity mapping/ green infrastructure mapping Catchment management plans Ecosystem services assessment/ schemes Specialist ecological studies
Cultural heritage	Landscape with clear evidence of archaeological, historical or	Presence of historic landmark structures or designed landscape elements (e.g. follies,	Landscape character assessment

[11] These examples are not exhaustive.
[12] Evidence may be set out in development plans (or evidence that sits alongside development plans). Online mapping may also provide useful information (see 'useful data links' at the end of this TGN).

Factor	Definition	Examples[11] of indicators of landscape value	Examples of evidence[12]
	cultural interest which contribute positively to the landscape	monuments, avenues, tree roundels) Presence of historic parks and gardens, and designed landscapes Landscape which contributes to the significance of heritage assets, for example forming the setting of heritage assets (especially if identified in specialist studies) Landscape which offers a dimension of time depth. This includes natural time depth, e.g. presence of features such as glaciers and peat bogs and cultural time depth e.g. presence of relic farmsteads, ruins, historic field patterns, historic rights of way (e.g. drove roads, salt ways, tracks associated with past industrial activity)	LANDMAP Historic Landscape and Cultural Landscape Services Aspect (in Wales) Historic environment and archaeological designations Conservation Area appraisals, Village Design Statements Historic maps Historic landscape character assessments[13] Historic Land Use Assessment[14] and Historic Area Assessments[15] Place names Specialist heritage studies
Landscape condition	Landscape which is in a good physical state both with regard to individual elements and overall landscape structure	Good physical condition/ intactness of individual landscape elements (e.g. walls, parkland, trees) Good health of elements such as good water quality, good soil health Strong landscape structure (e.g. intact historic field patterns) Absence of detracting/ incongruous features (or features are present but have little influence)	Landscape character assessment LANDMAP condition and trend questions (in Wales) Hedgerow/ tree surveys Observations about intactness/ condition made in the field by the assessor SSSI condition assessments Historic landscape character assessments/ map regression analysis
Associations	Landscape which is connected with notable people, events and the arts	Associations with well-known literature, poetry, art, TV/film and music that contribute to perceptions of the landscape	Information about arts and science relating to a place Historical accounts, cultural traditions and folklore

[13] Historic Landscape Characterisation has developed as a GIS mapping tool to capture how land use has changed and the 'time-depth' of the present-day landscape. https://historicengland.org.uk/research/methods/characterisation/historic-landscape-characterisation/

[14] Mapping of Scotland's Historic Landscape: https://hlamap.org.uk/

[15] https://historicengland.org.uk/images-books/publications/understanding-place-historic-area-assessments/

Factor	Definition	Examples[11] of indicators of landscape value	Examples of evidence[12]
		Associations with science or other technical achievements Links to a notable historical event Associations with a famous person or people	Guidebooks/ published cultural trails LANDMAP Cultural Landscape Services aspect (in Wales)
Distinctiveness	Landscape that has a strong sense of identity	Landscape character that has a strong sense of place (showing strength of expression of landscape characteristics) Presence of distinctive features which are identified as being characteristic of a particular place Presence of rare or unusual features, especially those that help to confer a strong sense of place or identity Landscape which makes an important contribution to the character or identity of a settlement Settlement gateways/approaches which provides a clear sense of arrival and contribute to the character of the settlement (may be ancient/historic)	Landscape character assessment LANDMAP Visual & Sensory question 3 and 25, – Historic Landscape question 4 (in Wales) Guidebooks Observations about identity/ distinctiveness made in the field by the assessor
Recreational	Landscape offering recreational opportunities where experience of landscape is important	Presence of open access land, common land and public rights of way (particularly National Trails, long distance trails, Coastal Paths and Core Paths) where appreciation of landscape is a feature Areas with good accessibility that provide opportunities for outdoor recreation and spiritual experience/ inspiration Presence of town and village greens Other physical evidence of recreational use where experience of landscape is important Landscape that forms part of a view that is important to the	Definitive public rights of way mapping/ OS map data National Trails, long distance trails, Coastal Paths, Core Paths Open access land (including registered common land) Database of registered town or village greens Visitor surveys/ studies Observations about recreational use/ enjoyment made in the field by the assessor

Factor	Definition	Examples[11] of indicators of landscape value	Examples of evidence[12]
		enjoyment of a recreational activity	
Perceptual (Scenic)	Landscape that appeals to the senses, primarily the visual sense	Distinctive features, or distinctive combinations of features, such as dramatic or striking landform or harmonious combinations of land cover Strong aesthetic qualities such as scale, form, colour and texture Presence of natural lines in the landscape (e.g. natural ridgelines, woodland edges, river corridors, coastal edges) Visual diversity or contrasts which contributes to the appreciation of the landscape Memorable/ distinctive views and landmarks, or landscape which contributes to distinctive views and landmarks	Landscape character assessment LANDMAP Visual and Sensory scenic quality question 46 (in Wales) Protected views, views studies Areas frequently photographed or used in images used for tourism/ visitor/ promotional purposes, or views described or praised in literature Observations about scenic qualities made in the field by the assessor Conservation Area Appraisals Village Design Statements, or similar
Perceptual (Wildness and tranquillity)	Landscape with a strong perceptual value notably wildness, tranquillity and/or dark skies	High levels of tranquillity or perceptions of tranquillity, including perceived links to nature, dark skies, presence of wildlife/ birdsong and relative peace and quiet[16] Presence of wild land and perceptions of relative wildness (resulting from a high degree of perceived naturalness[17], rugged or otherwise challenging terrain, remoteness from public mechanised access and lack of modern artefacts) Sense of particular remoteness, seclusion or openness Dark night skies	Tranquillity mapping and factors which contribute to and detract from tranquillity Dark Skies mapping Wildness mapping, and Wild Land Areas in Scotland Land cover mapping Field survey LANDMAP Visual and Sensory Aspect

[16] More about tranquillity can be found in Landscape Institute Technical Information Note 01/2017 (Revised; Landscape Institute, 2017).

[17] Relating to extensive semi-natural vegetation, presence of wildlife and presence of natural processes/ lack of human intervention.

Factor	Definition	Examples[11] of indicators of landscape value	Examples of evidence[12]
		A general absence of intrusive or inharmonious development, land uses, transport and lighting	
Functional	Landscape which performs a clearly identifiable and valuable function, particularly in the healthy functioning of the landscape	Landscapes and landscape elements that contribute to the healthy functioning of the landscape, e.g. natural hydrological systems/ floodplains, areas of undisturbed and healthy soils, areas that form carbon sinks such as peat bogs, woodlands and oceans, areas of diverse landcover (benefits pest regulation), pollinator-rich habitats such as wildflower meadows Areas that form an important part of a multifunctional Green Infrastructure network Landscapes and landscape elements that have strong physical or functional links with an adjacent national landscape designation, or are important to the appreciation of the designated landscape and its special qualities	Land cover and habitat maps Ecosystem services assessments and mapping (particularly supporting and regulating services) Green infrastructure studies/strategies Development and management plans for nationally-designated landscapes, Local Plans and SPDs Landscape character assessments

The practical application of factors in coming to a judgement on landscape value

2.4.5 The following bullet points provide some advice on the practical application of the factors in **Table 1**:

- *The factors to be considered are not fixed as they need to be appropriate to the particular project and location. It is recommended that the factors used to assess landscape value in a particular assessment are, where appropriate, discussed with the relevant planning authority or statutory consultees.*
- *The indicators of value should be reviewed on a case-by-case basis, taking into account what they contribute (positively or negatively) to a specific landscape. The relative importance to be attached to each indicator is likely to vary across different landscapes. Once evidence for each factor has been collated and assessed, it is important to step back and judge the overall 'weight of evidence' in coming to an overall judgement on landscape value.*
- *There are likely to be overlaps between the factors, as well as overlaps with other specialist studies for example in relation to natural and cultural factors. These overlaps should be acknowledged and considered when presenting conclusions on the overall value of the landscape.*
- *While condition/intactness of a landscape is one factor that can influence value, poor landscape management should not be a reason to deny a landscape a valued status if other factors indicate*

value. Deliberately neglecting an area of landscape and allowing its condition to deteriorate should not be allowed to diminish its value in a planning context.

- *When assessing landscape value of a site as part of a planning application or appeal it is important to consider not only the site itself and its features/elements/characteristics/qualities, but also their relationship with, and the role they play within, the site's context. Value is best appreciated at the scale at which a landscape is perceived – rarely is this on a field-by-field basis.*
- *Landscape function can influence value, but the presence of a spatial designation (e.g. Green Belt or Green Gap) is not in itself an indicator of high landscape value.*
- *The presentation of information about landscape value should be proportionate to the task at hand.*
- *Landscape value, and the way in which landscapes are valued by people, is a dynamic process, and can change over time. Any value assessment will be a snapshot in time.*

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Useful data links

England

https://naturalengland-defra.opendata.arcgis.com/

https://www.gov.uk/right-of-way-open-access-land/access-private-land

https://magic.defra.gov.uk/

Wales

www.naturalresources.wales/landmap

www.naturalresources.wales/landscape

http://lle.gov.wales

Scotland

Landscape Character Assessment https://www.nature.scot/professional-advice/landscape/landscape-character-assessment [*the general LCA page; links from these pages include Coastal Characterisation guidance]*

Local Landscape Areas guidance https://www.nature.scot/professional-advice/protected-areas-and-species/protected-areas/local-designations/local-landscape-areas

Wild Land https://www.nature.scot/professional-advice/landscape/landscape-policy-and-guidance/landscape-policy-wild-land

Historic Land Use Assessment https://hlamap.org.uk/

Northern Ireland

https://www.daera-ni.gov.uk/services/natural-environment-map-viewer

https://www.daera-ni.gov.uk/topics/land-and-landscapes/landscape-character-areas

https://www.daera-ni.gov.uk/articles/seascape-character-areas

4 Glossary

Term	Definition
Aesthetics	Philosophical study of beauty and taste
Characteristics (landscape)	Elements, or combinations of elements, which make a particular contribution to distinctive character (An Approach to Landscape Character Assessment Natural England 2014)
Green infrastructure	The network of natural and semi-natural features, green spaces, rivers and lakes that intersperse and connect villages, towns and cities. Individually, these elements are GI assets, and the roles that these assets play are GI functions (Green Infrastructure Landscape Institute Position Statement 2013)
Elements	Individual parts which make up the landscape, such as, for example, trees, hedges and buildings (GLVIA3)
Features	Particularly prominent or eye-catching elements, like tree clumps, church towers, or wooded skylines (from GLVIA3 and An Approach to Landscape Character Assessment 2014)
Landscape	An area as perceived by people whose character is the result of the action and interaction of natural and/or human factors (European Landscape Convention)
Landscape condition	A measure of the physical state of the landscape (including the intactness of the landscape structure and the condition of individual elements)
Landscape management	Action, from a perspective of sustainable development, to ensure the regular upkeep of a landscape, so as to guide and harmonise changes which are brought about by social, economic and environmental processes (European Landscape Convention)
Landscape planning	Strong forward-looking action to enhance, restore or create landscapes (European Landscape Convention) The development and application of strategies, policies and plans to create successful environments, in both urban and rural settings, for the benefit of current and future generations (Landscape Institute)
Landscape policy	An expression by the competent public authorities of general principles, strategies and guidelines that permit the taking of specific measures aimed at the protection, management and planning of landscapes (European Landscape Convention)
Landscape protection	Actions to conserve and maintain the significant or characteristic features of a landscape, justified by its heritage value derived from its natural configuration and/or from human activity (European Landscape Convention)
Landscape qualities	Characteristics/features of a landscape that have been identified as being valued

Term	Definition
	Landscape qualities are usually referred to as 'special qualities' or 'special landscape qualities' in relation to nationally designated landscapes or 'wildness qualities' in relation to Wild Land Areas.
Landscape value	The relative value or importance attached to different landscapes by society on account of their landscape qualities (see **Table 1**).
LVA	Landscape and visual appraisal
LVIA	Landscape and visual impact assessment
Natural beauty	The term 'natural beauty' is enshrined in the 1949 National Parks and Access to the Countryside Act (it was also subsequently included in the Nature Conservation and Amenity Lands Order (NI) 1985), the Town and Country Planning (Scotland) Act 1997, and the Planning etc. (Scotland) Act 2006). Natural beauty is not exhaustively defined in the legislation, but its meaning has been clarified and interpreted through a series of studies, guidance documents and public inquiries (see 'Further reading'). *N.B. Since the term 'natural beauty' applies to national designation, it is not the purpose of this note to define it.*
Natural capital	The elements of nature that directly and indirectly produce value or benefits to people, including ecosystems, species, fresh water, land, minerals, the air and oceans, as well as natural processes and functions. (Natural Capital Committee, 2014)
Scenic quality	The extent to which the landscape appeals to the senses (primarily, but not only, the visual senses) (Landscape Character Assessment Guidance 2002)
Special qualities	A statutory expression used in (amongst other places) sections 5 and 11A of the National Parks and Access to the Countryside Act 1949 (as amended), section 87 of the Countryside and Rights of Way Act 2000 and National Parks (Scotland) Act 2000 (although the term is not defined in legislation). Special qualities are defined by Nature Scot as 'the characteristics that, individually or combined, give rise to an area's outstanding scenery'

Appendices



A1 (Appendix 1) Assessment of landscape value: a summary of historical background and context

A1.1.1 Land has always had a productive value for food and other natural resources, but our appreciation of the landscape has evolved over time. A summary is provided below.

A1.1.2 During the 17th century in Europe, an appreciation of landscape became closely linked to ideas about beauty and aesthetics. In the 18th–19th centuries influential artists writers and thinkers such as Turner, Ruskin, Wordsworth and others publicly described their appreciation of scenic qualities, landform, nature, vernacular architecture, traditional agriculture, tranquillity and wildness, raising awareness of these landscape qualities.

A1.1.3 From the 19th century, the value of access to natural landscapes for recreation and wellbeing was also recognised, partly as a response to industrialisation. The National Trust was the first organisation to use the term natural beauty. Originally called the National Trust for Places of Historic Interest or Natural Beauty, it was established in 1895.[18] Its purpose, confirmed in the first National Trust Act passed in 1907, was 'promoting the permanent preservation for the benefit of the nation of lands and tenements (including buildings) of beauty or historic interest and as regards lands for the preservation (so far as practicable) of their natural aspect features and animal and plant life'.[19]

A1.1.4 Pressure in the early decades of the 20th century resulted in the establishment of the Addison Committee in 1929 and in 1931 the Addison Report (see Ministry of Town and Country Planning, 1947) recommended the identification of national parks in England and Wales. However, it was the establishment of the National Parks Committee and the publication of the Dower report (Ministry of Town and Country Planning, 1945), the Ramsay Report (Department for Health for Scotland, 1945) and the Hobhouse Report (Ministry of Town and Country Planning, 1947) that finally led to the 1949 National Parks and Access to the Countryside Act. This Act established a National Parks Commission with the purpose of preserving and enhancing 'natural beauty in England and Wales', and particularly in the areas designated under this Act as National Parks or as 'areas of outstanding natural beauty', for encouraging the provision of 'opportunities for open air recreation and the study of nature'.[20]

A1.1.5 The 1949 Act did not define 'natural beauty', but since then its meaning has been debated and tested through a series of studies, guidance documents (see the section on 'Further reading'), Secretary of State Decision letters, an Appeal Court judgement, and public inquiries. Some clarification has also been provided through legislative amendments to the 1949 Act, e.g. NERC Act 2006 Section 99. Following the 1949 Act national landscape designations were made in England and Wales following advice from experts who relied on criteria originally defined by Hobhouse (Ministry of Town and Country Planning, 1947) to assess the value of an area for its natural beauty and recreational opportunity. The first statutory designations in the UK were the Peak District and Lake District National Parks in England, and Snowdonia in Wales (all confirmed in 1951).[21] This approach to assessing

[18] For England, Wales and Northern Ireland. The National Trust for Scotland was established in Scotland in 1931.
[19] National Trust Act 1907.
[20] National Parks and Access to the Countryside Act 1949.
[21] Scotland passed the National Parks (Scotland) Act in 2000 and designated the Loch Lomond and the Trossacks National Park in 2002. Northern Ireland passed the Nature Conservation and Amenity Lands (Northern Ireland) Order in 1985 but has no designated National Parks at present, despite a proposal to designate the Mourne Mountains.

landscape value continued throughout the 1950s and 60s. **Appendix A3** provides a summary of current landscape designations within the UK.

A1.1.6 In the 1970s there were attempts to introduce a quantitative approach to assessing landscape value. These, along with other methods, were tested at the North Pennines AONB Public Inquiry in 1985. The inspector noted the lack of an agreed methodology to evaluating landscape, acknowledged that there was inevitably a degree of subjectivity, and recommended the use of informed opinion, a trained eye and common sense. The quantitative approach was generally considered inappropriate because it reduced complex concepts to a series of numerical values.

A1.1.7 In the 1980s a new methodology for understanding and recording what is important about a landscape began to emerge. Then known as Landscape Assessment, and now known as Landscape Character Assessment (see Landscape Institute, 2015), it was not limited to identifying landscapes worthy of designation but considered all landscapes with the objective of identifying what makes one area 'different' or 'distinct' from another (Countryside Agency and Scottish National Heritage, 2002b). Although the landscape assessment approach covered all landscape, early guidance included advice on evaluating landscapes (Countryside Commission, 1987) by identifying factors for evaluating 'natural beauty' which built on the Hobhouse criteria. The 1993 landscape assessment guidance (Countryside Commission, 1993) was specific in separating the classification and description of landscape character, which concerns what makes one area 'different' or 'distinct' from another, from landscape evaluation, which concentrates on relative value (Countryside Agency and Scottish National Heritage, 2002b). The 1993 guidance included criteria for evaluating 'landscape quality' (particularly in relation to designating landscapes) and identified factors important for evaluating natural beauty (see **Appendix A2**). Historic Landscape Characterisation, piloted at the end of the 1990s, also developed as a way of understanding and mapping the time-depth of places.

A1.1.8 In 1996, the evolving national approach for Landscape Assessment in Wales (Countryside Council for Wales, 1996), LANDMAP, took the strategic decision to include landscape evaluation information. A range of national criteria, grouped under different landscape themes, was developed to provide a relative indication of landscape value to prompt further investigation and consideration as part of planning projects or landscape assessments (see **Appendix A2**).

A1.1.9 The Countryside Agency and Scottish Natural Heritage (2002a) guidance on Landscape Character Assessment developed the criteria set out in the 1993 Landscape Assessment Guidance further, and these were presented as criteria for making judgements about 'landscape value' more widely (i.e. not just in relation to designated landscapes). These criteria informed subsequent guidance including guidance on Local Landscape Designations in Scotland (2006, updated 2020), Natural England's *Guidance for Assessing Landscapes for Designation as National Park or Area of Outstanding Natural Beauty in England* (2011) and Box 5.1 in the *Guidelines for Landscape and Visual Impact Assessment* (GLVIA3) (LI and IEMA, 2013). **Appendix A2** provides a summary of the evolution of factors used in the assessment of natural beauty and landscape value from 1945 onwards.

A1.1.10 The European Landscape Convention (2000) (ELC) was informed and influenced by the UK's landscape assessment work in the 1980s and 1990s. The first international treaty dedicated to the protection, management and planning of all landscapes in Europe, it was signed by the UK government in 2006[22]. Signatories acknowledge that 'the landscape is an important part of the quality of life for people everywhere: in urban areas and in the countryside, in degraded areas as well as in areas of high quality, in areas recognised as being of outstanding beauty as well as everyday areas'[23] and that 'the landscape is a key element of individual and social well-being'. Article 6 of the Convention places a responsibility on all signatories to increase awareness of 'the value of their landscapes, their role and changes to them'.[24] As a signatory to the ELC, the UK has an obligation to enhance the natural and cultural value of all landscapes though a blend of strategies: managing and planning (restoring, creating/enhancing) landscapes.

A1.1.11 The importance of landscape and its value continues to be recognized, for example in DEFRA's 25 Year Environment Plan (HM Government, 2018). There has also recently been a re-emergence of the

[22] The UK remains a member of the Council of Europe, which is a separate body from the European Union.
[23] European Landscape Convention – Preamble.
[24] European Landscape Convention – Article 6.

word ‘beauty’ in the field of planning and placemaking (for example in the UK Government's commissioned ‘Living with Beauty’ report; see Building Better, Building Beautiful Commission/MHCLG, 2020).

A1.1.12 The landscape profession’s understanding of landscape value is still developing, particularly in light of the nature and climate emergency (as well as the lockdowns caused by the Covid-19 pandemic). People today value different aspects of landscape than they did in the past or may do in the future, but it is clear that landscape value is more than just beauty and aesthetics.

A2 (Appendix 2) An evolution of factors used to describe landscape value

A2.1 Introduction

A2.1.1 This Appendix summarises the factors used in the assessment of natural beauty and landscape value from 1945 onwards.

A2.2 1945

Report on National Parks in England and Wales (Cmd 6628), John Dower, Ministry of Town and Country Planning

A2.2.1 In 1942 John Dower, a research officer in the Planning Department of the Ministry of Works and Planning, was requested to report on the establishment of National Parks in England and Wales. In his 1945 report, he noted that 'the task of selecting and delimiting the areas which are to be established as National Parks … will clearly be no easy matter … It must rest on an adequate and disinterested survey and investigation of all areas which are, or are claimed to be, in any way suitable, and it must take into account a wide range of factors' (Ministry of Town and Country Planning, 1945).

A2.2.2 These factors were included in **paragraph 6**, as:

- *landscape beauty*
- *wildlife*
- *suitability for rambling access*
- *popularity*
- *existing and potential land utilization*
- *existing or threatened disfigurements*
- *transport and accommodation facilities, and*
- *the financial and administrative strength of the local authorities concerned.*

National Parks: A Scottish Survey, 'The Ramsay Report', Department of Health for Scotland

A2.2.3 The Scottish National Parks Survey Committee was set up to advise on areas suitable for National Parks and to supervise a survey of potential areas. The Committee laid down seven selection criteria (see Department for Health for Scotland, 1945):

- *outstanding scenic beauty*
- *accessibility*
- *preservation and preservability*
- *recreational facilities (of an open-air type)*

- *educational, cultural and social interests*
- *flora and fauna, and*
- *accommodation.*

A2.3 1947

Report of the National Parks Committee (England & Wales) (CMD 7121), Sir Arthur Hobhouse, Ministry of Town and Country Planning

A2.3.1 **Para 35 -** Factors in selection (of National Parks; see Ministry of Town and Country Planning, 1947)):

Natural beauty	Great natural beauty
Recreation	A high value for open-air recreation
Substantial continuous extent	Distribution so that at least one of them is quickly accessible from each of the main centres of population in England and Wales
Merit in variety	With the wide diversity of landscape which is available in England and Wales, it would be wrong to confine the selection of National Parks to the more rugged areas of mountain and moorland, and to exclude other districts which, though of less 'outstanding' grandeur and wildness, have their own distinctive beauty and high recreational value

A2.4 1986

Wildlife and Countryside Acts 1981 & 1985: Section 3 Conservation Maps of National Parks – Guidelines (CCD6), Countryside Commission (out of print)

A2.4.1 This guidance included a table of 'factors affecting natural beauty' in response to Section 3 of the Wildlife and Countryside Acts of 1981 and 1985 which placed a responsibility on each of the National Parks of England and Wales to prepare a map showing those areas of mountain, moor, heath, woodland, down, cliff or foreshore, the natural beauty of which the Authority considers it is particularly important to conserve. The same factors were subsequently reproduced in Countryside Commission (1987).

Physiographic	Geology, soils, relief/landform, land use, vegetation, ecological habitats, natural history/wildlife, archaeology, artefacts – buildings, walls
Associations	a. Historical – general history of settlements, special events b. Cultural – well-known personalities, literary, painting, music
Aesthetics	a. Visual – extent/degree of enclosure, form, scale, continuity/harmony/ contract, diversity, colour (hue, time), texture, presence of eyesores, detractors from scene, contribution to wider landscape, views out – length and breadth, views in – length and breadth, boundaries to views b. Other Senses – sounds, smalls, tastes, touch
Relative to other areas	Nationally rare, regionally rare, typical/representative of an area

Feelings evoked in the observer	Comfort, awe, remoteness, solitude, joy
Public accessibility	Indirect/visual, direct/actual – by vehicle, bicycle, horse or foot

A2.5 1991

Landscape Assessment: Principles and Practice, Countryside Commission (out of print)

A2.5.1 This Countryside Commission for Scotland (1991) guidance proposed criteria for evaluating landscape quality in Scotland, in relation to designation of National Scenic Areas, which are summarised in **Table 2** (originally **Table 4.2** of Part 4) of the University of Sheffield's 'A Statement on Natural Beauty: A Report to the Countryside Council for Wales' (2006).

Table 2: Proposed criteria for evaluating landscape quality in Scotland:

Main criterion	Factors considered	Explanation
Landscape as a resource	Rarity	Value conferred by virtue of scarcity value either of landscape as a whole or elements within it
	Representativeness/ typicality	Value because a landscape is typical or representative of its type demonstrating better than other areas the combination of features and attributes which characterise that type
Scenic quality	Combination of landscape elements	Landscape quality arising from the particular mix of landscape elements in an area of their disposition in relation to each other
	Aesthetic quality	Landscape quality resulting from the interaction of elements in terms of visual characteristics such as form, line, colour, texture, diversity, memorability, intactness and so on
	Intangible qualities	Includes sense of place or the 'genius loci' and ideas from preference theory including ideas of prospect/refuge and landscape legibility
Preference	Evidence on public preference	Ideally based on preference attitude surveys
	Informed consensus on value	Evidence from planners and landscape professionals, interest groups involved with landscape and writers, artists and photographers
Special values	Wild land/wilderness quality	Depends on factors such as apparent naturalness, remoteness, extent and feelings of solitude, escape and exposure
	Cultural associations	Landscape can assume significance because of its special cultural associations with people or events
	Special heritage interests	Landscape cannot be divorced from other interests and wildlife, archaeological and historical features and geological or geomorphological features will make major contributions to landscape character as well as having conservation value in their own right

A2.6 1993

Landscape Assessment Guidance (CCP 423), Cobham Resource Consultants, Countryside Commission (1993)

A2.6.1 The section of the 1993 guidance dealing with landscape evaluation dealt explicitly with the need to evaluate the quality of the landscape, especially where the assessment related to an area of designated landscape. A list of criteria for evaluating landscapes for designation was included, developing the factors contained in the Countryside Commission's 1991 guidance. They were:

Landscape as a resource	Important for reasons of rarity or representativeness
Scenic quality	High scenic quality, with pleasing patterns and combinations of features
Unspoilt character	Unspoiled by large scale, visually intrusive industry, mineral extraction etc.
Sense of place	Distinctive and common character, including topographic and visual unity
Conservation interests	Such as features of historical, wildlife or architectural interest
Consensus	Consensus of both professional and public opinion as to its importance

A2.7 1995

Guidelines for Landscape and Visual Impact Assessment (GLVIA1), Landscape Institute and Institute of Environmental Assessment (1995)

A2.7.1 Paragraph **3.41** suggested that a qualitative analysis requires an assessment to be made of landscape condition and importance in the sense of aesthetic or cultural value. It suggested that the analysis may include:

Landscape designations	List of landscape designations that may apply
Reasons for designations	Summary of the reasons for landscape designations, e.g. landscape type is rare in a national or regional context
Scenic quality	Professional judgements as to the scenic quality of the site and its wider landscape context, and to the importance of landscape components
Condition of landscape components	Assessment of the condition of important landscape components, including management of land, and the extent of deviation from the perceived optimum condition
Conservation interests	Details of any notable conservation interests such as features of historical, wildlife or architectural importance
Cultural associations	Reference to any special cultural associations, such as important writing and paintings that feature local landscapes
Local perceptions	Past and present perceptions of local value

A2.7.2 GLVIA1 also referred to Countryside Commission (1993) for further advice on criteria for evaluating landscape quality in England.

A2.8 1999

Interim Landscape Character Assessment Guidance, C. Swanwick & Land Use Consultants, Countryside Agency and Scottish Natural Heritage (out of print)

A2.8.1 Criteria for making judgments about landscape value were:

Landscape as a resource	Rarity, representativeness or typicality
Landscape quality	Extent to which typical character is demonstrated in an area and condition or state of repair of the landscape
Scenic quality	Depends upon perception and reflects the particular combination and pattern of elements in the landscape, its aesthetic qualities and its more intangible sense of place or genius loci
Consensus	Consensus of opinion, expressed by the public, informed professionals, interest groups, and artists, writers and other media
Conservation interests	Presence of features of wildlife, earth science or archaeological or historical interest which add to the value of the landscape as well as having value in their own right
Other values	Landscapes may be valued for their wilderness qualities, or particular cultural associations, or because of their tranquillity

A2.9 2001

LANDMAP 2001, and as amended to date. Countryside Council for Wales (2001)

A2.9.1 The LANDMAP assessment for Wales developed a set of evaluation criteria for separate themed layers.

A2.9.2 A method document for each theme set out and defined each criterion[25], as follows:

[25] LANDMAP methodology, including definitions of each layer, reports, guidance and interactive map browser.

Geological Landscape	*Landscape Habitats*	*Visual and Sensory*	*Historic Landscape*	*Cultural Landscape (NB: not evaluated by degree of importance)*
• *Research value* • *Educational value* • *Historical value* • *Rarity/ uniqueness* • *Classic example*	• *Priority habitats* • *Significance* • *Opportunity* • *Expansion rates* • *Sensitivity* • *Connectivity/ cohesion* • *Habitat evaluation* • *Importance for key species*	• *Scenic quality* • *Integrity* • *Character (strength of)* • *Rarity*	• *Integrity* • *Survival* • *Condition* • *Rarity* • *Potential*	• *Recognition/ transparency* • *Rarity* • *Group value* • *Survival*

Further layers, for seascapes and (ecosystem cultural) services are being added. The latter responds to the Welsh policy context, which views landscape value through ecosystem services, well-being and placemaking.

A2.9.3 Not all evaluations will be relevant to all projects, so intelligent selection is needed. 'Adding up' evaluations for different themes is discouraged as that masks what is important about a landscape (and would just confirm that all landscapes are very important in some way). Their intended use is to open rather than close discussion of landscape value, by alerting users to topics and areas that may need more detailed enquiry.

A2.10 2002

Landscape Character Assessment: Guidance for England and Scotland (CAX 84), Countryside Agency and Scottish Natural Heritage (2002a)

A2.10.1 Paragraph 7.22 states, 'In considering natural beauty and amenity, and in any other situation which requires that a landscape be identified as requiring special attention, judgements must be based at least in part on the concept of landscape value'. The reasons may be set out according to a range of more detailed criteria that may include the following:

Landscape quality/ condition	Intactness of the landscape and the condition of features and elements
Scenic quality	The term that is used to describe landscapes which appeal primarily to the visual senses
Rarity	The presence of rare features and elements in the landscape, or the presence of a rare landscape character type

Representativeness	Whether the landscape contains a particular character, and/or features and elements, which is felt by stakeholders to be worthy of representing
Conservation interests	Presence of features of particular wildlife, earth science or archaeological, historical and cultural interest can add to the value of a landscape as well as having value in their own right
Wildness	Presence of wild (or relatively wild) character in the landscape which makes a particular contribution to sense of place
Associations	Associations with particular people, artists, writers, or other media, or events in history

A2.11 2006

A Statement on Natural Beauty, Sheffield University Landscape Department, Countryside Council for Wales (CCW; Selman and Swanwick, 2010)

A2.11.1 This was an academic study commissioned by CCW. Paragraph **6** refers to criteria that can be taken into account in defining landscape value and hence defining landscapes which have outstanding 'natural beauty' as:

Scenic quality	Aesthetic aspects of landscape (those which give pleasure to the senses), its perceptual dimensions and the spiritual or emotional impact that both have on people
Sense of place	Unity and distinctiveness of landscape character
Landscape quality/condition	Intactness of the landscape and its condition, distinctiveness of landscape character in a particular locality
Integrity	Intact rural character and general lack of large-scale, visually intrusive or otherwise inharmonious development
Perceptual qualities	Perceptual qualities which make a particular contribution to sense of place, including wildness and tranquillity
Associations	Important associations of the landscape with people, places or events relevant to a particular place
Cultural descriptions	Expressions or descriptions of the landscape in art, literature, music and other art forms, through language and folklore, and through modern media
Rarity or representativeness	Either of the landscape as a whole, or of individual elements and features within it
Conservation interest	Presence of features of particular wildlife, earth science or archaeological, historical and cultural interest which add value to the landscape as well as having conservation value in their own right

Guidance on Local Landscape Designations, SNH and Historic Environment Scotland[26]

A2.11.2 SNH and Historic Environment Scotland's (2006) guidance on local landscape designations suggested that local authorities need to identify both the character and qualities of the landscape considered to be of particular value in the local context, and suggested the following aspects/factors could be considered:

	Definition	Description
Aspects of landscape character		
Typicality	Elements of landscape character which are particularly common within the assessment area as a whole	Landscape features or combination of features that recur throughout the area
Rarity or uniqueness	Particular aspects of landscape character which are rare or unique in the area	Landscape features or combination of features which are rare or unique within the assessment area as a whole
Condition or quality	The degree to which individual characteristics of landscape character are in a good state of repair or health	Landscape features or combination of features which are in a good state of repair
Landscape qualities		
Scenic	Aspects of the landscape and our reaction to it which contribute to its natural beauty and aesthetic appreciation	Landscapes with strong visual, sensory and perceptual impacts and experiential appeal. May contain a pleasing combination of features, visual contrasts or dramatic elements
Enjoyment	Aspects of the landscape and our reactions to it which contribute to its potential for recreation and amenity	Landscapes of importance as local greenspace, as tranquil areas and/or for countryside recreation. May contain viewpoints and landmarks
Cultural	Aspects of the landscape and our reactions to it which contribute to the understanding of its historic character and the wider cultural record	Landscapes rich in archaeology, built heritage, literary, artistic and other cultural associations and local history. May include historic gardens and designed landscapes
Naturalness	Aspects of the landscape and our reactions to it which contribute to its naturalness	Landscapes with extensive semi-natural habitat, a lack of human presence and perceived qualities of wildness. May include areas of wild land

A2.12 2011

Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England, Natural England (2011)

A2.12.1 Table 3 of this guidance sets out factors that are related to Natural Beauty. These are expanded upon in Appendix 1 to include sub-factors and indicators, as follows:

[26] Accessible at https://www.nature.scot/professional-advice/protected-areas-and-species/protected-areas/local-designations/local-landscape-areas

Factor	Example sub-factor	Example Indicator
Landscape quality	Intactness of the landscape in visual, functional and ecological perspectives	Characteristic natural and man-made elements are well represented throughout
	The condition of the landscape's features and elements	Landscape elements are in good condition
	The influence of incongruous features or elements (whether man-made or natural) on the perceived natural beauty of the area	Incongruous elements are not present to a significant degree, are not visually intrusive, have only localised influence or are temporary in nature
Scenic quality	A distinctive sense of place	Landscape character lends a clear and recognisable sense of place
	Striking landform	Landform shows a strong sense of scale or contrast
		There are striking landform types or coastal configurations
	Visual interest in patterns of land cover	Land cover and vegetation types form an appealing pattern or composition in relation to each other and/or to landform which may be appreciated from either a vantage point or as one travels through a landscape
	Appeal to the senses	Strong aesthetic qualities, reflecting factors such as scale and form, degree of openness or enclosure, colours and textures, simplicity or diversity, and ephemeral or seasonal interest
		Memorable or unusual views and eye-catching features or landmarks
		Characteristic cognitive and sensory stimuli (e.g. sounds, quality of light, characteristic smells, characteristics of the weather)
Relative wildness	A sense of remoteness	Relatively few roads or other transport routes
		Distant from or perceived as distant from significant habitation
	A relative lack of human influence	Extensive areas of semi-natural vegetation
		Uninterrupted tracts of land with few built features and few overt industrial or urban influences
	A sense of openness and exposure	Open, exposed to the elements and expansive in character
	A sense of enclosure and isolation	Sense of enclosure provided by (e.g.) woodland, landform that offers a feeling of isolation
	A sense of the passing of time and a return to nature	Absence or apparent absence of active human intervention

Relative tranquillity	Contributors to tranquillity	Presence and/or perceptions of natural landscape, birdsong, peace and quiet, natural-looking woodland, stars at night, stream, sea, natural sounds and similar influences
	Detractors from tranquillity	Presence and/or perceptions of traffic noise, large numbers of people, urban development, overhead light pollution, low flying aircraft, power lines and similar influences
Natural heritage features	Geological and geo-morphological features	Visible expression of geology in distinctive sense of place and other aspects of scenic quality
		Presence of striking or memorable geo-morphological features
	Wildlife and habitats	Presence of wildlife and/or habitats that make a particular contribution to distinctive sense of place or other aspects of scenic quality
		Presence of individual species that contribute to sense of place, relative wildness or tranquillity
Cultural heritage	Built environment, archaeology and designed landscapes	Presence of settlements, buildings or other structures that make a particular contribution to distinctive sense of place or other aspects of scenic quality
	Historic influence on the landscape	Visible presence of historic landscape types or specific landscape elements or features that provide evidence of time depth or historic influence on the landscape
	Characteristic land management practices	Existence of characteristic land management practices, industries or crafts which contribute to natural beauty
	Associations with written descriptions	Availability of descriptions of the landscape in notable literature, topographical writings or guidebooks, or significant literature inspired by the landscape
	Associations with artistic representations	Depiction of the landscape in art, other art forms such as photography or film, through language or folklore, or in inspiring related music
	Associations of the landscape with people, places or events	Evidence that the landscape has associations with notable people or events, cultural traditions or beliefs

A2.13 2013

Guidelines for Landscape and Visual Impact Assessment (GLVIA3), Landscape Institute and Institute of Environmental Management & Assessment (2013)

A2.13.1 **Box 5.1** contains a 'Range of factors that can help in the identification of valued landscapes'. These are:

Landscape quality (condition)	A measure of the physical state of the landscape. It may include the extent to which typical character is represented in individual area, the intactness of the landscape and the condition of individual elements
Scenic quality	The term used to describe landscapes that appeal primarily to the senses (primarily but not wholly the visual senses)
Rarity	The presence of rare elements or features in the landscape or the presence of a rare Landscape Character Type.
Representativeness	Whether the landscape contains a particular character and/or features or elements which are considered particularly important examples
Conservation interests	The presence of features of wildlife, earth science or archaeological or historical and cultural interest can add to the value of the landscape as well as having value in their own right
Recreation value	Evidence that the landscape is valued for recreational activity where experience of the landscape is important
Perceptual aspects	A landscape may be valued for its perceptual qualities, notably wildness and/or tranquillity
Associations	Some landscapes are associated with particular people such as artists or writers, or events in history that contribute to perceptions of the natural beauty of the area

A2.14 2017

Guidance Note 1: LANDMAP and Special Landscape Areas, Natural Resources Wales (2017)

A2.14.1 Paragraph **6.1.2** states that 'by definition, an SLA designation usually only applies to areas that are deemed as 'special' in terms of their local landscape character. This reflects both local distinctiveness and sense of place, as well as landscape quality in its own right'. Examples of landscape criteria are:

Rarity	A landscape that is particularly rare/unique or special in the local context
Distinctiveness	An area with a distinct landform or topography, forming a discrete and recognisable area in the local landscape
Natural or cultural character	A landscape with strong character linked to natural or cultural factors, which contribute to an understanding of historic character, wider cultural values or create a strong degree of naturalness
Cultural associations	A landscape with particular cultural associations, represented in art, literature, music, language or folklore
Scenic qualities	An area of recognisable character with a strong sense of place and/or scenic qualities

Guidance on Local Landscape Areas (Draft), Scottish Natural Heritage and Historic Environment Scotland (now superseded)

A2.14.2 **Table 1** of Scottish Natural Heritage and Historic Environment Scotland's (2017) draft guidance set out the common criteria used to define landscape qualities:

Landscape Qualities	Definition	Description
Scenic	Landscape that appeals primarily to the visual senses, appreciated for its natural beauty	Landscapes with strong visual, sensory and perceptual impacts and experiential appeal. May contain a pleasing combination of features, visual contrasts or dramatic elements
Cultural	Landscape with features of archaeological, historical or cultural interest, offering a time-depth to people's experience.	Landscapes rich in archaeology, built heritage, literary or artistic connections, consciously designed (parks and gardens), the scene of historic events (such as battles), other cultural associations and local history. and designed landscapes
Natural	Landscape of strong natural or semi-natural character, with wildlife or earth science features	Landscapes with extensive semi-natural habitat, distinctive topography or geology, a lack of human presence and perceived sense of 'wildness'
Enjoyment	Landscape recognised for recreation and amenity, which evokes pleasure	Landscapes valued as tranquil areas and/or for countryside recreation. May contain viewpoints and landmarks
Rarity or uniqueness	The presence of rare elements or features in the landscape or a rare landscape character type	Landscape features or combination of features which are rare or unique within the assessment area as a whole. Landscapes that are distinctive with a strong 'sense of place'
Typicality	A landscape that is a good example of a particular landscape type, and often relatively common within the assessment area	Landscape features or combination of features that recur throughout the area

A2.15 2020

Guidance on Designating Local Landscapes, NatureScot and Historic Environment Scotland (2020)

A2.15.1 This guidance states, at paragraph **2.4.2**: 'Selection criteria are essential. These must be fit for purpose, developed by agreement with interested stakeholders where possible, and applied consistently. The criteria relate to the special qualities of a landscape'. **Table 1** of the guidance sets out the range of evaluation criteria commonly used, noting 'this is not a fixed list as the criteria need to be appropriate to each designation process' (paragraph **2.4.4**). The criteria in **Table 3** of the guidance are:

Landscape criterion	Definition	Description
Scenic	Landscape that appeals primarily to the visual senses, and is appreciated for its beauty	Landscapes with strong visual, sensory and perceptual impacts and experiential appeal. May contain a pleasing combination of features, visual contrasts or dramatic elements

Cultural	Landscape with clear evidence of archaeological, historical or cultural interests / associations / significance, offering a time-depth to people's experience	Landscapes rich in archaeology or built heritage, or consciously designed (e.g. parks and gardens), or largely the product of human interaction. May include the scene of historic events (such as battles), have literary or artistic connections, or other cultural associations and local history
Natural	Landscape of strong natural or semi-natural character, with clear evidence of ecological, geological or geomorphological interest	Landscapes with extensive semi-natural habitat, distinctive topography or geology, a general lack of permanent human presence and a perception of wildness
Recreation and enjoyment	Landscape recognised as offering opportunities for recreation and amenity, where experience of landscape is important	Landscapes valued for recreation. May contain viewpoints, landmarks and renowned vistas; paths and trails including core paths, rights of way, long distance trails, national cycle routes; and scenic routes
Local distinctiveness and sense of place	Landscape that has a strong sense of identity	Landscape features or combination of features which are identified as being characteristic of a particular place. Landscapes that are distinctive with a strong 'sense of place'
Health and wellbeing	A landscape which makes particular contribution to both the physical and psychological health and wellbeing of a local community and/or visitors	Landscape facilities and features which are well-used and valued by local communities and visitors
Important spatial function	Landscape that performs a clearly identifiable and valued spatial role	Can include, for example, settlement 'gateways', or separation between developments

A2.15.2 The guidance notes that the list is not fixed as the criteria need to be appropriate to each designation process. It also recognises that not all the criteria need to be met in every case: a landscape might be deemed so valued under one criterion that it merits designation on that basis alone. The guidance explains that the aim is to identify and analyse what the qualities are that, individually or when combined, make the area special in terms of its landscape and scenery.

A3 (Appendix 3) Designated landscapes: UK policy and guidance

A3.1 Introduction

A3.1.1 This Appendix considers how landscape is valued in UK legislation and in UN, European and UK policy statements, regulations and guidance. It describes the current UK hierarchy of international, nationally protected, and locally designated landscapes, including the different approaches of devolved nation governments.

A3.2 Internationally valued landscapes

A3.2.1 Globally, under the **UNESCO World Heritage Convention 1992**, landscapes may be designated to ensure the protection of their natural and/or cultural heritage. World Heritage Sites must have values that are outstanding and universal, and it is each site's Outstanding Universal Value (OUV) that is to be protected. Cultural landscapes are said to 'express a long and intimate relationship between peoples and their natural environment'.

A3.2.2 In the UK there are 32 sites on the current list. The UNESCO 2008 operational guidelines describe categories of 'clearly defined landscape designed and created intentionally by man, organically evolved landscape, and associative cultural landscape, identified on the international list as 'cultural, natural or mixed' sites'. Criteria for selection are described on UNESCO's website[27].

A3.2.3 **The International Union for Conservation of Nature (IUCN)** provides a global classification system for Protected Areas. National Parks in England, Wales and Scotland, and Areas of Outstanding Natural Beauty (AONBs) in England, Wales and Northern Ireland are internationally recognised as **Category V Protected Areas**, as living, working landscapes and seascapes. National Parks and AONBs are periodically assessed by the IUCN to ensure continued compliance with the standards and management guidelines[28].

A3.3 The European Landscape Convention

A3.3.1 The UK is a member state on the Council of Europe and a signatory to the **European Landscape Convention (ELC) 2004**, which came into effect in the UK in 2007. The first aim of the ELC is to encourage public authorities to adopt policies and measures at local, regional, national and international level for protecting, managing and planning landscapes throughout Europe.

A3.3.2 The treaty introduces the concept of all landscapes having value in terms of quality of life and wellbeing. Signatories commit to 'acknowledging that the landscape is an important part of the quality of life for people everywhere: in urban areas and in the countryside, in degraded areas as well as in areas of high quality, in areas recognised as being of outstanding beauty as well as everyday areas.' The ELC's 'all-landscapes' approach is compatible with the identification of 'valued landscapes' as it seeks to promote 'measures to preserve the present character and quality of a landscape which is greatly valued'.[29]

[27] https://whc.unesco.org/en/criteria/

[28] https://www.iucn.org/theme/protected-areas/about/protected-area-categories

[29] www.coe.int/en/web/conventions/full-list/-/conventions/treaty/176

A3.4 National landscape designations

A3.4.1 Planning legislation and policy in each of the UK's devolved nations recognise landscape value at both national and local levels. England, Wales, Scotland and Northern Ireland each have their own primary planning legislation.

A3.4.2 It should be noted that Green Belt is not a landscape designation and does not denote landscape value, although it does perform a spatial function in the landscape.

England

A3.4.3 Statutory designations of landscapes in England, which are safeguarded by legislation, originated with the National Parks and Access to the Countryside Act 1949. The Broads National Park is designated under its own Act of Parliament (the Broads Act 1988). National Park purposes are defined as 'conserving and enhancing its natural beauty[30], wildlife and cultural heritage, and promoting understanding and enjoyment of its special qualities by the public'. The 1949 Act also made provision for the designation of AONBs to 'preserve and enhance natural beauty'. This original purpose of 'preserving and enhancing' was subsequently changed to 'conserving and enhancing' (Environment Act 1995).

A3.4.4 The Countryside & Rights of Way (CROW) Act 2000 consolidated the provisions of the 1949 Act, enabling conservation boards to be set up for larger AONBs and requiring management plans to be adopted for AONBs. Two AONBs have Conservation Boards, the Chilterns and Cotswolds AONBs.

A3.4.5 AONBs carry the same status and level of landscape protection as National Parks (Defra Vision and Circular 2010). Paragraph 20 states: 'The Government continues to regard National Park designation (together with that for Areas of Outstanding Natural Beauty ['AONBs']) as conferring the highest status of protection as far as landscape and natural beauty is concerned'.

A3.4.6 In England, Heritage Coasts (from 1973) are protected by policy rather than statute, though many are located within National Parks or AONBs and benefit from their statutory protection. They are defined (rather than designated) by agreement between local authorities and Natural England. The policy framework for Heritage Coasts in England was issued by the Countryside Commission (the predecessor to Natural England) in 1992. Heritage Coasts are defined as coastlines of exceptionally fine scenic quality, which are more than a mile in length, substantially undeveloped and contain features of special significance and interest.

A3.4.7 Historic England maintains a statutory 'Register of parks and gardens of special historic interest in England' and a separate 'Register of historic battlefields'. Although these designations bring no additional statutory controls, they contribute to landscape value as well as being heritage assets which are protected through national policy. National policy also requires local authorities to make provision for the protection of the historic environment in their policies and their allocation of resources.

Wales

A3.4.8 Historically, Wales shared most of the legislation and guidance relevant to landscape with England, notably the National Parks and Access to the Countryside Act 1949. The statutory landscape designations that apply in Wales are therefore the same as in England: National Parks, which are valued for their 'natural beauty and recreational value', and AONBs, valued for their 'outstanding distinctive landscape character and natural beauty'. In Wales, National Parks and AONB authorities are legally required to produce a management plan which sets out the Special Qualities of the area and policies to conserve and enhance the natural beauty of the designation. As set out in Planning Policy Wales, National Parks and AONBs are of equal status in terms of landscape and scenic beauty, and must both be afforded the highest status of protection from inappropriate developments.

A3.4.9 In 2014 Welsh Government commissioned a Review of Designated Landscapes and the 'Marsden Report' was published the following year. The review concluded in 2018 with Welsh

[30] The term 'natural beauty' is enshrined in the 1949 Act. The 1949 Act did not define what 'natural beauty' actually meant. Since then, its meaning has been clarified and interpreted through a series of studies, guidance documents, Secretary of State Decision letters, an Appeal Court judgement and public inquiries. Some clarification has also been provided through legislative amendments to the 1949 Act, e.g .NERC Act 2006 Section 99. Today, it is understood that natural beauty goes well beyond scenic or aesthetic value: it is to do with the relationship between people and place, and encompasses everything - 'natural' and human - that makes an area distinctive.

Governments response: 'Valued and Resilient' (Welsh Government, 2018). This sets out Welsh Governments priorities for the National Parks and AONBs in Wales.

A3.4.10 Non-statutory landscape designations valued at a national level include Heritage Coasts, which represent the most scenically outstanding stretches of undeveloped and unspoilt coast in Wales. Cadw, the historic environment service of the Welsh Government, in partnership with Natural Resources Wales (NRW) and the International Council on Monuments and Sites (ICOMOS UK) compiled (in 2014) a Register of landscapes of outstanding or special historic interest in Wales. This is a non-statutory register, 'intended to provide information and raise awareness of an initial selection of the most important and significant historic landscape areas in Wales in order to aid their protection and conservation'.[31]

Scotland

A3.4.11 Scotland's two National Parks (Loch Lomond and The Trossachs National Park and the Cairngorms National Park) are designated under the National Parks (Scotland) Act 2000. Scotland also has National Scenic Areas (NSAs), designated as *'areas of outstanding scenic value in a national context'*[32], and broadly equivalent to AONBs in England and Wales. NSAs were first described in 'Scotland's Scenic Heritage' (CCS 1978) and have been recognised within the planning system since 1980. As explained on the Scottish Government's website[33], in 2010, Scottish Ministers issued directions to local authorities under provisions in section 263A of the Town and Country Planning (Scotland) Act 1997 (inserted by section 50 of the Planning etc. (Scotland) Act 2006) to designate the current suite of NSAs. The NSAs include areas of landscape described variously on the www.nature.scot website as 'spectacular, dramatic, picturesque and richly diverse'.

A3.4.12 Wild land is not a statutory designation but the third National Planning Framework (NPF3, 2014) 'recognises wild land as a nationally important asset and indicates that Scotland's wildest landscapes merit strong protection'. NatureScot has identified 'wild land areas' – nationally important extensive areas of semi-natural landscapes that show minimal signs of human influence.[34] Historic Environment Scotland maintains the Inventory of Gardens and Designed Landscapes and the Inventory of Historic Battlefields. The cultural significance of sites can be taken into account in the planning process.

Northern Ireland

A3.4.13 In 2015, a new two-tier planning system came into force under the Planning Act (Northern Ireland) 2011. It introduced a sharing of planning responsibilities between eleven Councils and the Department for Infrastructure (DfI). The new planning system involved a move away from a suite of Planning Policy Statements (PPS) to a single Strategic Planning Policy Statement (SPPS 2015). However, a transitional period is in operation until local authorities adopt their Local Development Plans (LDPs). The Department of Agriculture, Environment and Rural Affairs (DAERA) has two Executive Agencies, namely Northern Ireland Environment Agency (NIEA) and Northern Ireland Forest Service.

A3.4.14 The main legislative basis for DAERA NIEA in relation to landscape and amenity protection is the Nature Conservation and Amenity Lands Order (NI) 1985 (NCALO). Through this, the former Department of the Environment for Northern Ireland (DOE NI) designated the seven landscape areas with the highest amenity value as Areas of Outstanding Natural Beauty (AONB), although the Lagan Valley AONB remains designated under an earlier act, The Amenity Lands Act 1965.

A3.4.15 'Shared Horizons' (2003) is the former DOE NI's Statement of Policy on Protected Landscapes, relating to the protection and sustainable use of Northern Ireland's finest landscapes. Such areas are usually recognised by some form of designation, which sets them apart from the wider countryside. Whilst the only designation currently in use in Northern Ireland to identify areas of high landscape

[31] https://lle.gov.wales/catalogue/item/RegisteredLandscapesOfOutstandingHistoricInterestInWales/?lang=en
[32] Planning etc. (Scotland) Act 2006 2006 asp 17.
[33] https://www.gov.scot/policies/landscape-and-outdoor-access/natural-heritage-designations/
[34] https://www.nature.scot/professional-advice/landscape/landscape-policy-and-guidance/landscape-policy-wild-land

quality is that of Area of Outstanding Natural Beauty (AONB) provision has been made for the potential designation of National Parks in future.[35]

A3.5 Local landscape designations

England

A3.5.1 England has seen a rise and fall in the use of local landscape designations over the years. In line with the Town and Country Planning Act 1968, many county councils adopted some form of non-statutory landscape designation when preparing their structure plans. Local designations had various names such as Areas of Great Landscape Value, Special Landscape Areas, Areas of Special Landscape Value, Undeveloped Coast and Coastal Preservation Areas.

A3.5.2 In 2004 national guidance in Planning Policy Statement (PPS 7): Sustainable development in rural areas (ODPM 2004) (now cancelled and superseded by the National Planning Policy Framework (NPPF 2019)) advised local planning authorities only to rely on statutory designations when seeking to conserve 'specific features and sites of landscape, wildlife and historic or architectural value'. Paragraph 25 stated that 'Local landscape designations should only be maintained or, exceptionally, extended where it can be clearly shown that criteria-based planning policies cannot provide the necessary protection'. This resulted in a decline in the use of local landscape designations in England, and in many places they were replaced by criteria-based local plan policies linked to local landscape character assessments.

A3.5.3 NPPF paragraph 171 requires development plans to 'distinguish between the hierarchy of international, national and locally designated sites'; but does not make any specific reference to local landscape designations. However, national Planning Practice Guidance (PPG) Paragraph: 036 [Reference ID: 8-036-20190721] makes it clear that strategic policies should provide for the conservation and enhancement of landscapes and that this can include locally designated landscapes. The NPPF also enables land to be designated as a 'Local Green Space' through local and neighbourhood plans – these are areas that are special to a local community or have particular local significance, for example because of their beauty, historic significance, recreational value, tranquillity or richness of wildlife.

A3.5.4 Future changes in the planning system are proposed in the Government's draft planning white paper: *Planning for the Future* (2020), but it is not yet clear how 'valued landscapes' may be interpreted within the proposed categories of 'growth', 'renewal' and 'protected' areas.

Wales

A3.5.5 Since the establishment of the Welsh Assembly Government in 1999, and following the 2011 referendum and the Wales Act 2017, Wales has been developing its own regulatory framework for landscape. Planning Policy Wales (PPW10 2018) currently sets the context for planning in Wales. Para 6.3.3 explains that 'all the landscapes of Wales are valued for their intrinsic contribution to a sense of place'.

A3.5.6 PPW10 supports local landscape designations and advises (para 6.3.11) that 'Planning authorities should provide for the conservation and, where appropriate, enhancement of local landscapes. This may include policies for landscape features, characteristics and qualities of local significance, and the designation of Special Landscape Areas (SLAs). Planning authorities should state which features, characteristics or qualities require extra protection, and explain how the policy or designation will achieve this protection'. Special Landscape Areas (SLAs) in Wales are non-statutory local landscape designations used by some local authorities to define areas of high landscape importance and to provide for their conservation and enhancement through policies in their local plans and supplementary guidance. SLAs are defined using LANDMAP, and mainly include landscape areas evaluated as Outstanding and High (of national or county importance). In June 2020, 17 local authorities out of 22 had SLAs linked to a local policy plan.

A3.5.7 LANDMAP is the all-Wales GIS based landscape resource that records and evaluates landscape characteristics, qualities and influences on the landscape for the purposes of landscape assessment. LANDMAP Guidance Note 1 (Natural Resources Wales, 2017) sets out an approach for defining Special

[35] https://www.daera-ni.gov.uk/articles/shared-horizons

Landscape Areas (SLAs). These may be designated for 'their intrinsic physical, environmental, visual, cultural and historical importance, which may be considered unique, exceptional or distinctive to the local area'. They should be 'important for their distinctive character, qualities and sense of place'.

Scotland

A3.5.8 National policy in Scotland is set out in NPF3 and Scottish Planning Policy (SPP 2014). SPP states that the planning system should 'facilitate positive change while maintaining and enhancing distinctive landscape character' (paragraph 194), and the ELC is listed as a key document. Paragraph 197 advises that 'Planning authorities are encouraged to limit non-statutory local designations to areas designated for their local landscape or nature conservation value: the purpose of areas of local landscape value should be to safeguard and enhance the character and quality of a landscape which is important or particularly valued locally or regionally; or promote understanding and awareness of the distinctive character and special qualities of local landscapes; or safeguard and promote important local settings for outdoor recreation and tourism'.

A3.5.9 Local Landscape Area (LLA) designations (previously Special Landscape Area; prior to that a variety of names was used), are used in local development plans across Scotland. NatureScot and Historic Environment Scotland (2002) jointly published *Guidance on Designating Local Landscape Areas* (LLAs) is a revised and updated version of guidance originally produced in 2006). This is intended primarily for local authorities to use in taking forward their own designation process. The guidance acknowledges that local landscape designations are a valuable tool in the development plan toolbox and outlines the process for designating new LLAs and refreshing existing designations.

Northern Ireland

A3.5.10 Planning Policy Statement 2 (PPS2 2013) sets out policies for the conservation, protection and enhancement of Northern Ireland's natural heritage. Local authorities are responsible for zoning a variety of landscape related areas as part of their Local Development Plan process. The designations that may be used for local landscapes include Local Landscape Policy Areas (LLPAs) and Areas of High Scenic Value (AoHSVs), although Areas of Townscape Character (ATCs), Areas of Village Character (AVCs) and Countryside Policy Areas (CPAs) may also be designated.

A3.5.11 Planning Policy Statement 6 (PPS6 1999) explains that 'Environmental assets, identified as part of the process of Countryside Assessment, will normally form the basis for the designation of local landscape policy areas. These consist of those features and areas within and adjoining settlements considered to be of greatest amenity value, landscape quality or local significance and therefore worthy of protection from undesirable or damaging development'.

A3.5.12 The Department of the Environment's 'Strategic Planning Policy Statement for Northern Ireland' (SPPS 2015), which will supersede PPS6, highlights Local Landscape Policy Areas (LLPAs) stating that Local Development Plans should, where appropriate, designate LLPAs and bring forward local policies and guidance to maintain the intrinsic landscape, environmental value and character of such areas.

A4 (Appendix 4) The valued landscape 'policy test' in England

A4.1 2012 National Planning Policy Framework (NPPF)

A4.1.1 In 2012, the first version of the NPPF was published. It included a policy (paragraph 109) which stated that 'The planning system should contribute to and enhance the natural and local environment by: [inter alia] protecting and enhancing valued landscapes'.[36] No definition of a 'valued landscape' was given in the NPPF[37]. Planning Practice Guidance paragraph 036 Ref ID:036-20190721 provides advice on the use of policies for landscapes of a particular local value but there is no guidance on how to identify such landscapes.

A4.1.2 The term valued landscape appears in the 2002 landscape character assessment guidance and in the title of GLVIA3 Box 5.1 ('Range of factors that can help in the identification of valued landscapes') which was published in 2013. However, the reference in GLVIA is a quote from the 2002 guidance and not a response to the use of the term 'valued landscapes' in the 2012 NPPF.

A4.1.3 Following the 2012 NPPF the identification of 'valued landscapes' took on a new level of significance in planning appeals. Methods used to identify 'valued landscapes' in the context of the NPPF began to emerge, based on evidence presented by expert landscape witnesses at inquiry, Inspectors'/Secretary of State's decisions, and court judgements. The evolution of approaches to the identification of 'valued landscapes' is summarised in **Appendix A5.** The 'preferred' approach that has emerged is based on the value factors set out in GVLIA3 Box 5.1.

A4.1.4 One particularly influential judgment[38] accepted an approach which identified whether a landscape had sufficient 'demonstrable physical attributes' to take it beyond 'ordinary landscape'. This judgment also found that the 2012 NPPF was clear that 'designation' and 'valued' in relation to landscapes do not mean the same thing. Although this approach is still widely accepted the particular term 'demonstrable physical attributes' is not used in this TGN because it can be misunderstood as focusing exclusively on physical factors and excluding the perceptual and associative factors that may contribute towards the value of a landscape.

A4.2 2018/9 NPPF

A4.2.1 In July 2018, the NPPF was revised, and the 2012 'valued landscape' paragraph 109 was transposed, with modifications, to paragraph 170. The NPPF was revised again in February 2019[39] but paragraph 170 remained unchanged. There is still no definition of 'valued landscapes'.

A4.2.2 Paragraph 170 a) qualifies the term 'valued landscapes' as follows (qualification underlined): 'Planning policies and decisions should contribute to and enhance the natural and local environment by:

[36] Planning Policy Statement 7 Sustainable Development in Rural Areas P24 introduces the idea of valued landscapes which can be protected via of criteria-based policies rather than local designations.

[37] The Landscape Institute is aware of the lack of clarity regarding the expression 'valued landscapes'. The LI drew attention to this wording in a response to the government consultation on the draft NPPF 2012, and again on the draft revised NPPF 2018 (in 2017). The LI continues to respond to all relevant government consultations, in particular those issued by MHCLG and DEFRA. The LI uses these invitations to comment and draw attention to any perceived lack of clarity or inconsistencies in the text of consultation drafts, making suggestions for revised wording where appropriate.

[38] Stroud DC v SoSCLG [2015] EWHC 488 (See Appendix 2 for further discussion of this judgement).

[39] The current consultation draft of a proposed revision to the NPPF (2020) does not include any changes to the wording of paragraph 170.

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (*in a manner commensurate with their statutory status or identified quality in the development plan*)'.

A4.2.3 The precise meaning of *in a manner commensurate with their statutory status or identified quality in the development plan* has been the subject of much debate, especially at planning inquiries, since 2018. **Appendix A5** refers to a number of decisions relating to its interpretation which provide an indication of the issues inspectors have considered to be relevant in the light of this qualification. However, there is no consensus on the meaning of the qualification and the interpretation of policy intentions and meanings can only be determined by the Courts. At the time of writing there have been no court judgments, post the 2018 revision, that have addressed the issue of 'valued landscapes'.

A4.2.4 This Appendix sets out the Landscape Institute's guidance on how landscape professionals should identify 'valued landscapes' and in particular how landscape professionals might interpret the phrase 'in a manner commensurate with their statutory status or identified quality in the development plan'. It is intended to:

- *guide landscape professionals undertaking landscape assessments in England, so that their judgments about landscape value are based on a transparent and structured approach such as the one set out in Table 1 above; and*
- *assist decision-makers in England who have to interpret and balance the judgments made by different landscape professionals.*

Statutory status

A4.2.5 The interpretation of the phrase 'in a manner commensurate with their statutory status' is relatively straightforward. Where a landscape has a statutory status, such as a National Park or AONB, it is self-evident that it is a valued landscape[40]. The great weight that should be given to conserving and enhancing landscape and scenic beauty in nationally designated landscapes is set out at NPPF paragraph 172 and relates to the statutory requirements with regard to natural beauty and (for National Parks only) the opportunities afforded for open-air recreation. Paragraph 170 a) does not alter those requirements.

Identified quality in the development plan

A4.2.6 The interpretation of 'identified quality in the development plan' is not clear. There are two fundamentally different interpretations that have been adopted by inspectors, which are considered below in more detail:

1. It means non-statutory, locally designated landscapes;
2. It means any landscape where there is evidence to justify the identification of a 'valued landscape'. Local designation alone may not be sufficient evidence.

In both cases it is assumed that the word 'quality' means degree of excellence.

Locally designated landscape

A4.2.7 The phrase 'identified quality in the development plan' was interpreted by one inspector as meaning a locally designated landscape. This interpretation was accepted by the Secretary of State, although the acceptance was implicit not explicit.[41] However, this interpretation has not been adopted by subsequent inspectors who have identified problems with this approach, in particular:

[40] In cases where a particular area within a National Park or AONB may not demonstrate the level of quality expected of its designation status, this does not mean that its value is diminished. Such an area is still a component of the nationally designated area with the characteristics associated with the park or AONB as a whole, and the aim should be to bring it back or much closer to the quality and character of the wider designated area so that it can be a positive contributor to the statutory purpose (to conserve and enhance the area's natural beauty).

[41] App 3197293 Pods Brook Road, Braintree, Essex (June 2019).

- *that many planning authorities, following previous policy guidance,[42] no longer have local landscape designations; and*
- *that some local designations do not have an underlying evidence-base.*

A4.2.8 At least one inspector has disagreed with the interpretation that any locally designated landscape must automatically be a valued landscape because in that case the parties agreed there was no evidence base to support the designation.[43]

Development plan policy support

A4.2.9 Many inspectors have continued to consider evidence presented to support the identification of a 'valued landscape' whether a local landscape designation exists or not. Evidence that has been used in reaching judgements about whether a landscape should be considered to be a valued landscape includes:

- *factors that are generally agreed to influence landscape value as set out in GLVIA3 Box 5.1;*
- *the presence of qualities in the landscape that are identified in the development plan (which includes neighbourhood plans) as requiring protection, such as in policies that require development to respect key aspects of a local landscape identified in the local landscape character assessment; and*
- *when a local designation exists, whether the landscape in question demonstrates the landscape qualities that are identified as important for that designation.*

A4.2.10 The Landscape Institute supports the evidence-based approach. The Landscape Institute does not consider that planning authorities which removed local designations following previous policy guidance, or those which never had local landscape designations, should be considered to have no 'valued landscapes' outside nationally designated areas.

A4.2.11 Where a landscape has a statutory status, it will not be necessary to undertake an assessment based on Box 5.1 of GLVIA3 or the factors identified in Table 1 of this TGN. It may also be unnecessary where a local designation is supported by a strong evidence base. However, where there is little published evidence to support existing local landscape designations, an assessment based upon these factors would be helpful to support planning decision making.

Valued landscape definition

A '**valued landscape'** is an area identified as having sufficient landscape qualities to elevate it above other more everyday[44] landscapes.

A4.2.12 Where possible the development plan should be referenced to support the value placed on the landscape. Where the development plan is silent, evidence should be provided in the form of professional analysis. Key points to note are as follows:

- *It is not possible to set a definitive threshold in this TGN above which a landscape is considered to be a 'valued landscape'. It is a judgment that must be made on a case-by-case basis, based on the evidence. There should be a weight of evidence that supports the recognition of a landscape as valued above more everyday landscapes.*
- *The character and quality of landscapes across England are variable and what may be defined as reaching the 'valued landscape' threshold/criteria in one part of the Country may be considered to be an 'everyday landscape' in another.*
- *It would be expected that a 'valued landscape' would demonstrate the presence of a number of indicators of landscape value, as set out in Table 1, although it is possible for one indicator to be of*

[42] Planning Policy Statement (PPS 7): Sustainable development in rural areas (ODPM 2004) – see Appendix A3.
[43] App 3215534 Tuffs Road and Maple Way, Eye, Suffolk (March 2020) The local plan policy was based on an old structure plan and the parties agreed there was no evidence base for that.
[44] 'Everyday' landscapes may nevertheless have value to people.

such importance (e.g. rarity, association or perceptual aspects) that the landscape is judged to be a 'valued landscape' even if other indicators are not present.

- *The identification of landscape value needs to be applied proportionately ensuring that identification of 'valued landscape' is not over used.*
- *In line with the ELC's approach, landscapes that are not judged to be 'valued landscapes' may still have value, and NPPF paragraph 170 b) requires planning policies and decisions to recognise the intrinsic character and beauty of the countryside. It is well-established that a landscape does not have to be a 'valued landscape' to be afforded protection from inappropriate development (**see Appendix A5**).*

A5 (Appendix 5) Inspectors' decisions and case law in relation to the interpretation of 'valued landscapes' in the National Planning Policy Framework (NPPF) in England

A5.1 Introduction

A5.1.1 This Appendix summarises how inspectors' decisions and case law have dealt with the interpretation of 'valued landscapes', first set out in Paragraph 109 of the NPPF 2012 which referred to 'protecting and enhancing valued landscapes'. This was subsequently updated in Paragraph 170 of the revised NPPF 2018 (with the addition of the qualifying phrase 'in a manner commensurate with their statutory status or identified quality in the development plan') and carried forward to the 2019 NPPF.

A5.1.2 The aim of this Appendix is to demonstrate some of the permutations of the arguments and evidence presented in relation to valued landscapes. Planning appeal decisions, by Inspectors and the Secretary of State, must be read as a whole to understand the full context of decisions, noting that Appeal decisions are made independently and on the basis of the evidence before the Inspector or Secretary of State at that time. Interpretation of policy intentions and meanings can only be determined by the Courts.

The 'Stroud Judgement'

A5.1.3 The 'Stroud' Appeal decision in 2014 is of significance because it became the subject of the first definition of 'valued landscape' (in relation to Paragraph 109 of the NPPF) by the courts. An Appeal was made by Gladman Developments Ltd against Stroud District Council's refusal of planning permission for 150 houses at the foot of the escarpment to the Cotswold Hills (Appeal reference APP/C1625/A/13/2207324). In his decision, the Inspector acknowledged that there was no agreed definition of 'valued' as used in Paragraph 109 of the NPPF and that in the absence of any formal guidance on the point, he considered that to be valued would 'require the site to show some demonstrable physical attribute rather than just popularity'. He went on to say that 'In the absence of any such designation, I find that paragraph 109 is not applicable to the appeal site' (Paragraph 18). In this instance, the Inspector found that the site was not a 'valued landscape' and allowed the Appeal.

A5.1.4 Stroud District Council challenged the Inspector's decision (summarised above) in the High Court on four grounds including the Inspector's approach to valued landscape. During the hearing between Stroud District Council and the Secretary of State for Communities and Local Government & Gladman Developments Limited, the Council suggested that the Inspector equated valued landscape with designated landscape. In his judgement (dated February 2015) Mr Justice Ouseley stated that if the Inspector had concluded that designation was the same as valued landscape he would have been wrong because in the NPPF, 'the word "designation" is used when designation is meant and "valued" is used when valued is meant and the two words are not the same'. Mr Justice Ouseley then considered whether the Inspector really meant that he equated designation with valued landscape and concluded that he did not. He judged that the Inspector knew that designation was not the start and finish of the debate. He concluded that '. . . in the end I am satisfied that the Inspector did not make that error. In particular, the key passage is in the third sentence of paragraph 18, in which he said that the site to be valued had to show some demonstrable physical attribute rather than just popularity' (Paragraph 14).

A5.1.5 In Paragraph 16 of the judgment he explains the Inspector's reasoning: 'It is not difficult to see that the sort of demonstrable physical attributes which would take this site beyond mere countryside, if I can put it that way but into something below that which was designated had not been made out in the Inspector's mind'.

Demonstrable physical attributes

A5.1.6 Following this judgment a number of Inspectors have considered the issue of what constitutes a valued landscape by reference to 'demonstrable physical attributes' that take the landscape beyond ordinary countryside and this phrase was taken as a general principle by many. However, in a later judgement (CEG Land Promotions II Lts v SoS HCLG 2018 EWHC 1799), Mr Justice Ousley made it clear that he was not laying down any general principles when he concluded that it was reasonable for an Inspector to look for such demonstrable physical attributes in reaching a conclusion on valued landscape (Paragraph 58).

The role of the site in the wider landscape

A5.1.7 When assessing landscape value, there has been a growing consensus regarding the importance of looking at the role that a site plays in the wider landscape and not limiting the assessment to the site itself. The Inspector for APP/Z1510/W/16/3160474 (West Street, Coggeshall, July 2017) concluded at Paragraph 30 of her decision as follows:

> 'Whilst the Framework paragraph 109 test based on the Stroud case (which I shall consider later) refers to "this site" I consider that it would be too narrow to just consider the appeal site. A site might have a variety of characteristics but, taken in isolation, for some sites it would be difficult to assess whether those characteristics have any particular value or importance. Moreover, a site might be important because of its position in the landscape as part of it rather than being important in its own right, rather like the pieces of a jigsaw puzzle. Further, as my colleague in the Nanpanton Road appeal sets out, the interactions between people and place are important in the perceptions of landscape and people will perceive the site in a wider context'.[45]

A5.1.8 While this decision pre-dates the amendment of the NPPF, its approach to assessing landscape value remains relevant.

Does a lack of local landscape designation preclude the presence of a valued landscape?

A5.1.9 An Inspector in his report for Appeal 3197293 (Pods Brook Road, Braintree, Essex) concluded that 'A straightforward reading of paragraph 170(a) does not lead to the view that there are other categories of valued landscape (which are not statutorily designated or identified in a development plan)'[46] and he equated this with some form of protection in the development plan. This interpretation was accepted by the Secretary of State, although the acceptance was implicit not explicit. However, this interpretation has not been adopted by other inspectors as set out in the following paragraphs.

A5.1.10 An inspector in a decision letter for APP 3200335 (Watlington Road, Lewknor) made clear that he considered the lack of a local landscape designation should not preclude the presence of a valued landscape: 'It would be wrong in my view to conclude that a landscape cannot be considered as valued simply because it was not identified in a development plan formulated at a time when no such requirement existed'.[47]

A5.1.11 In this instance the inspector was not persuaded that the landscape in question was a 'valued landscape' but this judgement was based on the evidence the parties had put to him about the value of the landscape rather than lack of a local designation.

A5.1.12 In relation to App 3207509 (Land off Colchester Road, Bures Hamlet) the Inspector concluded 'Neither, having regard to Paragraph 127, do I consider that the exhortation to protect and enhance "valued" landscapes is necessarily limited to landscapes that have either a statutory designation or a local designation in the development plan' (Paragraph 21). In this case an evaluation for potential

[45] APP 3160470 West Street Coggeshall Inspector Hill Paragraph 30 2017

[46] Appeal 3197293 Pods Brook Road, Braintree, Essex Inspector Clegg Paragraph 185 June 2019

[47] APP 3200335 Watlington Road, Lewknor Inspector Baugh-Jones Paragraph 40 January 2019

extension of the Dedham Vale AONB to include the land in question had been undertaken and so there was a detailed evidence base to demonstrate landscape value despite the lack of designation.

A5.1.13 In relation to App 3214324 (Poplar Hill, Stowmarket, August 2019) the inspector concluded that the development would harm a valued landscape even though the site was not located within a nationally or locally designated area. Additionally, it was in a district that still had local landscape designations. The inspector was concerned with the harm that would arise to features in the landscape surrounding the appeal site as a consequence of development on the appeal site, stating:

> 'Although the site is not recognised in published documents as an exemplary or outstanding component of the Suffolk landscape and its development would in some ways be consistent with characteristic patterns of development along valley sides, the appeal proposal would compromise the appreciation of sufficiently impressive examples of other characteristic features of the landscape as to cause an unacceptable effect on the landscape character and appearance of the area. These characteristic features are Combs Wood and St Mary's Church both of which have statutory status and so would qualify the landscape to be regarded as valued, to be protected and enhanced in terms of NPPF paragraph 170(a)'.[48]

Implication of the NPPF wording for local landscape designations?

A5.1.14 There has been some speculation as to whether the addition of the qualifying phrase 'in a manner commensurate with their statutory status or identified quality in the development plan' to the 2018 version of the NPPF (and carried forward to the February 2019 version) will result in a resurgence of local landscape designations. In his decision letter, the Inspector for App 3207509 (Land off Colchester Road, Bures Hamlet) concluded:

> '22. The Framework does not provide a definition of a valued landscape. However, *I consider it improbable that the addition of the words in brackets to paragraph 170(a) which occurred in July 2018 was intended to encourage policy makers to revive the practice of creating local "Special Landscape Areas" or similar designations in development plans* as a means of identifying a valued landscape. Previous advice had sought to discourage such designations in favour of landscape character assessment which would identify the distinctive and valued qualities of landscapes'[49] (emphasis added).

A5.1.15 Other inspectors suggest the local plan process is the proper forum for landscape value to be considered and for designations to be made. For example, the inspector for App 3200409 (Old Street, Stubbington, January 2019) concluded:

> '30 a . . . the landscape is not specifically recognised for its quality in the current development plan. This is because local landscape designations fell from favour in national planning policy. Previously, the Lower Meon Valley had been identified as an Area of Special Landscape Character.
>
> 31. *In view of para 170 the matter of landscape value will no doubt be considered through the emerging Local Plan process. That is the proper forum for any designation to be made.* However, until that time it is difficult to understand why there would be a change in terms of intrinsic value'[50] (emphasis added).

If a landscape is not a 'valued landscape' can it still have value?

A5.1.16 At the appeal in relation to Bayley Gate Farm, College Road, Cranfield Appeal 3190779 neither the council's nor the appellant's landscape architect considered that the site was a valued landscape. Nevertheless, the inspector concluded that this did not mean it had no value, stating:

> 27. 'The site does not form a valued landscape for the purposes of paragraph 109 of the National Planning Policy Framework (the Framework), a position accepted by both parties. *That however does not mean that it has no value* and although it may not be rare or have significant conservation interest or have any known associations it is very representative of the wider landscape, has a pleasant and attractive scenic quality and is in good condition. Its arable

[48] App 3214324 Poplar Hill, Stowmarket Inspector Clark Paragraph 81, August 2019.
[49] App 3207509 Land off Colchester Road, Bures Hamlet, Inspector Mellor, Paragraph 22, March 2019.
[50] App 3200409 Land west of Old Street, Stubbington, Hampshire, January 2019.

nature, strong boundary hedge and tree treatment ensure that it, along with the surrounding fields, narrow country lanes, bridleway and public rights of way create a strong rural character'[51] (emphasis added).

[51] App 3190779 Bayley Gate Farm, College Road, Cranfield Inspector Stone Paragraph 27, July 2018.