

IN16 Further Supplementary Question relating to matter 1: legal, procedural and other general matters

Withdrawal of Stockport Metropolitan Borough Council from the Plan

Further to the response to SQ1.1 published on Monday 24 October 2022, GMCA is requested to respond to the following Further Supplementary Question by midday on **Thursday 27 October 2022:**

FSQ1.1. Does section 20(5)(a) of the 2004 Act require us to determine whether the Plan satisfies the requirements of regulation 32(2)(b) of the 2012 Regulations? If not, why not? Isn't regulation 32 made under section 36(2)(b) of the 2004 Act, as it relates to the procedure to be followed in the preparation of local development documents (in addition to being made under sections 28(9) and 28(11) relating to joint local development documents)?

PfE Response

- 1.1 The following answer to IN16 FSQ1.1 has been written by Christopher Katkowski KC
- 1.2 The answer to the first question asked is “No” and the reason why not (the second question asked) is as follows:
- 1.3 Section 20(5)(a) of the 2004 Act refers to four provisions, namely the requirements of
 - (i) section 19,
 - (ii) section 24(1),
 - (iii) Regulations under s.17(7) and
 - (iv) Regulations under s.36.
- 1.4 Section 28(6) and (7) are the provisions in the Act which tell us what is to happen in relation to steps taken in the preparation of a joint plan if one of the authorities withdraws (basically, can the remaining authorities carry on or do they have to retrace their steps) – the point is that section 28(6) and (7) do not fall within any of the four provisions referred to in section 20(5)(a) i.e. section 28(6) and (7) is not within the statutory remit of the examination as set out in section 20(5)(a).
- 1.5 What about Regulation 32 of the 2012 Regulations? (to paraphrase the third question asked in IN16). The part of Regulation 32 which is relevant is Regulation 32(2). This Regulation [Reg.32(2)] is made under the power given by section 28(11) of the 2004 Act to define what “a corresponding document” is “for the purposes of this section.” . Section 28(11) is not one of the provisions concerning Regulations mentioned in section 20(5)(a) which instead in terms of Regulations cross-refers to section 17(7) which has nothing to do with whether a plan is “a corresponding document”, and section

36 which also does not bear upon the question of what is “a corresponding document”. That neither section 17(7) or section 36 deals with what “a corresponding document” is should not come as a surprise because this is explicitly dealt with in section 28(11).

- 1.6 And so in direct answer to the third question – Regulation 32(2) is not made under section 36(2)(b). It is made under section 28(11) only because that is the specific statutory provision which gives the Sec. of State the power to define what “a corresponding document” is. Nor is Regulation 32(2) made under section 28(9).”