Planning and Compulsory Purchase Act 2004 c. 5
s. 38 Development plan

Law In Force With Amendments Pending

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Planning

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38 Development plan

(1) A reference to the development plan in any enactment mentioned in subsection (7) must be construed in accordance with subsections (2) to (5).

(2) For the purposes of any area in Greater London the development plan is–

(a) the spatial development strategy, [...] [1]

(b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area [, and] [1]

[

(c) the neighbourhood development plans which have been made in relation to that area.

] [1]

(3) For the purposes of any other area in England the development plan is–

(a) the [regional strategy] [2] for the region in which the area is situated [(if there is a regional strategy for that region)] [3] , [...] [4]

(b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area [, and] [4]

[

(c) the neighbourhood development plans which have been made in relation to that area.

] [4]

[

(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

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(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.

][5]

(4) For the purposes of any area in Wales the development plan is [—][6] [

(a) the National Development Framework for Wales,

[

(b) any strategic development plan for an area that includes all or part of that area, and

][7]

(c) the local development plan for that area.

][6]

(5) If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document [to become part of the development plan][8] .

(6) If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

(7) The enactments are–

(a) this Act;

(b) the planning Acts;

(c) any other enactment relating to town and country planning;

(d) the Land Compensation Act 1961 (c. 33);

(e) the Highways Act 1980 (c. 66).

(8) In subsection (5) references to a development plan include a development plan for the purposes of paragraph 1 of Schedule 8.

[

(9) Development plan document must be construed in accordance with section 37(3).

][9] [

(10) Neighbourhood development plan must be construed in accordance with section 38A.

][10]

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Notes

1 Added by Localism Act 2011 c. 20 Sch.9(2) para.6(a) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

2 Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 Pt 5 s.82(1) (April 1, 2010)

3 Words inserted by Localism Act 2011 c. 20 Sch.8 para.13(1) (November 15, 2011)

4 Added by Localism Act 2011 c. 20 Sch.9(2) para.6(b) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

5 Added by Neighbourhood Planning Act 2017 c. 20 Pt 1 s.3 (July 19, 2017)

6 S.38(4)(a)-(c) substituted for words by Planning (Wales) Act 2015 anaw. 4 Pt 3 s.9 (December 4, 2020)

7 Substituted by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.2 (January 21, 2021)

8 Words substituted by Localism Act 2011 c. 20 Sch.9(2) para.6(c) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

9 Added by Planning Act 2008 c. 29 Pt 9 c.2 s.180(7) (April 6, 2009 in relation to England and Wales)

10 Added by Localism Act 2011 c. 20 Sch.9(2) para.6(d) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

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