



Planning and Compulsory Purchase Act 2004

2004 CHAPTER 5

PART 3

DEVELOPMENT

Development plan

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,^{F1}...
 - (b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area [^{F2}, and.
 - (c) the neighbourhood development plans which have been made in relation to that area.]
- (3) For the purposes of any other area in England the development plan is—
 - (a) the [^{F3} regional strategy] for the region in which the area is situated [^{F4} (if there is a regional strategy for that region)], and
 - (b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area [^{F5}, and.
 - (c) the neighbourhood development plans which have been made in relation to that area.]

[^{F6}(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—

Changes to legislation: Planning and Compulsory Purchase Act 2004, Section 38 is up to date with all changes known to be in force on or before 10 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) section 38A(4)(a) (approval by referendum) applies in relation to the neighbourhood development plan, but
 - (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.]
- (4) For the purposes of any area in Wales the development plan is ^[F7]—
- (a) the National Development Framework for Wales,
 - ^[F8](b) any strategic development plan for an area that includes all or part of that area, and]
 - (c) the local development plan for that area].
- (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 ^[F9]to become part of the development plan].
- (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.
- ^[F10](9) Development plan document must be construed in accordance with section 37(3).]
- ^[F11](10) Neighbourhood development plan must be construed in accordance with section 38A.]

Textual Amendments

- F1** Word in s. 38(2)(a) repealed (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss., 240(5)(j), [Sch. 9 para. 6\(a\)](#), [Sch. 25 Pt. 16](#); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2
- F2** S. 38(2)(c) and word inserted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss., 240(5)(j), [Sch. 9 para. 6\(a\)](#); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2
- F3** Words in s. 38(3)(a) substituted (1.4.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. [82\(1\)](#), 148(5) (with s. 38(2)(3)); S.I. 2009/3318, art. 4(aa)
- F4** Words in s. 38(3)(a) inserted (15.11.2011) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(h), [Sch. 8 para. 13\(1\)](#)

Changes to legislation: *Planning and Compulsory Purchase Act 2004, Section 38 is up to date with all changes known to be in force on or before 10 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- F5** S. 38(3)(c) and word inserted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss., [240\(5\)\(j\)](#), [Sch. 9 para. 6\(b\)](#); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2
- F6** S. 38(3A)(3B) inserted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), ss. [3](#), 46(1); S.I. 2017/767, reg. 2(b)
- F7** S. 38(4)(a)-(c) substituted for words (6.9.2015 for specified purposes, 4.12.2020 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), ss. [9](#), 58(2)(b)(4)(b); S.I. 2020/1216, reg. 2(a)
- F8** S. 38(4)(b) substituted (21.1.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(1)(e), [Sch. 9 para. 2](#)
- F9** Words in s. 38(5) substituted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss., [240\(5\)\(j\)](#), [Sch. 9 para. 6\(c\)](#); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2
- F10** S. 38(9) inserted (6.4.2009) by [Planning Act 2008 \(c. 29\)](#), ss. [180\(7\)](#), 241(8) (with s. 226); S.I. 2009/400, art. 3(e)
- F11** S. 38(10) inserted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss., [240\(5\)\(j\)](#), [Sch. 9 para. 6\(d\)](#); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2

Modifications etc. (not altering text)

- C1** S. 38 applied in part (with modifications) (23.12.2016) by [The Greater Manchester Combined Authority \(Functions and Amendment\) Order 2016 \(S.I. 2016/1267\)](#), arts. 1(2), 4(5), [Sch. 1 Pt. 2](#)
- C2** S. 38 applied (with modifications) (8.5.2018) by [The West of England Combined Authority Order 2017 \(S.I. 2017/126\)](#), arts. 1(5), 11(5), [Sch. 2 Pt. 2](#)

Commencement Information

- I1** S. 38 in force at 28.9.2004 for E. by S.I. 2004/2202, [art. 2\(c\)](#)
- I2** S. 38 in force at 15.10.2005 for W. by S.I. 2005/2847, [art. 2\(a\)](#)

Changes to legislation:

Planning and Compulsory Purchase Act 2004, Section 38 is up to date with all changes known to be in force on or before 10 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- s. 38(3) word repealed by [2011 c. 20 Sch. 25 Pt. 16](#)
- s. 38(3)(a) and word repealed by [2011 c. 20 Sch. 8 para. 13\(2\)Sch. 25 Pt. 16](#)
- specified provision(s) amendment to earlier commencing SI 2006/1061 art. 4 by [S.I. 2010/321 art. 3](#)
- specified provision(s) amendment to earlier commencing SI 2007/1369 art. 3 by [S.I. 2010/321 art. 4](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 45(A1) inserted by [2011 c. 20 Sch. 8 para. 14\(2\)](#)