
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 6

ASSESSMENT OF PLANS AND PROJECTS

CHAPTER 8

LAND USE PLANS

Land use plans

Considerations of overriding public interest

103.—(1) If the plan-making authority are satisfied that, there being no alternative solutions, the land use plan must be given effect for imperative reasons of overriding public interest (which, subject to paragraph (3), may be of a social or economic nature), they may give effect to the land use plan notwithstanding a negative assessment of the implications for the European site or the European offshore marine site (as the case may be).

(2) In relation to a regional strategy, paragraph (1) applies to the Secretary of State as it applies to a plan-making authority in the case of any other land use.

(3) Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in paragraph (1) must be either—

- (a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment; or
- (b) any other reasons which the plan-making authority, having due regard to the opinion of the European Commission, consider to be imperative reasons of overriding public interest.

(4) Where a plan-making authority other than the Secretary of State or the Welsh Ministers desire to obtain the opinion of the European Commission as to whether reasons are to be considered imperative reasons of overriding public interest, they may submit a written request to the appropriate authority—

- (a) identifying the matter on which an opinion is sought; and
- (b) accompanied by any documents or information which may be required.

(5) The appropriate authority—

- (a) may seek the opinion of the European Commission concerning the plan; and
- (b) where such an opinion is received, must send it to the plan-making authority.

(6) Where a plan-making authority other than the Secretary of State or the Welsh Ministers propose to give effect to a land use plan under this regulation notwithstanding a negative assessment of the implications for the site concerned—

- (a) they must notify the appropriate authority; and

- (b) they must not give effect to the land use plan before the end of the period of 21 days beginning with the day notified by the appropriate authority as that on which their notification was received, unless the appropriate authority notify them that they may do so.
- (7) Without prejudice to any other power, the appropriate authority may give directions to the plan-making authority in any such case prohibiting them from giving effect to the land use plan, either indefinitely or during such period as may be specified in the direction.