



# 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,<sup>F1</sup>...
  - (b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area [<sup>F2</sup>, 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 [<sup>F3</sup> regional strategy ] for the region in which the area is situated [<sup>F4</sup> (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 [<sup>F5</sup>, and.
  - (c) the neighbourhood development plans which have been made in relation to that area.]
- (4) For the purposes of any area in Wales the development plan is the local development plan adopted or approved in relation to that area.

*Status: Point in time view as at 01/09/2014. This version of this provision has been superseded.*

*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 15 June 2022. 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)*

- (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 [<sup>F6</sup>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.
- [<sup>F7</sup>(9) Development plan document must be construed in accordance with section 37(3).]
- [<sup>F8</sup>(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\(1\)](#)
- 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** 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\(e\)](#); 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
- F7** 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)
- F8** 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\(5\)](#)

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(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

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**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)**

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