



Planning Act 2008

2008 CHAPTER 29

PART 6

DECIDING APPLICATIONS FOR ORDERS GRANTING DEVELOPMENT CONSENT

CHAPTER 5

DECISIONS ON APPLICATIONS

103 Cases where Secretary of State is, and meaning of, decision-maker

- (1) The Secretary of State has the function of deciding an application for an order granting development consent where—
 - (a) in a case within section 74(2), the Secretary of State receives the Panel's report on the application, or
 - (b) in a case within section 83(2)(b), the Secretary of State receives the single Commissioner's report on the application.
- (2) In this Act "decision-maker" in relation to an application for an order granting development consent—
 - (a) means the Panel that has the function of deciding the application, or
 - (b) where the Council or the Secretary of State has the function of deciding the application, means the Council or (as the case may be) the Secretary of State.

104 Decisions of Panel and Council

- (1) This section applies in relation to an application for an order granting development consent if the decision-maker is a Panel or the Council.
- (2) In deciding the application the Panel or Council 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"),

Status: This is the original version (as it was originally enacted).

- (b) any local impact report (within the meaning given by section 60(3)) submitted to the Commission 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 Panel or Council thinks are both important and relevant to its decision.
- (3) The Panel or Council 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 Panel or Council 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 Panel or Council is satisfied that deciding the application in accordance with any relevant national policy statement would lead to the Panel or Council, or the Commission, being in breach of any duty imposed on it by or under any enactment.
- (6) This subsection applies if the Panel or Council 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 Panel or Council is satisfied that the adverse impact of the proposed development would outweigh its benefits.
- (8) This subsection applies if the Panel or Council 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.

105 Decisions of Secretary of State

- (1) This section applies in relation to an application for an order granting development consent if the decision-maker is the Secretary of State.
- (2) In deciding the application the Secretary of State must have regard to—
- (a) any local impact report (within the meaning given by section 60(3)) submitted to the Commission before the deadline specified in a notice under section 60(2),
 - (b) any matters prescribed in relation to development of the description to which the application relates, and
 - (c) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.

106 Matters that may be disregarded when deciding application

- (1) In deciding an application for an order granting development consent, the decision-maker may disregard representations if the decision-maker 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.

107 Timetable for decisions

- (1) The decision-maker is under a duty to decide an application for an order granting development consent by the end of the period of 3 months beginning with the day after the start day.
- (2) The start day is—
 - (a) in a case where a Panel is the decision-maker, the deadline for the completion of its examination of the application under section 98;
 - (b) in a case where the Council is the decision-maker, the deadline for the completion of the single Commissioner’s examination of the application under section 98;
 - (c) in a case where the Secretary of State is the decision-maker by virtue of section 103(1), the day on which the Secretary of State receives a report on the application under section 74(2)(b) or 83(2)(b);
 - (d) in a case where the Secretary of State is the decision-maker by virtue of section 113(2)(b), the deadline for the completion of the Secretary of State’s examination of the application under section 113(2)(a).
- (3) The appropriate authority may set a date for the deadline under subsection (1) that is later than the date for the time being set.
- (4) The appropriate authority is—
 - (a) in a case where a Panel or the Council is the decision-maker, the person appointed to chair the Commission;
 - (b) in a case where the Secretary of State is the decision-maker, the Secretary of State.
- (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.
- (6) Where the power under subsection (3) is exercised other than by the Secretary of State—
 - (a) the person exercising the power must notify the Secretary of State of what has been done and of the reasons for doing it, and
 - (b) the Commission’s report under paragraph 17 of Schedule 1 for the financial year in which the power is exercised must mention and explain what has been done.

Status: This is the original version (as it was originally enacted).

- (7) Where the power under subsection (3) is exercised by the Secretary of State, the Secretary of State must—
 - (a) notify each interested party of what has been done and of the reasons for doing it, and
 - (b) lay before Parliament a report explaining what has been done.
- (8) A report under subsection (7)(b) must be published in such form and manner as the Secretary of State thinks appropriate.
- (9) “Interested party” means a person who is an interested party in relation to the application for the purposes of Chapter 4 (see section 102).