

# Neighbourhood Planning Bill

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Communities and Local Government, are published separately as Bill 61 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Sajid Javid has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Neighbourhood Planning Bill are compatible with the Convention rights.

# Neighbourhood Planning Bill

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**B I L L**

TO

Make provision about planning and compulsory purchase; and for connected purposes.

**B**E 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 1**

PLANNING

*Neighbourhood planning*

**1 Duty to have regard to post-examination neighbourhood development plan**

- (1) Section 70 of the Town and Country Planning Act 1990 (determination of applications for planning permission: general considerations) is amended as follows. 5
- (2) In subsection (2) (matters to which local planning authority must have regard in dealing with applications) after paragraph (a) insert—
- “(aza) a post-examination draft neighbourhood development plan, so far as material to the application,”. 10
- (3) Before subsection (4) insert—
- “(3B) For the purposes of subsection (2)(aza) a draft neighbourhood development plan is a “post-examination draft neighbourhood development plan” if— 15
- (a) a local planning authority have made a decision under paragraph 12(4) of Schedule 4B with the effect that a referendum or referendums are to be held on the draft plan under that Schedule, or
- (b) the Secretary of State has directed under paragraph 13B(2)(a) of that Schedule that a referendum or referendums are to be held on the draft plan under that Schedule. 20

- (3C) The references in subsection (3B) to Schedule 4B are to that Schedule as applied to neighbourhood development plans by section 38A(3) of the Planning and Compulsory Purchase Act 2004.”

## 2 Status of approved neighbourhood development plan

In section 38 of the Planning and Compulsory Purchase Act 2004 (development plan) after subsection (3) insert – 5

“(3A) For the purposes of any area in England (but subject to subsection (3B)) a neighbourhood development plan which relates to that area also forms part of the development plan for that area if –

- (a) section 38A(4)(a) (approval by referendum) applies in relation to the neighbourhood development plan, but 10  
(b) the local planning authority to whom the proposal for the making of the plan has been made have not made the plan.

(3B) The neighbourhood development plan ceases to form part of the development plan if the local planning authority decide under section 38A(6) not to make the plan.” 15

## 3 Modification of neighbourhood development order or plan

(1) Section 61M of the Town and Country Planning Act 1990 (revocation or modification of neighbourhood development orders) is amended in accordance with subsections (2) and (3). 20

(2) After subsection (4) insert –

“(4A) A local planning authority may at any time by order modify a neighbourhood development order they have made if they consider that the modification does not materially affect any planning permission granted by the order.” 25

(3) In subsection (5) –

- (a) for “that order” substitute “the neighbourhood development order mentioned in subsection (4) or (4A)”, and  
(b) after “(4)” insert “or (4A)”. 30

(4) The Planning and Compulsory Purchase Act 2004 is amended in accordance with subsections (5) to (10). 30

(5) In section 38A (meaning of “neighbourhood development plan”) after subsection (11) insert –

“(11A) Subsection (11) is subject to Schedule A2, which makes provision for the modification of a neighbourhood development plan.” 35

(6) Section 38C (neighbourhood development plans: supplementary provisions) is amended in accordance with subsections (7) to (9).

(7) After subsection (2) insert –

“(2A) Section 61F of the principal Act is to apply in accordance with subsection (2) of this section as if – 40

- (a) subsections (8)(a) and (8B) also referred to a proposal for the modification of a neighbourhood development plan,

- 
- (b) subsection (13)(b) also referred to a proposal for the modification of a neighbourhood development plan made by a neighbourhood forum, and
- (c) subsection (13)(c) also referred to any duty of a local planning authority under paragraph 7, 8 or 9 of Schedule A2 to this Act.” 5
- (8) In subsection (3) –
- (a) the words from “the words” to the end of the subsection become paragraph (a), and
- (b) at the end of that paragraph insert “, and
- (b) the reference in subsection (4A) to a modification materially affecting any planning permission granted by the order were to a modification materially affecting the policies in the plan.” 10
- (9) In subsection (6) –
- (a) the words from “on proposals” to the end of the subsection become paragraph (a), and 15
- (b) at the end of that paragraph insert “, or
- (b) on proposals for the modification of neighbourhood development plans, or on modifications of neighbourhood development plans, that have already been made.” 20
- (10) After Schedule A1 insert the Schedule A2 set out in Schedule 1 to this Act.
- 4 Changes to neighbourhood areas etc**
- (1) The Town and Country Planning Act 1990 is amended in accordance with subsections (2) to (4). 25
- (2) In section 61F (authorisation to act in relation to neighbourhood areas) after subsection (8) insert –
- “(8A) A designation ceases to have effect if –
- (a) a new parish council is created or there is a change in the area of a parish council, and 30
- (b) as a result, the neighbourhood area for which the neighbourhood forum is designated consists of or includes the whole or any part of the area of the parish council.
- (8B) The operation of subsection (8A) does not affect the validity of any proposal for a neighbourhood development order made before the event mentioned in paragraph (a) of that subsection took place.” 35
- (3) In section 61G (meaning of “neighbourhood area”) after subsection (6) insert –
- “(6A) The power in subsection (6) to modify designations already made includes power –
- (a) to change the boundary of an existing neighbourhood area, 40
- (b) to replace an existing neighbourhood area with two or more separate neighbourhood areas, and
- (c) to replace two or more existing neighbourhood areas with a single neighbourhood area.

- 
- (6B) A neighbourhood area created by virtue of subsection (6A)(b) may have the boundary created by splitting it from the existing area or a different boundary.
- (6C) A neighbourhood area created by virtue of subsection (6A)(c) may have the boundary created by combining the existing areas or a different boundary. 5
- (6D) A modification under subsection (6) of a designation already made does not affect the continuation in force of a neighbourhood development order even though as a result of the modification—
- (a) it no longer relates to a neighbourhood area, or 10
- (b) it relates to more than one neighbourhood area.”
- (4) In section 61J (provision that may be made by neighbourhood development order) after subsection (5) insert—
- “(5A) Subsection (5) is subject to section 61G(6D) (effect of modification of existing neighbourhood area).” 15
- (5) The Planning and Compulsory Purchase Act 2004 is amended in accordance with subsections (6) to (8).
- (6) In section 38A (meaning of “neighbourhood development plan”) after subsection (11A) (as inserted by section 3) insert—
- “(11B) Subsection (11C) applies if, as a result of a modification of a neighbourhood area under section 61G(6) of the principal Act, a neighbourhood development plan relates to more than one neighbourhood area. 20
- (11C) The replacement of the plan by a new plan in relation to one or some of those areas does not affect the continuation in force of the plan in relation to the other area or areas.” 25
- (7) In section 38B (provision that may be made by neighbourhood development plans) after subsection (2) insert—
- “(2A) Subsections (1)(c) and (2) are subject to section 61G(6D) of the principal Act (as applied by section 38C(5A) of this Act).” 30
- (8) In section 38C (supplementary provisions) after subsection (5) insert—
- “(5A) Section 61G(6D) of the principal Act is to apply in relation to neighbourhood development plans as if it also provided that a modification under section 61G(6) of that Act of a designation of a neighbourhood area does not affect the continuation in force of a neighbourhood development plan even though, as a result of the modification, more than one plan has effect for the same area.” 35
- 5 Assistance in connection with neighbourhood planning**
- (1) Section 18 of the Planning and Compulsory Purchase Act 2004 (statement of community involvement) is amended as follows. 40
- (2) At the beginning of subsection (2A) insert “Subject to subsection (2B),”.

- (3) After subsection (2A) insert –
- “(2B) A statement of community involvement must set out the local planning authority’s policies for giving advice or assistance under –
- (a) paragraph 3 of Schedule 4B to the principal Act (advice or assistance on proposals for making of neighbourhood development orders), and
  - (b) paragraph 3 of Schedule A2 to this Act (advice or assistance on proposals for modification of neighbourhood development plans).
- (2C) The reference in subsection (2B)(a) to Schedule 4B to the principal Act includes that Schedule as applied by section 38A(3) of this Act (process for making neighbourhood development plans). 10
- (2D) Subsection (2B) applies regardless of whether, at any given time –
- (a) an area within the area of the authority has been designated as a neighbourhood area, or
  - (b) there is a qualifying body which is entitled to submit proposals to the authority for the making by the authority of a neighbourhood development order or a neighbourhood development plan.” 15
- 6 Further provision about statement of community involvement 20**
- (1) Section 18 of the Planning and Compulsory Purchase Act 2004 (statement of community involvement) is amended as follows.
- (2) In subsection (2) after “sections” insert “13, 15”.
- (3) After subsection (3A) insert –
- “(3B) The Secretary of State may by regulations make provision requiring a local planning authority to review their statement of community involvement at such times as may be prescribed. 25
- (3C) If regulations under subsection (3B) require a local planning authority to review their statement of community involvement –
- (a) they must consider whether to revise their statement following each review, and
  - (b) if they decide not to do so, they must publish their reasons for considering that no revisions are necessary.” 30

*Planning conditions*

- 7 Restrictions on power to impose planning conditions 35**
- (1) After section 100 of the Town and Country Planning Act 1990 insert –
- “Power to impose conditions on grant of planning permission in England*
- 100ZA Restrictions on power to impose planning conditions in England**
- (1) The Secretary of State may by regulations provide that –



- 
- (a) conditions of a prescribed description may not be imposed in any circumstances on a grant of planning permission for the development of land in England,
- (b) conditions of a prescribed description may be imposed on any such grant only in circumstances of a prescribed description, or 5
- (c) no conditions may be imposed on any such grant in circumstances of a prescribed description.
- (2) Regulations under subsection (1) may make provision only if (and in so far as) the Secretary of State is satisfied that the provision is appropriate for the purposes of ensuring that any condition imposed on a grant of planning permission for the development of land in England is – 10
- (a) necessary to make the development acceptable in planning terms,
- (b) relevant to the development and to planning considerations generally, 15
- (c) sufficiently precise to make it capable of being complied with and enforced, and
- (d) reasonable in all other respects.
- (3) Before making regulations under subsection (1) the Secretary of State must carry out a public consultation. 20
- (4) Subsection (5) applies in relation to an application for a grant of planning permission for the development of land in England.
- (5) Planning permission for the development of the land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition. 25
- (6) But the requirement under subsection (5) for the applicant to agree to the terms of a pre-commencement condition does not apply in such circumstances as may be prescribed.
- (7) “Pre-commencement condition” means a condition imposed on a grant of planning permission (other than a grant of outline planning permission within the meaning of section 92) which must be complied with – 30
- (a) before any building or other operation comprised in the development is begun, or
- (b) where the development consists of a material change in the use of any buildings or other land, before the change of use is begun. 35
- (8) A power conferred by, or by virtue of, any provision of this Part to impose a condition on a grant of planning permission for the development of land in England is subject to – 40
- (a) regulations under subsection (1), and
- (b) in the case of a grant made in response to an application, subsection (5).
- (9) In this section – 45
- (a) references to a grant of planning permission are to any grant of permission under this Part (including where the permission is granted by an order made under this Part);
- (b) references to a grant include the modification of any such grant;

- (c) references to a condition include a limitation,  
and “prescribed” means prescribed by the Secretary of State.”
- (2) Section 100ZA of the Town and Country Planning Act 1990 (as inserted by subsection (1) of this section) has effect in relation to conditions on a grant or modification of planning permission only if the permission is granted or modified on or after the coming into force of this section. 5
- (3) Schedule 2 contains amendments in consequence of subsection (1).

*Planning register*

**8 Register of planning applications etc**

After section 69 of the Town and Country Planning Act 1990 insert – 10

**“69A The register: additional requirements in relation to England**

- (1) A register kept under section 69 by a local planning authority in England must (in addition to the information prescribed under that section) also contain such information as is prescribed as to – 15
- (a) prior approval applications made in connection with planning permission granted by a development order;
  - (b) the manner in which such applications have been dealt with by the authority;
  - (c) notifications of proposed development made in connection with planning permission granted by a development order; 20
  - (d) any actions taken by the authority following such notifications.
- (2) A “prior approval application”, in connection with planning permission granted by a development order, means an application made to a local planning authority for – 25
- (a) any approval of the authority required under the order, or
  - (b) a determination from the authority as to whether such approval is required.
- (3) A “notification of proposed development”, in connection with planning permission granted by a development order, means a notification made to a local planning authority to meet a requirement under the order. 30
- (4) The power in subsection (1)(b) to prescribe information as to the manner in which applications have been dealt with by a local planning authority includes power to prescribe information as to cases where the authority does not respond to an application.
- (5) Where the register is kept in two or more parts, each part must contain such information as is prescribed relating to the matters mentioned in subsection (1)(a) and (c). 35
- (6) A development order may also make provision – 40
- (a) for a specified part of the register to contain copies of applications or notifications and of any documents or material submitted with them;
  - (b) for the entry relating to an application (and everything relating to it) to be removed from that part of the register when the

- application (including any appeal arising out of it) has been finally disposed of;
- (c) for the entry relating to a notification (and everything relating to it) to be removed from that part of the register in such circumstances as may be prescribed. 5
- (7) Provision under subsection (6)(b) or (c) does not prevent the inclusion of a different entry relating to the application or notification in another part of the register.
- (8) Anything prescribed under this section must be prescribed by development order.” 10

## PART 2

### COMPULSORY PURCHASE ETC

#### CHAPTER 1

##### TEMPORARY POSSESSION OF LAND

- 9 Power to take temporary possession of land** 15
- (1) Subsection (2) applies where—
- (a) a person (an “acquiring authority”) intends to acquire land (the “relevant land”) for the purposes of a scheme, and
- (b) the acquiring authority could be authorised to acquire the land compulsorily. 20
- (2) The acquiring authority may take temporary possession of land compulsorily for purposes connected with the purposes of the scheme if the authority is authorised to do so in accordance with section 10.
- (3) Subject to any express provision in another enactment, the power in subsection (2) is the only power under which a person may take temporary possession of land compulsorily. 25
- (4) A person who—
- (a) acquires or intends to acquire land for the purposes of a scheme, and
- (b) could have been or be authorised to acquire the land compulsorily, may take temporary possession of land by agreement for purposes connected with the purposes of the scheme. 30
- (5) For the purposes of this Chapter references to acquiring land include references to acquiring a right over land by creation.
- (6) In this section “enactment” does not include subordinate legislation.
- 10 Procedure for authorising temporary possession etc** 35
- (1) This section sets out how an acquiring authority may be authorised to take temporary possession of land compulsorily under section 9(2).
- (2) The temporary possession must be authorised by the same type of instrument (the “authorising instrument”) as is or would be required for the compulsory

acquisition of land for the purposes of the scheme mentioned in that section (for example a compulsory purchase order).

- (3) Accordingly, the authorising instrument –
  - (a) may make provision relating to temporary possession as well as, or instead of, compulsory acquisition, and 5
  - (b) if it does so, is to be subject to the same procedures for authorising and challenging it as if the provision relating to temporary possession were provision relating to compulsory acquisition.
- (4) The temporary possession must be authorised before the acquiring authority acquires the relevant land. 10
- (5) The authorising instrument must –
  - (a) identify the land which is to be subject to temporary possession,
  - (b) describe the purposes for which temporary possession is required,
  - (c) describe the scheme in connection with which temporary possession is required, 15
  - (d) identify the land required for the scheme, and
  - (e) specify the total period of time for which the land may be subject to temporary possession.
- (6) The authorising instrument does not need to include the dates of any particular period of temporary possession (but see section 11). 20
- (7) A period of temporary possession may be commenced before, at or after the time the acquiring authority acquires the relevant land.

## 11 Notice requirements

- (1) Before taking temporary possession of land compulsorily for a period of time by virtue of section 9(2) an acquiring authority must give a notice of intended entry to each person who has an interest in or a right to occupy the land, so far as known to the authority after making diligent inquiry. 25
- (2) The notice must specify the period after the end of which the acquiring authority may take temporary possession of the land (“the notice period”).
- (3) The notice period must not end earlier than the end of the period of three months beginning with the day on which the notice is given. 30
- (4) The notice must specify the period for which the acquiring authority is to take temporary possession of the land.
- (5) For the purposes of this section an acquiring authority is to be treated as taking temporary possession of land at the beginning of the first day of any period of temporary possession. 35
- (6) The notice period may be reduced by agreement between the acquiring authority and all persons to whom a notice must be given under subsection (1).
- (7) An acquiring authority must comply with this section again in relation to each subsequent period of temporary possession even if there is to be no gap between periods. 40

## 12 Counter-notice

- (1) This section applies where an acquiring authority gives a notice of intended entry under section 11 in relation to land to a person (the “owner”) who –
  - (a) has a leasehold interest in, and the right to occupy, the land, or
  - (b) has the freehold interest in the land. 5
- (2) The owner may give the acquiring authority a counter-notice which provides that the total period of time for which the land may be subject to temporary possession is limited to –
  - (a) 12 months where the land is or is part of a dwelling, or
  - (b) 6 years in any other case. 10
- (3) If the owner falls within subsection (1)(a), the owner may instead give the acquiring authority a counter-notice which provides that the authority may not take temporary possession of the land.
- (4) A counter-notice under subsection (2) or (3) must be given within the period of 28 days beginning with the day on which the notice of intended entry was given. 15
- (5) On receiving a counter-notice under subsection (2), the acquiring authority must decide whether to –
  - (a) accept the counter-notice,
  - (b) withdraw the notice of intended entry, or
  - (c) proceed as if the land were subject to compulsory acquisition. 20
- (6) On receiving a counter-notice under subsection (3), the acquiring authority must decide whether to –
  - (a) accept the counter-notice, or
  - (b) proceed as if the land were subject to compulsory acquisition. 25
- (7) The acquiring authority must give a notice of its decision in response to a counter-notice to the owner within the period of 28 days beginning with the day on which the counter-notice was given.
- (8) If the acquiring authority decides to proceed as if the land were subject to compulsory acquisition –
  - (a) the instrument which authorised temporary possession of the land is to be treated as authorising the compulsory acquisition of the owner’s interest in the land (as well as the temporary possession of the land, if there are other interests in it), and
  - (b) the authority may proceed as if it had given any notice or taken any step required in relation to the authorisation or confirmation of the instrument. 30
- (9) See Schedule 2A to the Compulsory Purchase Act 1965 and Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 for options available to the owner if, in response to a counter-notice under this section, the acquiring authority decides to purchase the owner’s interest in part of a house, building or factory. 40
- (10) Nothing in this section prevents an acquiring authority acquiring land compulsorily after accepting a counter-notice or withdrawing a notice of intended entry in respect of that land. 45

### 13 Refusal to give up possession

Section 13 of the Compulsory Purchase Act 1965 (refusal to give up possession of land to acquiring authority) applies in relation to temporary possession by virtue of section 9(2) of this Act as if –

- (a) the reference to “this Act” in subsection (1) were a reference to section 9(2) of this Act, and 5
- (b) the references to taking possession of land were references to taking temporary possession of land compulsorily by virtue of section 9(2) of this Act.

### 14 Compensation 10

- (1) This section applies if an acquiring authority takes or is authorised to take temporary possession of land compulsorily by virtue of section 9(2).
- (2) *A person (a “claimant”) who has an interest in or a right to occupy the land is entitled to receive compensation from the authority for any loss or injury the claimant sustains as a result.* 15
- (3) Where the acquiring authority takes temporary possession of the land, the value of a leasehold interest in the land for the period of the temporary possession must be taken into account in calculating the amount of compensation to which a claimant is entitled under subsection (2).
- (4) For the purposes of subsection (3) the value is to be assessed as on the first day of the period of temporary possession. 20
- (5) Where the claimant is carrying on a trade or business on the land, the compensation to which the claimant is entitled includes compensation for any loss which the claimant sustains by reason of the disturbance of the trade or business consequent upon the claimant having to quit the land for the period of the temporary possession. 25
- (6) In estimating loss for the purposes of subsection (5) regard is to be had –
  - (a) to the period for which the land occupied by the claimant may reasonably have been expected to be available for the purposes of the claimant’s trade or business, 30
  - (b) to the terms on which the land may reasonably have been expected to be available for those purposes, and
  - (c) to the availability of other land suitable for those purposes during the period of temporary possession.
- (7) For the purposes of section 9 of the Limitation Act 1980, a claim for compensation under subsection (2) in relation to a period of compulsory temporary possession for which notice is given under section 11 accrues on the last day of the period. 35
- (8) Compensation under this section carries interest from the day after the last day on which the claimant suffers loss or injury as a result of the temporary possession. 40
- (9) The interest is to be at the rate prescribed by regulations under section 32 of the Land Compensation Act 1961 in relation to the compulsory acquisition of land.
- (10) Any dispute about compensation payable under this section may be referred to and determined by the Upper Tribunal. 45



## 15 Advance payments

- (1) This section applies where a person (a “claimant”) to whom compensation is or will be payable under section 14 makes a request in accordance with subsection (3).
- (2) *The acquiring authority –* 5
- (a) *must make an advance payment on account of the compensation if it has given a notice of intended entry under section 11 to the claimant, but*
- (b) *may not do so if it has not given a notice of intended entry to the claimant.*
- (3) A request for advance payment must be made in writing by the claimant and must include – 10
- (a) details of the basis on which the claimant is or is going to be entitled to compensation, and
- (b) information which is sufficient to enable the acquiring authority to estimate the amount of the compensation in respect of which the advance payment is to be made. 15
- (4) Before the end of the period of 28 days beginning with the day on which the acquiring authority receives a request under subsection (3), the authority must –
- (a) determine whether it has enough information to estimate the amount of compensation, and 20
- (b) if it needs more information, require the claimant to provide it.
- (5) The amount of an advance payment is to be equal to 90% of –
- (a) if the acquiring authority and the claimant have agreed on the amount of the compensation, the agreed amount, or
- (b) in any other case, an amount equal to the compensation as estimated by the acquiring authority. 25
- (6) An advance payment must be made –
- (a) before the end of the day on which the authority takes temporary possession of the land, or
- (b) if later, before the end of the period of two months beginning with the day on which the authority – 30
- (i) receives the request for the advance payment, or
- (ii) receives any further information required under subsection (4)(b).
- (7) If, after making an advance payment on the basis of its estimate of the compensation, the acquiring authority considers that its estimate was too low, the authority must pay the claimant the balance of the amount of the advance payment calculated on the basis of the authority’s new estimate of the compensation. 35
- (8) Where the total amount of any payments under this section made on the basis of the acquiring authority’s estimate of the compensation exceeds the compensation as finally determined or agreed, the excess is to be repaid. 40
- (9) If, after a payment under this section has been made to a person, it is discovered that the person was not entitled to it, the person must repay it.

## **16 Interest on advance payments of compensation paid late**

- (1) *If an acquiring authority is required by section 15(2) to make an advance payment of compensation but pays some or all of it after the day or (as the case may be) the end of the period specified in section 15(6), the authority must pay interest on the amount which is paid after that period (the “unpaid amount”).* 5
- (2) Interest under subsection (1) accrues on the unpaid amount for the period beginning with the day after the day or (as the case may be) the end of the period specified in section 15(6).
- (3) If the total amount of any advance payment made under section 15 is greater than the compensation as finally determined or agreed (the “actual amount”), the claimant must repay any interest paid under this section that is attributable to the amount by which the advance payment exceeded the actual amount. 10
- (4) The Treasury must by regulations specify the rate of interest for the purposes of subsection (1).
- (5) Regulations under subsection (4) may contain further provision in connection with the payment of interest under subsection (1). 15

## **17 Powers of acquiring authority in relation to land**

- (1) Subject to subsection (3) and to any regulations under section 19, where an acquiring authority takes temporary possession of land compulsorily by virtue of section 9(2), the authority may use the land as if it had acquired all interests in it. 20
- (2) In particular, the acquiring authority may –
  - (a) remove or erect buildings or other works, and
  - (b) remove any vegetation,to the extent that it would be able to do so if it had acquired all interests in the land. 25
- (3) But the acquiring authority may use the land only for the purposes for which temporary possession was required, as described in the authorising instrument (see section 10(5)(b)).

## **18 Consequential amendments** 30

- (1) The Town and Country Planning Act 1990 is amended in accordance with subsections (2) to (7).
- (2) In section 150 (notices requiring purchase of blighted land), in subsection (1)(b), for “or paragraph 24” substitute “, paragraph 24 or paragraph 24A”.
- (3) In section 151 (counter-notice objecting to blight notices) – 35
  - (a) in subsection (4)(b), after “to acquire” insert “or (in the case of land to which paragraph 24A of Schedule 13 applies) take temporary possession of”, and
  - (b) in subsection (8), for “to acquire that land” substitute “to acquire or (in the case of land to which paragraph 24A of Schedule 13 applies) to take temporary possession of that land”. 40
- (4) In section 155 (effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire) –



- 
- (a) in the heading, after “acquire” insert “etc.”,
- (b) in subsection (2) –
- (i) in paragraph (a), after “appropriate enactment” insert “, or, in a case to which paragraph 24A of Schedule 13 applies, the temporary possession of land has been authorised by the appropriate enactment,”, and 5
- (ii) in the closing words, after “that order” insert “or appropriate enactment,”, and
- (iii) after “claimant in” insert “, or the temporary possession of.”
- (5) In section 169 (meaning of “appropriate authority” in relation to blighted land), in subsection (1) – 10
- (a) the words from “by whom” to the end become paragraph (a), and
- (b) after that paragraph insert “, or
- (b) which is authorised to take temporary possession of the land as mentioned in paragraph 24A of Schedule 13.” 15
- (6) In section 170 (meaning of “appropriate enactment” in relation to blighted land), after subsection (8B) insert –
- “(8BA) In relation to land falling within paragraph 24A of that Schedule “the appropriate enactment” is the instrument mentioned in section 10(2) of the Neighbourhood Planning Act 2016 (procedure for authorising temporary possession etc.) under which the acquiring authority mentioned in section 9(1) of that Act (power to take temporary possession of land) is authorised to take temporary possession of the land.” 20
- (7) In Schedule 13 (list of categories of land which are blighted land as a result of planning proposals etc. by public authorities), after paragraph 24 insert – 25
- “24A Land the temporary possession of which is authorised by virtue of section 9(2) of the Neighbourhood Planning Act 2016.”
- (8) In section 172 of the Housing and Planning Act 2016 (right to enter and survey land in connection with proposal to acquire land etc.), in subsection (1) – 30
- (a) the words from “to” to the end become paragraph (a), and
- (b) after paragraph (a) insert “, or
- (b) take temporary possession of land compulsorily under section 9(2) of the Neighbourhood Planning Act 2016.”
- 19 Supplementary provisions** 35
- (1) The appropriate national authority may by regulations make further provision in relation to –
- (a) the authorisation and exercise of the power to take temporary possession of land by virtue of section 9(2), and
- (b) the circumstances in which an acquiring authority may be authorised to acquire land after being authorised to take temporary possession of it. 40
- (2) Regulations under subsection (1) may for example –
- (a) exclude or modify provisions of this Chapter in relation to particular cases or types of case, 45

- (b) make provision that appears to the appropriate national authority to be necessary or expedient for giving full effect to a provision of this Chapter in relation to particular cases or types of case,
  - (c) limit the period for which an acquiring authority may take temporary possession of land, 5
  - (d) limit the circumstances in which an acquiring authority may take temporary possession of land,
  - (e) make provision about the use by an acquiring authority of land of which it has taken temporary possession (for example, by limiting what an acquiring authority may do or by requiring an acquiring authority to do certain things), 10
  - (f) limit the types of land which may be subject to temporary possession in specified circumstances,
  - (g) require an acquiring authority to provide specified information relating to a period of temporary possession to specified persons before, during or after the period, 15
  - (h) make provision in relation to the sale by a person with an interest in land where that land is or may be subject to temporary possession,
  - (i) require an acquiring authority to take certain steps in relation to the reinstatement of land subject to temporary possession, and 20
  - (j) make provision for a person who has a right to occupy land subject to temporary possession to be deemed to occupy that land for specified purposes during the period of temporary possession.
- (3) In this section –
- “appropriate national authority” means – 25
    - (a) in relation to cases where the Welsh Ministers are the acquiring authority or the confirming authority, the Welsh Ministers, and
    - (b) in all other cases, the Secretary of State;
  - “confirming authority” means the authority having power to authorise the acquiring authority to take temporary possession of land; 30
  - “specified” means specified in regulations under subsection (1).

## 20 Interpretation

In this Chapter –

- “acquiring authority” has the meaning given in section 9(1);
- “notice period” has the meaning given in section 11(2); 35
- “possession” means exclusive occupation;
- “relevant land” has the meaning given in section 9(1);
- “scheme”, in relation to the acquisition of land, means the scheme of development underlying the acquisition.

## 21 Application to Crown land 40

- (1) This Chapter applies in relation to Crown land.
- (2) An acquiring authority may exercise the power conferred by section 9(2) in relation to Crown land only if the acquiring authority has the consent of the appropriate authority.
- (3) In this section “Crown land” and “the appropriate authority” have the meanings given in section 293 of the Town and Country Planning Act 1990. 45

## CHAPTER 2

### OTHER PROVISIONS RELATING TO COMPULSORY PURCHASE

#### 22 No-scheme principle

- (1) The Land Compensation Act 1961 is amended in accordance with subsections (2) to (4). 5
- (2) In section 5, after rule (2) insert –
  - “(2A) The value of land referred to in rule (2) is to be assessed in the light of the no-scheme principle set out in section 6A.”
- (3) For sections 6 to 9 (provisions about how scheme is to be disregarded when assessing compensation in respect of compulsory acquisition) substitute – 10

**“6A No-scheme principle**

  - (1) The no-scheme principle is to be applied when assessing the value of land in order to work out how much compensation should be paid by the acquiring authority for the compulsory acquisition of the land (see rule 2A in section 5). 15
  - (2) The no-scheme principle is the principle that –
    - (a) any increase in the value of land caused by the scheme for which the authority acquires the land is to be disregarded, and
    - (b) any decrease in the value of land caused by that scheme or the prospect of that scheme is to be disregarded. 20
  - (3) In applying the no-scheme principle the following rules in particular (the “no-scheme rules”) are to be observed.
  - (4) Rule 1: it is to be assumed that the scheme was cancelled on the relevant valuation date.
  - (5) Rule 2: it is to be assumed that no action has been taken (including acquisition of any land, and any development or works) by the acquiring authority wholly or mainly for the purposes of the scheme. 25
  - (6) Rule 3: it is to be assumed that there is no prospect of the same scheme, or any other project to meet the same or substantially the same need, being carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers. 30
  - (7) Rule 4: there is to be no consideration of whether other projects would have been carried out if the scheme had not been commenced or if the scheme had been cancelled on the relevant valuation date.
  - (8) Rule 5: if there was a reduction in the value of land as a result of – 35
    - (a) the prospect of the scheme (including before the scheme or the compulsory acquisition in question was authorised), or
    - (b) the fact that the land was blighted land as a result of the scheme, that reduction is to be disregarded.
  - (9) In this section – 40

“blighted land” means land of a description listed in Schedule 13 to the Town and Country Planning Act 1990;

“relevant valuation date” has the meaning given by section 5A.

- (10) See also section 14 for assumptions to be made in respect of planning permission.

#### **6B Lower compensation if other land gains value**

- (1) This section applies where – 5
- (a) a person is entitled to compensation for the compulsory acquisition of land (the “original land”) for the purposes of a scheme,
  - (b) on the date the notice to treat is served in respect of the original land, the person is entitled to an interest in other land (the “other land”) which is contiguous or adjacent to the original land, 10
  - (c) the person is entitled to the interest in the other land in the same capacity as the person is entitled to the interest in the original land, and 15
  - (d) the person’s interest in the other land has increased in value as a result of the scheme.
- (2) The amount of compensation to which the person is entitled in respect of the compulsory acquisition of the original land is to be reduced by the amount of the increase in the value of the person’s interest in the other land as at the relevant valuation date (determined in accordance with section 5A). 20
- (3) An amount by which the other land increases in value may not be set off against compensation payable to the person (for the original land or otherwise) in accordance with subsection (2) more than once. 25
- (4) If the other land is subsequently subject to compulsory acquisition for the purposes of the scheme mentioned in subsection (1), the compensation to which the person is entitled for the other land includes the amount which was deducted from the person’s compensation for the original land in accordance with subsection (2) (despite the no-scheme principle). 30
- (5) If part only of the other land is subject to compulsory acquisition, the compensation to which the person is entitled by virtue of subsection (4) is to be reduced accordingly.
- (6) Subsections (4) and (5) apply in relation to a person (a “successor”) who derives title from the person mentioned in that subsection as if the original land had been acquired from the successor. 35
- (7) This section does not apply in relation to compensation which is to be assessed in accordance with section 261 of the Highways Act 1980 (benefit to vendor to be taken into account in assessing compensation on certain compulsory acquisitions for highway purposes). 40

#### **6C Increased compensation if other land loses value**

- (1) This section applies where –
- (a) land (the “original land”) belonging to a person is acquired for the purposes of a scheme, 45

- (b) as a result of the acquisition of the original land the person receives compensation for injurious affection in relation to other land, and
  - (c) the other land is subsequently subject to compulsory acquisition for the purposes of that scheme. 5
- (2) The compensation to which the person is entitled as a result of the compulsory acquisition of the other land is to be reduced by the amount which the person received in compensation for injurious affection in relation to the other land as a result of the acquisition of the original land. 10
- (3) Subsection (2) applies in relation to a person (a “successor”) who derives title from the person mentioned in that subsection as if the compensation for injurious affection had been paid to the successor.

#### **6D Meaning of “scheme” etc.**

- (1) For the purposes of sections 6A, 6B and 6C, the “scheme” in relation to a compulsory acquisition means the scheme of development underlying the acquisition (subject to subsections (2) to (5)). 15
- (2) Where the acquiring authority is authorised to acquire land in connection with the development of an area designated as –
- (a) an urban development area by an order under section 134 of the Local Government, Planning and Land Act 1980, 20
  - (b) a new town by an order under section 1 of the New Towns Act 1981, or
  - (c) a Mayoral development area by a designation under section 197 of the Localism Act 2011, 25
- the scheme is the development of any land for the purposes for which the area is or was designated.
- (3) Where land is acquired for regeneration or redevelopment which is made possible by a relevant transport project, the scheme includes the relevant transport project (subject to section 6E). 30
- (4) For the purposes of subsection (3) and section 6E –
- (a) a “relevant transport project” means a transport project which was carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers, and
  - (b) where different parts of the works comprised in such a transport project are first opened for use on different dates, each part is to be treated as a separate relevant transport project. 35
- (5) If there is a dispute as to what is to be taken to be the scheme (the “underlying scheme”) then, for the purposes of this section, the underlying scheme is to be identified by the Upper Tribunal as a question of fact, subject as follows –
- (a) the underlying scheme is to be taken to be the scheme provided for by the Act, or other instrument, which authorises the compulsory acquisition unless it is shown (by either party) that the underlying scheme is a scheme larger than, but incorporating, the scheme provided for by that instrument, and 45
  - (b) except by agreement or in special circumstances, the Upper Tribunal may permit the acquiring authority to advance

evidence of such a larger scheme only if that larger scheme is one identified in the following read together –

- (i) the instrument which authorises the compulsory acquisition, and
  - (ii) any documents made available with it. 5
- (6) In the application of no-scheme rule 3 in relation to the acquisition of land for or in connection with the construction of a highway (the “scheme highway”) the reference in that rule to “any other project” includes a reference to any other highway that would meet the same or substantially the same need as the scheme highway would have been constructed to meet. 10

### **6E Further provisions in relation to relevant transport projects**

- (1) This section has effect for the purposes of section 6D(3).
- (2) The scheme referred to in that section includes the relevant transport project only if – 15
- (a) regeneration or redevelopment was part of the published justification for the relevant transport project,
  - (b) the works comprised in the relevant transport project are first opened for use after the period of 5 years beginning with the day on which section 22 of the Neighbourhood Planning Act 2016 (which inserted this section) came into force, 20
  - (c) the instrument authorising the compulsory acquisition of the land which is acquired for regeneration or redevelopment was made or prepared in draft on or after the day on which that section came into force, 25
  - (d) the compulsory acquisition of that land is authorised before the end of the period of 5 years beginning with the day on which the works comprised in the relevant transport project are first opened for use, and
  - (e) that land is in the vicinity of land comprised in the relevant transport project. 30
- (3) In assessing compensation payable to a person in respect of the compulsory acquisition of that land, the scheme is to be treated as if it did not include the relevant transport project if the person acquired the land – 35
- (a) after plans for the relevant transport project were announced, but
  - (b) before 8 September 2016.
- (4) Subsections (5) and (6) set out how subsection (2)(b) should be applied if a claim for compensation is made by a person (the “claimant”) – 40
- (a) during the period of 5 years mentioned in that subsection, and
  - (b) before the works are first opened for use.
- (5) Compensation is to be assessed on the basis that the works will first be opened for use after the period of 5 years unless the acquiring authority confirms that, in the authority’s opinion, the works will first be opened during that period (in which case compensation is to be assessed on the basis that the works will first be opened for use during that period). 45



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- (6) If the basis on which compensation was assessed proves to be incorrect—
- (a) the claimant’s entitlement to any compensation which the claimant has already been awarded is not affected,
  - (b) the acquiring authority must give the claimant a notice informing the claimant that the basis on which the compensation was assessed was incorrect, 5
  - (c) the claimant may make a further claim for compensation in respect of the compulsory acquisition, and
  - (d) for the purposes of the Limitation Act 1980, the further claim for compensation accrues on the day the claimant receives the notice.” 10
- (4) Omit—
- (a) section 15 (planning permission to be assumed for acquiring authority’s proposals), and 15
  - (b) Schedule 1 (actual or prospective development relevant for purposes of sections 6, 7 and 8).
- (5) In section 6(3) of the Land Compensation Act 1973 (reduction of compensation where land is benefited)—
- (a) for “section 6” substitute “section 6A”, and 20
  - (b) for “section 7” substitute “section 6B”.
- (6) In section 78 of the Housing Act 1988 (supplementary provisions relating to vesting, acquisition and compensation) omit subsections (3) and (4).
- 23 Repeal of Part 4 of the Land Compensation Act 1961**
- (1) In the Land Compensation Act 1961 omit— 25
- (a) Part 4 (compensation where permission for additional development granted after acquisition), and
  - (b) Schedule 3 (application of Part 4 to certain cases).
- (2) In section 38(1) of that Act (service of notices) omit “or Part IV”.
- (3) In section 141 of the Local Government, Planning and Land Act 1980 (vesting by order of land in urban development corporation) omit subsection (5A) (no compensation payable under Part 4 of the Land Compensation Act 1961 by virtue of such an order). 30
- (4) In consequence of the amendments made by this section the following are repealed or revoked— 35
- (a) section 66 of the Planning and Compensation Act 1991;
  - (b) Schedule 14 to that Act;
  - (c) paragraph 25 of Schedule 15 to that Act;
  - (d) paragraph 14 of Schedule 14 to the Government of Wales Act 1998;
  - (e) paragraph 15 of Schedule 1 to the Fire and Rescue Services Act 2004; 40
  - (f) the first paragraph 3 in Part 1 of Schedule 2 to the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (SI 2005/3226);
  - (g) paragraph 2 of Schedule 8 to the Housing and Regeneration Act 2008;
  - (h) paragraph 1 of Schedule 2 to the Localism Act 2011 (Consequential Amendments) Order 2012 (SI 2012/961). 45

- (5) The repeals and revocations made by this section have effect in relation only to an acquisition or sale of an interest in land in relation to which the date of completion (within the meaning of Part 4 of the Land Compensation Act 1961) falls on or after the day on which this section comes into force.

**24 Time limit for confirmation notices** 5

- (1) In section 15 of the Acquisition of Land Act 1981 (notices to be served and published etc after confirmation of compulsory purchase order) after subsection (3) insert –

“(3A) The acquiring authority must comply with subsections (1) and (3) before the end of – 10

(a) the period of 6 weeks beginning with the day on which the order is confirmed, or

(b) such longer period beginning with that day as may be agreed in writing between the acquiring authority and the confirming authority. 15

(3B) If the acquiring authority fails to comply with subsections (1) and (3) in accordance with subsection (3A), the confirming authority may –

(a) take any steps that the acquiring authority was required but has failed to take to comply with those subsections, and

(b) recover the reasonable costs of doing so from the acquiring authority.” 20

- (2) The amendment made by this section applies only in relation to a compulsory purchase order which is confirmed after this section comes into force.

**25 Compensation for disturbance**

For section 47 of the Land Compensation Act 1973 (compensation in respect of land subject to business tenancy) substitute – 25

**“47 Compensation in respect of land subject to business tenancy**

- (1) This section applies where –

(a) in pursuance of an enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority – 30

(i) acquires the interest of the landlord in land subject to a tenancy, or

(ii) acquires the interest of the tenant in, or takes possession of, land subject to a tenancy, and 35

(b) before the authority acquired the interest or took possession of the land, the tenant under the tenancy was carrying on a trade or business on the land.

- (2) The principles in subsections (3) and (4) are to be applied in assessing the compensation payable by the authority to the landlord or the tenant in respect of the acquisition of the interest in or the taking of possession of the land or, as the case may, under section 121 of the Lands Clauses Consolidation Act 1845 or section 20 of the Compulsory Purchase Act 1965 (tenants from year to year etc). 40

- (3) Regard must be had to – 45



- (a) the likelihood of the continuation or renewal of the tenancy,
  - (b) in the case of a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (security of tenure for business tenants) applies, the right of the tenant to apply for the grant of a new tenancy, 5
  - (c) the total period for which the tenancy may reasonably have been expected to continue, including after any renewal, and
  - (d) the terms and conditions on which a tenancy may reasonably have been expected to be renewed or continued.
- (4) It is to be assumed that neither the acquiring authority nor any other authority possessing compulsory purchase powers have acquired or propose to acquire any interest in the land.” 10

## 26 GLA and TfL: joint acquisition of land

- (1) The Greater London Authority Act 1999 is amended as follows.
- (2) After section 403 insert – 15

*“Acquisition of land by the Authority and TfL for shared purposes*

### **403A Acquisition of land by the Authority and TfL for shared purposes**

- (1) This section applies where the Authority and Transport for London agree that the purposes for which they may acquire land compulsorily under section 333ZA and paragraph 19(1) of Schedule 11 would be advanced by one or both of them acquiring land for a joint project. 20
- (2) The purposes for which the Authority may acquire land compulsorily under section 333ZA(1) are to be read as if they included the purposes for which Transport for London may acquire land compulsorily.
- (3) The purposes for which Transport for London may acquire land compulsorily under paragraph 19(1) of Schedule 11 are to be read as if they included the purposes for which the Authority may acquire land compulsorily. 25
- (4) The Authority and Transport for London may agree that one of them is to acquire land on behalf of the other. 30
- (5) Where subsection (4) applies, a compulsory acquisition is to proceed under –
  - (a) section 333ZA if it is agreed that the Authority will acquire the land, or
  - (b) paragraph 19(1) of Schedule 11 if it is agreed that Transport for London will acquire the land. 35
- (6) Subsection (7) applies where –
  - (a) the Authority and Transport for London both propose to acquire land compulsorily for a joint project, and
  - (b) the proposed compulsory acquisitions require authorisation by different confirming authorities. 40
- (7) The proposed compulsory acquisitions are to be treated as requiring the joint authorisation of the confirming authorities.

- (8) The Authority or Transport for London may acquire land by agreement for the same purposes as those for which that body may acquire land compulsorily by virtue of subsection (2) or (3).
  - (9) The joint project mentioned in subsection (1) is to be treated as the scheme for the purposes of the no-scheme principle in section 6A of the Land Compensation Act 1961 (impact of scheme to be disregarded when assessing value of land for compulsory purchase). 5
  - (3) In paragraph 20 of Schedule 11 (limitations on Transport for London’s power to acquire land compulsorily), after “provided by” insert “section 403A or”.
- 27 Overriding easements: land held on behalf of GLA or TfL 10**
- (1) The Housing and Planning Act 2016 is amended in accordance with subsections (2) to (4).
  - (2) In section 203 (power to override easements and other rights) –
    - (a) in the opening words of subsection (2)(b), for “13 July 2016” substitute “the relevant day”, 15
    - (b) in subsection (2)(b)(i), after “specified authority” insert “or a specified company acting on behalf of a specified authority”,
    - (c) in the opening words of subsection (5)(b), for “13 July 2016” substitute “the relevant day”, and
    - (d) in subsection (5)(b)(i), after “specified authority” insert “or a specified company acting on behalf of a specified authority”. 20
  - (3) In section 204 (compensation for overridden easements), for subsection (4) substitute –
    - “(4) The authority against which a liability is enforceable by virtue of subsection (3)(a) is – 25
      - (a) where the land to which the compensation relates was vested in or acquired by a company through which the Greater London Authority exercises or has exercised functions in relation to housing or regeneration, the Greater London Authority,
      - (b) where the land was vested in or acquired by a company through which Transport for London exercises or has exercised any of its functions, Transport for London, or 30
      - (c) in all other cases, the specified or qualifying authority in which the land was vested, or by which the land was acquired or appropriated.” 35
  - (4) In section 205 (interpretation of sections 203 and 204) –
    - (a) in the definition of “other qualifying land”, in the opening words of paragraph (g), after “regeneration,” insert “or vested in or acquired by a company or body through which the Greater London Authority exercises functions in relation to housing or regeneration,” 40
    - (b) in the definition of “qualifying authority” –
      - (i) for the words from “authority in” to “or which” substitute “person in whom the land was vested, or who”, and
      - (ii) at the end insert “(but, for the purposes of section 203(3)(c) and (6)(c), where that person is a company or body through which the Greater London Authority exercises functions in relation to 45

housing or regeneration, the qualifying authority is the Greater London Authority)”,	
(c) after the definition of “qualifying authority” insert –	
““relevant day” means –	
(a) in relation to a specified company which is a company or body through which Transport for London exercises any of its functions, the day on which section 27 of the Neighbourhood Planning Act 2016 comes into force, and	5
(b) in all other cases, 13 July 2016.”, and	10
(d) after the definition of “specified authority” insert –	
““specified company” means –	
(a) a company or body through which the Greater London Authority exercises functions in relation to housing or regeneration, or	15
(b) a company or body through which Transport for London exercises any of its functions;”.	
(5) In the Housing and Planning Act 2016 (Commencement No. 2, Transitional Provisions and Savings) Regulations 2016 (S.I. 2016/733), the following regulations are revoked –	20
(a) regulation 10 (savings in relation to company through which Greater London Authority exercises functions), and	
(b) regulation 12(3) (substitution of actual date for reference to commencement date).	
<b>28 Timing of advance payments of compensation</b>	<b>25</b>
(1) The Land Compensation Act 1973 is amended as follows.	
(2) In section 52 (right to advance payment of compensation) –	
(a) in subsection (4)(b) –	
(i) omit the “or” before sub-paragraph (ii), and	
(ii) at the end insert “, or	30
(iii) received any further information required under section 52ZC(2)(b).”, and	
(b) in subsection (4ZA)(b) –	
(i) omit the “or” before sub-paragraph (ii), and	
(ii) at the end insert “, or	35
(iii) received any further information required under section 52ZC(2)(b).”	
(3) In section 52ZC (land subject to mortgage: supplementary provisions) –	
(a) in subsection (3A)(b) –	
(i) omit the “or” before sub-paragraph (ii), and	40
(ii) at the end insert “, or	
(iii) received any further information required under section 52(2A)(b).”, and	
(b) in subsection (3B)(b) –	
(i) omit the “or” before sub-paragraph (ii), and	45

- (ii) at the end insert “, or
- (iii) received any further information required under section 52(2A)(b).”

**29 Interest on advance payments of compensation**

In section 52A of the Land Compensation Act 1973 (right to interest where advance payment made), in subsection (2B), for “the paid amount” substitute “the amount in respect of which the authority is required to pay interest under section 52B”. 5

**30 Interest on payments to mortgagee paid late**

- (1) Section 52B of the Land Compensation Act 1973 (interest on advance payments of compensation paid late) is amended as follows. 10
- (2) In the heading, after “compensation” insert “etc.”
- (3) *In subsection (1) –*
  - (a) *after “(1B)” insert “, 52ZA(3) or 52ZB(3)”*,
  - (b) *after “compensation” insert “or (as the case may be) a payment to a mortgagee”, and* 15
  - (c) *after “interest” insert “to the claimant”*.
- (4) In subsection (2), after “(4ZA)” insert “or (as the case may be) section 52ZC(3A) or (3B)”.
- (5) In subsection (3) – 20
  - (a) for “the amount of the advance payment” substitute “the total amount which the acquiring authority pays under section 52, 52ZA or 52ZB in respect of the claimant (the “paid amount”), and
  - (b) for “by which the advance payment” substitute “by which the paid amount”. 25

**PART 3**

FINAL PROVISIONS

**31 Financial provisions**

*The following are to be paid out of money provided by Parliament –*

- (a) *any expenditure incurred under or by virtue of this Act by a Minister of the Crown, a person holding office under Her Majesty or a government department, and* 30
- (b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.*

**32 Consequential provision** 35

- (1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate in consequence of any provision of this Act.
- (2) Regulations under subsection (1) may amend, repeal or revoke any enactment.
- (3) In subsection (2) “enactment” includes –

- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978, and
- (b) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales.

**33 Regulations**

5

- (1) Regulations under this Act are to be made by statutory instrument.
- (2) A statutory instrument containing (whether alone or with any other provision) any of the following regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament – 10
  - (a) regulations under section 19(1) made by the Secretary of State;
  - (b) regulations under section 32(1) which amend or repeal a provision of primary legislation.
- (3) A statutory instrument containing (whether alone or with any other provision) regulations under section 19(1) made by the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales. 15
- (4) A statutory instrument containing any of the following regulations and to which subsection (2) does not apply is subject to annulment in pursuance of a resolution of either House of Parliament – 20
  - (a) regulations under section 16(4);
  - (b) regulations under section 32(1) which do not amend or repeal a provision of primary legislation.
- (5) Regulations under this Act – 25
  - (a) may make different provision for different purposes or areas;
  - (b) may make provision which applies generally or for particular purposes or areas;
  - (c) may make transitional, transitory or saving provision;
  - (d) may make incidental, supplementary or consequential provision.
- (6) If a draft of regulations under section 19(1) would, apart from this subsection, be treated as a hybrid instrument for the purposes of the Standing Orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument. 30
- (7) In this section “primary legislation” means – 35
  - (a) an Act of Parliament, or
  - (b) a Measure or Act of the National Assembly for Wales.

**34 Extent**

- (1) This Act extends to England and Wales only, subject to subsections (2) and (3).
- (2) Section 23(3) extends to England and Wales and Scotland only.
- (3) This Part extends to England and Wales, Scotland and Northern Ireland. 40

**35 Commencement**

- (1) This Act comes into force on such day as the Secretary of State appoints by regulations, subject to subsection (3).
- (2) Regulations under subsection (1) may appoint different days for different purposes or areas. 5
- (3) The following provisions come into force on the day on which this Act is passed –
  - (a) sections 3 and 6 and Schedule 1, to the extent that they confer power on the Secretary of State to make regulations;
  - (b) section 8; 10
  - (c) this Part.
- (4) The Secretary of State may by regulations make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.

**36 Short title**

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This Act may be cited as the Neighbourhood Planning Act 2016.

## SCHEDULES

### SCHEDULE 1

Section 3

#### NEW SCHEDULE A2 TO THE PLANNING AND COMPULSORY PURCHASE ACT 2004

- |   |  |                  |
|---|--|------------------|
| 1 | This is the new Schedule A2 to the Planning and Compulsory Purchase Act 2004 referred to in section 3 –  | 5                |
|   | “SCHEDULE A2   | Section 38A(11A) |
|   | MODIFICATION OF NEIGHBOURHOOD DEVELOPMENT PLANS  |                  |
|   | <i>Proposals for modification of neighbourhood development plan</i>  |                  |
| 1 | (1) This Schedule applies if a neighbourhood development plan has effect for a neighbourhood area within the area of a local planning authority.   | 10               |
|   | (2) A qualifying body is entitled to submit a proposal to the local planning authority for the modification of the neighbourhood development plan. |                  |
|   | (3) The proposal must be accompanied by –  | 15               |
|   | (a) a draft of the neighbourhood development plan as proposed to be modified (the “draft plan”), and   |                  |
|   | (b) a statement which contains a summary of the proposals and sets out the reasons why the plan should be modified as proposed.                    | 20               |
|   | (4) The proposal must –  |                  |
|   | (a) be made in the prescribed form, and  |                  |
|   | (b) be accompanied by other documents and information of a prescribed description.   |                  |
|   | (5) The qualifying body must send to prescribed persons a copy of –  | 25               |
|   | (a) the proposal,  |                  |
|   | (b) the draft plan, and  |                  |
|   | (c) such of the other documents and information accompanying the proposal as may be prescribed.  |                  |
|   | (6) The Secretary of State may publish a document setting standards for –  | 30               |
|   | (a) the preparation of a draft of a neighbourhood development plan as proposed to be modified and other documents accompanying the proposal,       |                  |
|   | (b) the coverage in any document accompanying the proposal of a matter falling to be dealt with in it, and   | 35               |



- (c) all or any of the collection, sources, verification, processing and presentation of information accompanying the proposal.
- (7) The documents and information accompanying the proposal (including the draft plan) must comply with those standards. 5
- 2 (1) A qualifying body may withdraw a proposal at any time before the local planning authority act in relation to the proposal under paragraph 14.
- (2) If—
  - (a) a proposal by a qualifying body is made by an organisation or body designated as a neighbourhood forum, and 10
  - (b) the designation is withdrawn at any time before the proposal is submitted for independent examination under paragraph 9,  
the proposal is to be treated as withdrawn by the qualifying body at that time. 15
- (3) If the withdrawal of the designation occurs after the proposal is submitted for independent examination under that paragraph, the withdrawal is not to affect the validity of the proposal.
- Advice and assistance in connection with proposals* 20
- 3 (1) A local planning authority must give such advice or assistance to a qualifying body as, in all the circumstance, they consider appropriate for the purpose of, or in connection with, facilitating the making of a proposal for the modification of a neighbourhood development plan for a neighbourhood area within their area. 25
- (2) Nothing in this paragraph is to be read as requiring the giving of financial assistance.
- Requirements to be complied with before proposals made or considered*
- 4 (1) The Secretary of State may by regulations make provision as to requirements that must be complied with before proposals for the modification of a neighbourhood development plan may be submitted to a local planning authority or fall to be considered by a local planning authority. 30
- (2) The regulations may in particular make provision—
  - (a) as to the giving of notice and publicity, 35
  - (b) as to the information and documents that are to be made available to the public,
  - (c) as to the making of reasonable charges for anything provided as a result of the regulations,
  - (d) as to consultation with and participation by the public, 40
  - (e) as to the making and consideration of representations (including the time by which they must be made),
  - (f) requiring prescribed steps to be taken before a proposal of a prescribed description falls to be considered by a local planning authority, and 45



- (g) conferring powers or imposing duties on local planning authorities, the Secretary of State or other public authorities.
- (3) The power to make regulations under this paragraph must be exercised to secure that – 5
- (a) prescribed requirements as to consultation with and participation by the public must be complied with before a proposal for the modification of a neighbourhood development plan may be submitted to a local planning authority, and 10
- (b) a statement containing the following information in relation to that consultation and participation must accompany the proposal submitted to the authority – 15
- (i) details of those consulted,
- (ii) a summary of the main issues raised, and
- (iii) any other information of a prescribed description.

*Consideration of proposals by authority*

- 5 (1) A local planning authority may decline to consider a proposal submitted to them if they consider that it is a repeat proposal.
- (2) A proposal (“the proposal in question”) is a “repeat” proposal for the purposes of this paragraph if it meets conditions A and B. 20
- (3) Condition A is that –
- (a) in the period of two years ending with the date on which the proposal in question is received, the authority received a proposal under this Schedule (“the earlier proposal”), 25
- (b) the authority did not make a neighbourhood development plan in response to the earlier proposal as a result of paragraph 8(4) or 14(4) or (8), and
- (c) the earlier proposal was the same as or similar to the proposal in question. 30
- (4) Condition B is that the local planning authority consider that there has been no significant change in circumstances since the earlier proposal was dealt with as mentioned in sub-paragraph (3)(b).
- 6 If a local planning authority decline to consider a proposal under paragraph 5 they must notify the qualifying body of that fact and of their reasons for declining to consider it. 35
- 7 (1) This paragraph applies if –
- (a) a proposal has been made to a local planning authority,
- (b) the authority have not exercised their powers under paragraph 5 to decline to consider it, and 40
- (c) the authority consider that the modifications contained in the draft plan to which it relates are so significant or substantial as to change the nature of the neighbourhood development plan which the draft plan would replace.
- (2) The local planning authority must instead consider the proposal under paragraph 6 of Schedule 4B to the principal Act (as applied by sections 38A(3) and 38C(5) of this Act). 45

- (3) That Schedule is to apply in relation to the proposal as if the proposal had been submitted to the local planning authority under that Schedule.
- 8 (1) This paragraph applies if –
- (a) a proposal has been made to a local planning authority, 5
  - (b) the authority have not exercised their power under paragraph 5 to decline to consider it, and
  - (c) paragraph 7 does not apply.
- (2) The authority must consider –
- (a) whether the qualifying body is authorised for the purposes of a neighbourhood development plan to act in relation to the neighbourhood area concerned as a result of section 61F of the principal Act (as applied by section 38C(2)(a) of this Act), 10
  - (b) whether the proposal by the body complies with provision made by or under that section, 15
  - (c) whether the proposal and the documents and information accompanying it (including the draft plan) comply with provision made by or under paragraph 1, and
  - (d) whether the body has complied with the requirements of regulations made under paragraph 4 imposed on it in relation to the proposal. 20
- (3) The authority must also consider whether the draft plan complies with the provision made by or under sections 38A and 38B.
- (4) The authority must – 25
- (a) notify the qualifying body as to whether or not they are satisfied that the matters mentioned in sub-paragraphs (2) and (3) have been met or complied with, and
  - (b) in any case where they are not so satisfied, refuse the proposal and notify the body of their reasons for refusing it. 30

*Requirement to appoint examiner*

- 9 (1) This paragraph applies if –
- (a) a local planning authority have considered the matters mentioned in paragraph 8(2) and (3), and 35
  - (b) they are satisfied that the matters mentioned there have been met or complied with.
- (2) The local planning authority must submit for independent examination –
- (a) the draft plan, and 40
  - (b) such other documents as may be prescribed.
- (3) The authority must make such arrangements as they consider appropriate in connection with the holding of the examination.
- (4) The authority may appoint a person to carry out the examination, but only if the qualifying body consents to the appointment. 45
- (5) If –

- (a) it appears to the Secretary of State that no person may be appointed under sub-paragraph (4), and
  - (b) the Secretary of State considers that it is expedient for an appointment to be made under this sub-paragraph,
- the Secretary of State may appoint a person to carry out the examination. 5
- (6) The person appointed must be someone who, in the opinion of the person making the appointment –
- (a) is independent of the qualifying body and the authority,
  - (b) does not have an interest in any land that may be affected by the draft plan, and 10
  - (c) has appropriate qualifications and experience.
- (7) The Secretary of State or another local planning authority may enter into arrangements with the authority for the provision of the services of any of their employees as examiners. 15
- (8) Those arrangements may include –
- (a) provision requiring payments to be made by the authority to the Secretary of State or other local planning authority, and
  - (b) other provision in relation to those payments and other financial matters. 20

*What examiner must consider*

- 10 (1) The examiner must first determine whether the modifications contained in the draft plan are so significant or substantial as to change the nature of the neighbourhood development plan which the draft plan would replace. 25
- (2) The following provisions of this paragraph apply if the examiner determines that the modifications would have that effect.
- (3) The examiner must –
- (a) notify the qualifying body and the local planning authority of the determination, and 30
  - (b) give reasons for the determination.
- (4) The qualifying body must decide whether it wishes to proceed with the proposal or withdraw it, and must notify the examiner and the local planning authority of that decision. 35
- (5) If the qualifying body notifies the examiner that it wishes to proceed with the proposal, the examiner must consider the draft plan and the documents submitted with it under paragraph 8 of Schedule 4B to the principal Act (as applied by sections 38A(3) and 38C(5) of this Act). 40
- (6) In that event that Schedule is to apply in relation to the draft plan and the documents submitted with it as if they had been submitted to the examiner under that Schedule.
- 11 (1) If paragraph 10(2) does not apply, the examiner must consider the following – 45

- (a) whether the draft plan meets the basic conditions (see sub-paragraph (2));
  - (b) whether the draft plan complies with the provision made by or under sections 38A and 38B;
  - (c) such other matters as may be prescribed. 5
- (2) A draft plan meets the basic conditions if—
- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
  - (b) the making of the plan contributes to the achievement of sustainable development, 10
  - (c) the making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
  - (d) the making of the plan does not breach, and is otherwise compatible with, EU obligations, and 15
  - (e) prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the plan.
- (3) The examiner is not to consider any matter that does not fall within sub-paragraph (1) (apart from considering whether the draft plan is compatible with the Convention rights). 20

*Procedure for examination*

- 12 (1) The general rule is that the examination of the issues by the examiner under paragraph 10 or 11 is to take the form of the consideration of written representations. 25
- (2) But the examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue at the hearing—
- (a) in any case where the examiner considers that there are exceptional reasons for doing so, or 30
  - (b) in such other cases as may be prescribed.
- (3) The following persons are entitled to make oral representations about the issue at the hearing—
- (a) the qualifying body, 35
  - (b) the local planning authority, and
  - (c) such other persons as may be prescribed.
- (4) The hearing must be in public.
- (5) It is for the examiner to decide how the hearing is to be conducted, including— 40
- (a) whether a person making oral representations may be questioned by another person and, if so, the matters to which the questioning may relate, and
  - (b) the amount of time for the making of a person’s oral representations or for any questioning by another person. 45

- (6) In making decisions about the questioning of a person’s oral representations by another, the examiner must apply the principle that the questioning should be done by the examiner except where the examiner considers that questioning by another is necessary to ensure – 5
- (a) adequate examination of a particular issue, or
  - (b) a person has a fair chance to put a case.
- (7) Sub-paragraph (5) is subject to regulations under paragraph 15.

*Recommendation by examiner*

- 13 (1) After considering a draft plan under paragraph 11, the examiner must make a report on the draft plan containing recommendations in accordance with this paragraph (and no other recommendations). 10
- (2) The report must recommend either –
- (a) that the local planning authority should make the draft plan, 15
  - (b) that the local planning authority should make the draft plan with the modifications specified in the report, or
  - (c) that the local planning authority should not make the draft plan. 20
- (3) The only modifications that may be recommended are –
- (a) modifications that the examiner considers need to be made to secure that the draft plan meets the basic conditions mentioned in paragraph 11(2),
  - (b) modifications that the examiner considers need to be made to secure that the draft plan is compatible with the Convention rights, 25
  - (c) modifications that the examiner considers need to be made to secure that the draft plan complies with the provision made by or under sections 38A and 38B, and 30
  - (d) modifications for the purpose of correcting errors.
- (4) The report may not recommend that a plan (with or without modifications) should be made if the examiner considers that the plan does not –
- (a) meet the basic conditions mentioned in paragraph 11(2), or 35
  - (b) comply with the provision made by or under sections 38A and 38B.
- (5) The report must –
- (a) give reasons for each of its recommendations, and
  - (b) contain a summary of its main findings. 40
- (6) The examiner must send a copy of the report to the qualifying body and the local planning authority.
- (7) The local planning authority must then arrange for the publication of the report in such manner as may be prescribed.

*Functions of authority: modifications proposed by qualifying body*

- 14 (1) This paragraph applies if an examiner has made a report under paragraph 13.
- (2) If the report recommends that the local planning authority should make the draft plan, the authority must do so (subject as follows). 5
- (3) But if the examiner’s report recommends that the authority should make the draft plan with the modifications specified in the report, the authority must make the draft plan with those modifications (subject as follows).
- (4) Sub-paragraph (2) or (3) does not apply if the authority consider that to make the draft plan or (as the case may be) to do so with those modifications would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights. 10
- (5) If the authority do not make the draft plan on that ground, they must give reasons to the qualifying body for doing so. 15
- (6) Where sub-paragraph (2) or (3) applies, the authority may make the draft plan with modifications or (as the case may be) modifications other than those specified in the report if –
- (a) the authority considers the modifications need to be made to secure that the draft plan is compatible with EU obligations and the Convention rights, or 20
- (b) the modifications are for the purpose of correcting errors.
- (7) The authority must make the draft plan or (as the case may be) the draft plan with modifications permitted by this paragraph as soon as reasonably practicable and, in any event, by such date as may be prescribed. 25
- (8) If the examiner’s report recommends that the local planning authority should not make the draft plan, the authority must not make the draft plan. 30

*Regulations about examinations*

- 15 (1) The Secretary of State may by regulations make provision in connection with examinations under paragraph 9.
- (2) The regulations may in particular make provision as to –
- (a) the giving of notice and publicity in connection with an examination, 35
- (b) the information and documents relating to an examination that are to be made available to the public,
- (c) the making of reasonable charges for anything provided as a result of the regulations, 40
- (d) the making of written or oral representations in relation to draft plans (including the time by which written representations must be made),
- (e) the written representations which are to be, or which may be or may not be, considered at an examination, 45



- (f) the refusal to allow oral representations of a prescribed description to be made at a hearing,
- (g) the procedure to be followed at an examination (including the procedure to be followed at a hearing),
- (h) the payment by a local planning authority of remuneration and expenses of the examiner, and
- (i) the award of costs by the examiner.

*Interpretation*

- 16 In this Schedule –
- “the Convention rights” has the same meaning as in the Human Rights Act 1998;
  - “the development plan” –
    - (a) includes a development plan for the purposes of paragraph 1 of Schedule 8 (transitional provisions);
    - (b) does not include so much of a development plan as consists of a neighbourhood development plan under section 38A;
  - “draft plan” has the meaning given by paragraph 1(3);
  - “prescribed” means prescribed by regulations made by the Secretary of State.”

## SCHEDULE 2

Section 7

## PLANNING CONDITIONS: CONSEQUENTIAL AMENDMENTS

- 1 The Town and Country Planning Act 1990 is amended as follows.
- 2 In section 60 (permission granted by development order), after subsection (1) insert –
- “(1ZA) See section 100ZA(1) for power to provide for restrictions in relation to conditions or limitations that may be imposed on a grant of planning permission by a development order in relation to land in England.”
- 3 In section 61C (permission granted by local development order), after subsection (1) insert –
- “(1A) See section 100ZA(1) for power to provide for restrictions in relation to conditions or limitations that may be imposed on a grant of planning permission by a local development order in relation to land in England.”
- 4 In section 61DB (permission granted by Mayoral development order), after subsection (1) insert –
- “(1A) See section 100ZA(1) for power to provide for restrictions in relation to conditions or limitations that may be imposed on a grant of planning permission by a Mayoral development order.”
- 5 In section 61L (permission granted by neighbourhood development orders),

- after subsection (8) insert –
- “(9) See section 100ZA(1) for power to provide for restrictions in relation to conditions or limitations that may be imposed on a grant of planning permission by a neighbourhood development order.”
- 6 In section 70 (determination of applications: general considerations), after subsection (3) insert – 5
- “(3A) See also section 100ZA, which makes provision about restrictions on the power to impose conditions under subsection (1)(a) on a grant of planning permission in relation to land in England.”
- 7 In section 72 (conditional grant of planning permission), after subsection (5) insert – 10
- “(6) See also section 100ZA, which makes provision about restrictions on the power to impose conditions by virtue of this section on a grant of planning permission in relation to land in England.”
- 8 In section 73 (determination of applications to develop land without compliance with conditions previously attached), after subsection (2) insert – 15
- “(2A) See also section 100ZA, which makes provision about restrictions on the power to impose conditions under subsection (2) on a grant of planning permission in relation to land in England.” 20
- 9 In section 82 (simplified planning zones), after subsection (3) insert –
- “(4) See section 100ZA(1) for power to provide for restrictions in relation to conditions or limitations that may be imposed under subsection (3) on a grant of planning permission under a simplified planning zone scheme in relation to land in England.” 25
- 10 In section 84 (simplified planning zone schemes: conditions and limitations on planning permission), in subsection (1) after “scheme may” insert “(subject to regulations under section 100ZA(1))”. 25
- 11 In section 88 (planning permission for development in enterprise zones), after subsection (3) insert – 30
- “(3A) But the power to specify conditions or limitations in a scheme by virtue of subsection (3) is subject to any provision contained in regulations under section 100ZA(1) (which confers power to provide for restrictions in relation to conditions or limitations that may be imposed on a grant of planning permission in relation to land in England).” 35
- 12 In section 93 (provisions supplementary to sections 91 and 92), after subsection (4) insert –
- “(4A) Section 100ZA(1) (power to provide for restrictions in relation to conditions or limitations that may be imposed on a grant of planning permission in relation to land in England) does not apply in the case of conditions attached to a grant of planning permission as a result of section 91(1)(a) or 92(2). 40
- “(4B) But section 100ZA(1) applies to the exercise of the powers conferred by section 91(1)(b) and 92(4) and (5).” 45



- |    |  |              |
|----|--|--------------|
| 13 | <p>In section 102 (orders requiring discontinuance of use or alteration or removal of buildings or works), after subsection (2) insert –</p> <p>“(2ZA) See section 100ZA(1) for power to provide for restrictions in relation to conditions that may be imposed on a grant of planning permission by an order under this section in relation to land in England.”</p>  | 5            |
| 14 | <p>In section 141 (action by Secretary of State in relation to purchase notice), after subsection (5) insert –</p> <p>“(6) Section 100ZA(1) (which confers power to provide for restrictions in relation to conditions or limitations that may be imposed on a grant of planning permission for the development of land in England) applies in relation to conditions imposed under or by virtue of subsection (2) or (3) as it applies in relation to conditions imposed on a grant of planning permission under or by virtue of Part 3.”</p> | 10           |
| 15 | <p>In section 177 (grant or modification of planning permission on appeals against enforcement notices), after subsection (4) insert –</p> <p>“(4A) Section 100ZA (which makes provision about restrictions on the power to impose conditions or limitations on a grant of planning permission in relation to land in England) applies in relation to conditions substituted under subsection (4) as it applies in relation to conditions imposed on a grant of planning permission under or by virtue of Part 3.”</p>                         | 15<br><br>20 |

# Neighbourhood Planning Bill

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## B I L L

To make provision about planning and compulsory purchase; and for connected purposes.

*Presented by Secretary Sajid Javid  
supported by  
the Prime Minister,  
Mr Chancellor of the Exchequer,  
Secretary Greg Clark, Secretary Chris Grayling,  
Secretary Andrea Leadsom and Ben Gummer.*

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*Ordered, by The House of Commons,  
to be Printed, 7 September 2016.*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS  
LONDON – THE STATIONERY OFFICE LIMITED  
Printed in the United Kingdom by The Stationery Office Limited  
£x.xx