



Planning Act 2008

2008 CHAPTER 29

PART 6

DECIDING APPLICATIONS FOR ORDERS GRANTING DEVELOPMENT CONSENT

CHAPTER 5

DECISIONS ON APPLICATIONS

103 [F1Secretary of State is to decide applications]

(1) The Secretary of State has the function of deciding an application for an order granting development consent ^{F2}...

^{F3}(2)

Textual Amendments

F1 S. 103 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 48\(4\)](#); [S.I. 2012/628, art. 7\(a\)](#)

F2 Words in s. 103(1) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 48\(2\), Sch. 25 Pt. 20](#); [S.I. 2012/628, art. 7](#)

F3 S. 103(2) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 48\(3\), Sch. 25 Pt. 20](#); [S.I. 2012/628, art. 7](#)

Commencement Information

I1 S. 103 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with [art. 6](#))

Changes to legislation: Planning Act 2008, Chapter 5 is up to date with all changes known to be in force on or before 12 April 2024. 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

104 [F⁴Decisions in cases where national policy statement has effect]

- (1) This section applies in relation to an application for an order granting development consent if [F⁵a national policy statement has effect in relation to development of the description to which the application relates].
- (2) In deciding the application the [F⁶Secretary of State] must have regard to—
 - (a) any national policy statement which has effect in relation to development of the description to which the application relates (a “relevant national policy statement”),
 - [F⁷(aa) the appropriate marine policy documents (if any), determined in accordance with section 59 of the Marine and Coastal Access Act 2009;]
 - (b) any local impact report (within the meaning given by section 60(3)) submitted to the [F⁸Secretary of State] before the deadline specified in a notice under section 60(2),
 - (c) any matters prescribed in relation to development of the description to which the application relates, and
 - (d) any other matters which the [F⁶Secretary of State] thinks are both important and relevant to [F⁹the Secretary of State's] decision.
- (3) The [F¹⁰Secretary of State] must decide the application in accordance with any relevant national policy statement, except to the extent that one or more of subsections (4) to (8) applies.
- (4) This subsection applies if the [F¹¹Secretary of State] is satisfied that deciding the application in accordance with any relevant national policy statement would lead to the United Kingdom being in breach of any of its international obligations.
- (5) This subsection applies if the [F¹²Secretary of State is] satisfied that deciding the application in accordance with any relevant national policy statement would lead to the [F¹³Secretary of State being in breach of any duty imposed on the Secretary of State] by or under any enactment.
- (6) This subsection applies if the [F¹⁴Secretary of State] is satisfied that deciding the application in accordance with any relevant national policy statement would be unlawful by virtue of any enactment.
- (7) This subsection applies if the [F¹⁵Secretary of State] is satisfied that the adverse impact of the proposed development would outweigh its benefits.
- (8) This subsection applies if the [F¹⁶Secretary of State] is satisfied that any condition prescribed for deciding an application otherwise than in accordance with a national policy statement is met.
- (9) For the avoidance of doubt, the fact that any relevant national policy statement identifies a location as suitable (or potentially suitable) for a particular description of development does not prevent one or more of subsections (4) to (8) from applying.

Textual Amendments

- F4** S. 104 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(7\)](#); [S.I. 2012/628, art. 7\(a\)](#)
- F5** Words in s. 104(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(2\)](#); [S.I. 2012/628, art. 7\(a\)](#)

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- F6** Words in s. 104(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(3\)\(a\)](#); S.I. 2012/628, art. 7(a)
- F7** S. 104(2)(aa) inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 58\(5\), 324\(2\)\(a\)](#)
- F8** Words in s. 104(2)(b) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(3\)\(b\)](#); S.I. 2012/628, art. 7(a)
- F9** Words in s. 104(2)(d) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(3\)\(c\)](#); S.I. 2012/628, art. 7(a)
- F10** Words in s. 104(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(4\)](#); S.I. 2012/628, art. 7(a)
- F11** Words in s. 104(4) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(4\)](#); S.I. 2012/628, art. 7(a)
- F12** Words in s. 104(5) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(5\)\(a\)](#); S.I. 2012/628, art. 7(a)
- F13** Words in s. 104(5) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(5\)\(b\)](#); S.I. 2012/628, art. 7(a)
- F14** Words in s. 104(6) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(6\)](#); S.I. 2012/628, art. 7(a)
- F15** Words in s. 104(7) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(6\)](#); S.I. 2012/628, art. 7(a)
- F16** Words in s. 104(8) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 49\(6\)](#); S.I. 2012/628, art. 7(a)

Commencement Information

- I2** S. 104 partly in force; s. 104 in force for certain purposes at Royal Assent see s. 241
- I3** S. 104 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with art. 6)

105 [F17] Decisions in cases where no national policy statement has effect

- (1) This section applies in relation to an application for an order granting development consent [F18: if section 104 does not apply in relation to the application].
- (2) In deciding the application the Secretary of State must have regard to—
- any local impact report (within the meaning given by section 60(3)) submitted to the [F19: Secretary of State] before the deadline specified in a notice under section 60(2),
 - any matters prescribed in relation to development of the description to which the application relates, and
 - any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.

Textual Amendments

- F17** S. 105 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 50\(4\)](#); S.I. 2012/628, art. 7(a)
- F18** Words in s. 105(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 50\(2\)](#); S.I. 2012/628, art. 7(a)
- F19** Words in s. 105(2)(a) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 50\(3\)](#); S.I. 2012/628, art. 7(a)

Commencement Information

- I4** S. 105 partly in force; s. 105 in force for certain purposes at Royal Assent see s. 241

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I5 S. 105 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

106 Matters that may be disregarded when deciding application

- (1) In deciding an application for an order granting development consent, the [^{F20}Secretary of State] may disregard representations if the [^{F20}Secretary of State] considers that the representations—
 - (a) are vexatious or frivolous,
 - (b) relate to the merits of policy set out in a national policy statement, or
 - (c) relate to compensation for compulsory acquisition of land or of an interest in or right over land.
- (2) In this section “representation” includes evidence.

Textual Amendments

F20 Words in [s. 106\(1\)](#) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [s. 240\(2\)](#), [Sch. 13 para. 51](#); [S.I. 2012/628](#), [art. 7\(a\)](#)

Commencement Information

I6 S. 106 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

107 Timetable for decisions

- (1) The [^{F21}Secretary of State] is under a duty to decide an application for an order granting development consent by the end of the period of 3 months beginning [^{F22}with—
 - (a) the [^{F23}deadline under section 98(3)] [^{F24}], or
 - (b) (if earlier) the end of the day on which the Secretary of State receives a report on the application under section 74(2)(b) or 83(1)(b).]
- ^{F25}(2)
- (3) The [^{F26}Secretary of State] may set a date for the deadline under subsection (1) that is later than the date for the time being set.
- ^{F27}(4)
- (5) The power under subsection (3) may be exercised—
 - (a) more than once in relation to the same deadline;
 - (b) after the date for the time being set for the deadline.
- [^{F28}(6) Subsection (7) applies where the power under subsection (3) is exercised.
- (7) The Secretary of State exercising the power must make a statement, to the House of Parliament of which that Secretary of State is a member, announcing the new deadline.
- (8) A statement under subsection (7) must be published in such form and manner as the Secretary of State considers appropriate.
- (8A) A statement under subsection (7) may be written or oral.]

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Textual Amendments

- F21** Words in s. 107(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 52\(2\)\(a\)](#); [S.I. 2012/628](#), art. 7(a)
- F22** Words in s. 107(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 139\(3\)\(a\)](#), 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)
- F23** Words in s. 107(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 52\(2\)\(b\)](#); [S.I. 2012/628](#), art. 7(a)
- F24** S. 107(1)(b) and preceding word inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 139\(3\)\(b\)](#), 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)
- F25** S. 107(2) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 52\(3\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7
- F26** Words in s. 107(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 52\(4\)](#); [S.I. 2012/628](#), art. 7(a)
- F27** S. 107(4) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 52\(5\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628](#), art. 7
- F28** S. 107(6)-(8A) substituted for s. 107(6)-(9) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 52\(6\)](#); [S.I. 2012/628](#), art. 7(a)

Commencement Information

- I7** S. 107 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with art. 6)

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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):

- Pt. 10A inserted by [2023 c. 55 Sch. 12 para. 1](#)
- s. 37(3A) inserted by [2021 c. 30 Sch. 15 para. 7](#)
- s. 37(3A) inserted by [2021 c. 30 Sch. 15 para. 7](#)
- s. 103(1A) inserted by [2021 c. 30 Sch. 15 para. 2](#)
- s. 103(1A) inserted by [2021 c. 30 Sch. 15 para. 2](#)
- s. 104(3)-(3B) substituted for s. 104(3) by [2021 c. 30 Sch. 15 para. 3\(2\)](#)
- s. 104(3)-(3B) substituted for s. 104(3) by [2021 c. 30 Sch. 15 para. 3\(2\)](#)
- s. 105(3)(4) inserted by [2021 c. 30 Sch. 15 para. 4\(1\)](#)
- s. 105(3)(4) inserted by [2021 c. 30 Sch. 15 para. 4\(1\)](#)
- s. 120(2)(c) inserted by [2021 c. 30 Sch. 15 para. 8](#)
- s. 120(2)(c) inserted by [2021 c. 30 Sch. 15 para. 8](#)
- s. 223(1)(za) inserted by [2023 c. 55 s. 139\(6\)](#)
- s. 232(5)(f) inserted by [2021 c. 30 Sch. 15 para. 9\(2\)](#)
- s. 232(5)(f) inserted by [2021 c. 30 Sch. 15 para. 9\(2\)](#)
- Sch. 2A inserted by [2021 c. 30 Sch. 15 para. 5](#)
- Sch. 2A inserted by [2021 c. 30 Sch. 15 para. 5](#)