



Town and Country Planning Act 1990

1990 CHAPTER 8

PART III

CONTROL OVER DEVELOPMENT

Determination of applications

70 Determination of applications: general considerations.

- (1) Where an application is made to a local planning authority for planning permission—
- ^{F1}(a) subject to [^{F2}section 62D(5) and] sections 91 and 92, they may grant planning permission, either unconditionally or subject to such conditions as they think fit; or
 - ^{F1}(b) they may refuse planning permission.
- (2) In dealing with such an application the authority shall have regard [^{F3}to—
- (a) the provisions of the development plan, so far as material to the application,
 - [^{F4}(aa) any considerations relating to the use of the Welsh language, so far as material to the application;]
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.]

[^{F5}(2ZA) Subsection (2)(aa) applies only in relation to Wales.]

[^{F6}(2A) Subsection (2)(b) does not apply in relation to Wales.]

- (3) Subsection (1) has effect subject to [^{F7}section 65] and to the following provisions of this Act, to sections 66, 67, 72 and 73 of the ^{M1}Planning (Listed Buildings and Conservation Areas) Act 1990 and to section 15 of the ^{M2}Health Services Act 1976.

[^{F8}(4) In this section—

“local finance consideration” means—

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or

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- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy;
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
- “relevant authority” means—
- (a) a district council;
 - (b) a county council in England;
 - (c) the Mayor of London;
 - (d) the council of a London borough;
 - (e) a Mayoral development corporation;
 - (f) an urban development corporation;
 - (g) a housing action trust;
 - (h) the Council of the Isles of Scilly;
 - (i) the Broads Authority;
 - (j) a National Park authority in England;
 - (k) the Homes and Communities Agency; or
 - (l) a joint committee established under section 29 of the Planning and Compulsory Purchase Act 2004.]

Textual Amendments

- F1** S. 70(1)(a)(b): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**
- F2** Words in s. 70(1)(a) inserted (6.9.2015 for specified purposes) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), **Sch. 4 para. 5**
- F3** Words in s. 70(2) substituted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 143(2)**, 240(1)(i) (with ss. 143(5), 144)
- F4** S. 70(2)(aa) inserted (6.9.2015 for specified purposes, 4.1.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), **ss. 31(2)**, 58(2)(b)(4)(b) (with s. 31(4)); S.I. 2015/1987, art. 3(e)
- F5** S. 70(2ZA) inserted (6.9.2015 for specified purposes, 4.1.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), **ss. 31(3)**, 58(2)(b)(4)(b) (with s. 31(4)); S.I. 2015/1987, art. 3(e)
- F6** S. 70(2A) inserted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 143(3)**, 240(1)(i) (with ss. 143(5), 144)
- F7** Words in s. 70(3) substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para.14** (with s. 84(5)); S.I. 1992/1491, art. 2, **Sch. 1**
- F8** S. 70(4) inserted (15.1.2012) by Localism Act 2011 (c. 20), **ss. 143(4)**, 240(1)(i) (with ss. 143(5), 144)

Modifications etc. (not altering text)

- C1** S. 70 modified (1.4.1996) by 1994 c. 19, s. 20(3), **Sch. 5 Pt. III para. 19** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, **art. 4.**, Sch. 2
- S. 70 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
- S. 70 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

Marginal Citations

- M1** 1990 c. 9.
- M2** 1976 c. 83.

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[^{F9}70A [^{F9}Power of local planning authority to decline to determine applications.]^{F10}[Power to decline to determine subsequent application.]

- (1) A local planning authority may decline to determine an application for planning permission for the development of any land if—
 - (a) within the period of two years ending with the date on which the application is received, the [^{F11}Welsh Ministers have refused a similar application made to them under section 62D, 62F, 62M or 62O, or referred to them under section 77, or have] dismissed an appeal against the refusal of a similar application; and
 - (b) in the opinion of the authority there has been no significant change since the refusal or, as the case may be, dismissal mentioned in paragraph (a) in the development plan, so far as material to the application, or in any other material considerations.
- (2) For the purposes of this section an application for planning permission for the development of any land shall only be taken to be similar to a later application if the development and the land to which the applications relate are in the opinion of the local planning authority the same or substantially the same.
- (3) The reference in subsection (1)(a) to an appeal against the refusal of an application includes an appeal under section 78(2) in respect of an application.]

- [^{F9}(1) A local planning authority may decline to determine a relevant application if—
- (a) any of the conditions in subsections (2) to (4) is satisfied, and
 - (b) the authority think there has been no significant change in the relevant considerations since the relevant event.
- (2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application [^{F12}made to the Secretary of State under section 62A or] referred to him under section 76A or 77.
- (3) The condition is that in that period the Secretary of State has dismissed an appeal—
- (a) against the refusal of a similar application, or
 - (b) under section 78(2) in respect of a similar application.
- (4) The condition is that—
- (a) in that period the local planning authority have refused more than one similar application, and
 - (b) there has been no appeal to the Secretary of State against any such refusal [^{F13}or, if there has been such an appeal, it has been withdrawn].

- [^{F14}(4A) A local planning authority in England may also decline to determine a relevant application if—
- (a) the condition in subsection (4B) is satisfied, and
 - (b) the authority think there has been no significant change in the relevant considerations since the relevant event.

- (4B) The condition is that—
- (a) in the period of two years ending with the date on which the application mentioned in subsection (4A) is received the Secretary of State has refused a similar application,

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- (b) the similar application was an application deemed to have been made by section 177(5), and
 - (c) the land to which the application mentioned in subsection (4A) and the similar application relate is in England.]
- (5) A relevant application is—
- (a) an application for planning permission for the development of any land;
 - (b) an application for approval in pursuance of section 60(2) [^{F15}, (2A) or (2B)].
- (6) The relevant considerations are—
- (a) the development plan so far as material to the application;
 - (b) any other material considerations.
- (7) The relevant event is—
- (a) for the purposes of subsections (2) [^{F16}, (4) and (4B)] the refusal of the similar application;
 - (b) for the purposes of subsection (3) the dismissal of the appeal.
- (8) An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.]

Textual Amendments

- F9** Ss. 70A, 70B substituted (24.8.2005 for E. in so far as relates to s. 70A, 6.4.2009 for E. in so far as relates to s. 70B, and not in force for W.) for s. 70A by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 43\(1\), 121](#) (with [s. 111](#)); [S.I. 2005/2081](#), [art. 2](#) (subject to savings in [art. 4](#)); [S.I. 2009/384](#), [art. 2\(a\)](#)
- F10** Ss. 70A, 70B substituted (24.8.2005 for E. in so far as relates to s. 70A, 6.4.2009 for E. in so far as relates to s. 70B, and not in force for W.) for s. 70A by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 43\(1\), 121](#) (with [s. 111](#)); [S.I. 2005/2081](#), [art. 2](#) (subject to savings in [art. 4](#)); [S.I. 2009/384](#), [art. 2\(a\)](#)
- F11** Words in s. 70(1)(a) substituted (6.9.2015 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), [s. 58\(2\)\(b\)\(4\)\(b\)](#), [Sch. 4 para. 6](#)
- F12** Words in s. 70A(2) inserted (9.5.2013 for E. for specified purposes, 1.10.2013 for specified purposes, 1.10.2014 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), [s. 35\(1\)](#), [Sch. 1 para. 6](#); [S.I. 2013/1124](#), [art. 2](#); [S.I. 2013/2143](#), [art. 2\(1\)\(a\)](#); [S.I. 2014/1531](#), [art. 2](#)
- F13** Words in s. 70A(4)(b) inserted (6.4.2009 for E. and otherwise prosp.) by [Planning Act 2008 \(c. 29\)](#), [ss. 187, 241](#), [Sch. 7 para. 2\(2\)](#) (with [s. 226](#)); [S.I. 2009/400](#), [art. 5](#)
- F14** S. 70A(4A)(4B) inserted (6.4.2009) by [Planning Act 2008 \(c. 29\)](#), [ss. 187, 241](#), [Sch. 7 para. 2\(3\)](#) (with [s. 226](#)); [S.I. 2009/400](#), [art. 3](#)
- F15** Words in s. 70A(5) inserted (25.4.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), [ss. 4\(2\)](#), [35\(2\)](#)
- F16** Words in s. 70A(7)(a) substituted (6.4.2009) by [Planning Act 2008 \(c. 29\)](#), [ss. 187, 241](#), [Sch. 7 para. 2\(4\)](#) (with [s. 226](#)); [S.I. 2009/400](#), [art. 3](#)

Modifications etc. (not altering text)

- C2** S. 70A applied (with modifications) (6.4.1992) by [S.I. 1992/666](#), [art. 13\(1\)\(c\)](#), [Sch. 4 Pts. I, II](#)
S. 70A applied (with modifications) (6.4.2007) by [The Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007 \(S.I. 2004/783\)](#), [reg. 14\(3\)](#), [Sch. 4](#) (as amended by [S.I. 2007/1739](#), [reg. 2\(b\)](#))
- C3** S. 70A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#)

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[^{F17}70B Power to decline to determine overlapping application

- (1) A local planning authority may decline to determine an application for planning permission for the development of any land which is
 - ^{F18}(a) made on the same day as a similar application, or
 - (b) made at a time when any of the conditions in subsections (2) to (4) applies in relation to a similar application.
- (2) The condition is that a similar application is under consideration by the local planning authority and the determination period for that application has not expired.
- (3) The condition is that a similar application is under consideration by the Secretary of State in pursuance of section [^{F19}62A,] 76A or 77 or on an appeal under section 78 and the Secretary of State has not issued his decision.
- (4) The condition is that a similar application—
 - (a) has been granted by the local planning authority,
 - (b) has been refused by them, or
 - (c) has not been determined by them within the determination period,and the time within which an appeal could be made to the Secretary of State under section 78 has not expired.

^{F20}(4A) [A local planning authority in England may also decline to determine an application for planning permission for the development of any land in England which is made at a time when the condition in subsection (4B) applies in relation to a similar application.

- (4B) The condition is that—
- (a) a similar application is under consideration by the Secretary of State,
 - (b) the similar application is an application deemed to have been made by section 177(5), and
 - (c) the Secretary of State has not issued his decision.]
- (5) An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.
 - (6) The determination period is—
 - (a) the period prescribed by the development order for the determination of the application, or
 - (b) such longer period as the applicant and the authority have agreed for the determination of the application.

^{F21}(7) [If a local planning authority exercise their power under subsection (1)(a) to decline to determine an application made on the same day as a similar application, they may not also exercise that power to decline to determine the similar application.]]

Textual Amendments

- F17** Ss. 70A, 70B substituted (24.8.2005 (E.)) in so far as relates to s. 70A and 6.4.2009 (E.) in so far as relates to s. 70B) for s. 70A by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 43(1)**, 121 (with s. 111); [S.I. 2005/2081](#), **art. 2** (subject to savings in [art. 4](#)); [S.I. 2009/384](#), **art. 2(a)**
- F18** Words in s. 70B(1) inserted (6.4.2009 for E. and otherwise prosp.) by [Planning Act 2008 \(c. 29\)](#), **ss. 187, 241**, **Sch. 7 para. 3(2)** (with s. 226); [S.I. 2009/400](#), **art. 5**

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- F19** Word in s. 70B(3) inserted (9.5.2013 for E. for specified purposes, 1.10.2013 for specified purposes, 1.10.2014 in so far as not already in force) by **Growth and Infrastructure Act 2013 (c. 27), s. 35(1), Sch. 1 para. 7**; S.I. 2013/1124, art. 2; S.I. 2013/2143, art. 2(1)(a); S.I. 2014/1531, art. 2
- F20** S. 70B(4A)(4B) inserted (6.4.2009) by **Planning Act 2008 (c. 29), ss. 187, 241, Sch. 7 para. 3(3)** (with s. 226); S.I. 2009/400, **art. 3**
- F21** S. 70B(7) inserted (6.4.2009 for E. and otherwise prosp.) by **Planning Act 2008 (c. 29), ss. 187, 241, Sch. 7 para. 3(4)** (with s. 226); S.I. 2009/400, **art. 5**

[^{F22}70C Power to decline to determine retrospective application

- (1) A local planning authority [^{F23}in England] may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.
- (2) For the purposes of the operation of this section in relation to any particular application for planning permission, a “pre-existing enforcement notice” is an enforcement notice issued before the application was received by the local planning authority.]

Textual Amendments

- F22** S. 70C inserted (6.4.2012) by **Localism Act 2011 (c. 20), ss. 123(2), 240(2)** (with s. 144); S.I. 2012/628, **art. 8(b)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by S.I. 2012/2029, **arts. 2, 4**)
- F23** Words in s. 70C(1) omitted (6.9.2015 for specified purposes) by virtue of **Planning (Wales) Act 2015 (anaw 4), ss. 32, 58(2)(b)(4)(b)**

71 Consultations in connection with determinations under s. 70.

[^{F24}(1) A development order may provide that a local planning authority shall not determine an application for planning permission before the end of such period as may be prescribed.

- (2) A development order may require a local planning authority—
- (a) to take into account in determining such an application such representations, made within such period, as may be prescribed; and
 - (b) to give to any person whose representations have been taken into account such notice as may be prescribed of their decision.

[In subsections (1) and (2) references to [^{F26}—

- ^{F25}(2ZA) (a) an application for consent, agreement or approval as mentioned in section 61DB(2), and
- (b)] an application for planning permission include references to an application for approval under section 61L(2).]

(2A) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.]

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(3) Before a local planning authority grant planning permission for the use of land as a caravan site, they shall, unless they are also the authority with power to issue a site licence for that land, consult the local authority with that power.

[^{F27}(3A) Subsection (3) does not apply in relation to planning permission granted by [^{F28}a Mayoral development order or] a neighbourhood development order.]

(4) In this section—

[^{F29} “ prescribed ” means prescribed by a development order]

“site licence” means a licence under Part 1 of the ^{M3}Caravan Sites and Control of Development Act 1960 authorising the use of land as a caravan site [^{F30}or under Part 2 of the Mobile Homes (Wales) Act 2013 authorising the use of the land as a site for mobile homes (within the meaning of that Act)].

Textual Amendments

- F24** S. 71(1)(2)(2A) substituted for s. 71(1)(2) (25.11.1991 for certain purposes and otherwise 17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 16(2) (with s. 84(5)); S.I. 1991/2728, art. 2; S.I. 1992/1491, art. 2
- F25** S. 71(2ZA) inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(5)(j), Sch. 12 para. 8(2); S.I. 2012/57, art. 4(1)(h) (with arts. 6, 7, 9-11); 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)
- F26** Words in s. 71(2ZA) inserted (12.2.2015 for specified purposes, otherwise prosp.) by Infrastructure Act 2015 (c. 7), s. 57(5)(d), Sch. 4 para. 9(2)
- F27** S. 71(3A) inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(5)(j), Sch. 12 para. 8(3); S.I. 2012/57, art. 4(1)(h) (with arts. 6, 7, 9-11); 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)
- F28** Words in s. 71(3A) inserted (12.2.2015 for specified purposes, otherwise prosp.) by Infrastructure Act 2015 (c. 7), s. 57(5)(d), Sch. 4 para. 9(3)
- F29** S. 71(4) definition of “prescribed” substituted (17.7.1992) for definitions of “agricultural holding” and “owner” by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, Sch. 7 para.15 (with s. 84(5)); S.I. 1992/1491, art. 2
- F30** Words in s. 71(4) inserted (5.11.2013) by Mobile Homes (Wales) Act 2013 (anaw 6), s. 64(1), Sch. 4 para. 6(2) (with Sch. 5 para. 7) (this amendment is to be treated as not having effect until 1.10.2014 by virtue of S.I. 2014/11, art. 3(2))

Marginal Citations

M3 1960 c. 62.

[^{F31}71ZA] Decision notices: Wales

(1) A development order may include provision as to—

- (a) the form of decision notices,
- (b) the manner in which decision notices are to be given, and
- (c) the particulars to be contained in decision notices.

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- (2) A decision notice must specify any plans or other documents in accordance with which the development to which it relates is to be carried out.
- (3) Where the decision notice relating to a development specifies any plans or other documents in accordance with which the development is to be carried out, the planning permission relating to the development is deemed to be granted subject to the condition that the development must be carried out in accordance with those plans or other documents.
- (4) Subsection (5) applies where, after planning permission is granted in respect of a development in Wales—
 - (a) a local planning authority or the Welsh Ministers give any consent, agreement or approval required by any condition or limitation subject to which the planning permission was granted, or
 - (b) such a condition or limitation is imposed, removed or altered.
- (5) The local planning authority must give a revised version of the decision notice to such persons as may be specified by a development order.
- (6) The revised version of the notice must contain such details relating to the giving of the consent, agreement or approval, or to the imposition, removal or alteration of the limitation or condition, as may be specified by a development order.
- (7) In this section “decision notice” means a notice of a decision to grant planning permission in respect of a development in Wales.]

Textual Amendments

F31 S. 71ZA inserted (6.9.2015 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), ss. **33(2)**, **58(2)(b)(4)(b)**

[^{F32}**71ZB**Notification of initiation of development and display of notice: Wales

- (1) Before beginning any development to which a relevant planning permission relates, a person must give to the local planning authority notice—
 - (a) stating the date on which the development is to begin;
 - (b) giving details of the planning permission and of such other matters as may be specified by a development order.
- (2) A person carrying out development to which a relevant planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a copy of any notice of a decision to grant it.
- (3) A notice under subsection (1) must be in the form specified by a development order; and a copy of a notice to grant planning permission displayed under subsection (2) must be in a form specified by, and must be displayed in accordance with, such an order.
- (4) A notice of a decision to grant a relevant planning permission must set out the duties imposed by subsections (1) to (3).
- (5) A relevant planning permission is deemed to be granted subject to the condition that the duties imposed by subsections (1) to (3) must be complied with.

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- (6) For the purposes of this section a relevant planning permission is a planning permission of a description specified by a development order for the development of land in Wales.]

Textual Amendments

- F32** S. 71ZB inserted (6.9.2015 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 34**, [58\(2\)\(b\)\(4\)\(b\)](#)

[^{F33}71A Assessment of environmental effects.

- (1) The Secretary of State may by regulations make provision about the consideration to be given, before planning permission for development of any class specified in the regulations is granted, to the likely environmental effects of the proposed development.
- (2) The regulations—
- (a) may make the same provision as, or provision similar or corresponding to, any provision made, for the purposes of any [^{F34}EU] obligation of the United Kingdom about the assessment of the likely effects of development on the environment, under section 2(2) of the ^{M4} European Communities Act 1972; and
 - (b) may make different provision for different classes of development.
- (3) Where a draft of regulations made in exercise both of the power conferred by this section and the power conferred by section 2(2) of the European Communities Act 1972 is approved by resolution of each House of Parliament, section 333(3) shall not apply.]

Textual Amendments

- F33** S. 71A inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **s.15** (with [s. 84\(5\)](#)); [S.I. 1991/2067](#), **art.3** (subject to [art. 4](#))
- F34** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), **arts. 2, 3, 6** (with [arts. 3\(2\)\(3\), 4\(2\), 6\(4\)\(5\)](#))

Marginal Citations

- M4** 1972 c. 68.

72 Conditional grant of planning permission.

- (1) Without prejudice to the generality of section 70(1), conditions may be imposed on the grant of planning permission under that section—
- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission;
 - (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the

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end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.

- (2) A planning permission granted subject to such a condition as is mentioned in subsection (1)(b) is in this Act referred to as “planning permission granted for a limited period”.
- (3) Where—
- (a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition; and
 - (b) any building or other operations are commenced after the time so specified, the commencement and carrying out of those operations do not constitute development for which that permission was granted.
- (4) Subsection (3)(a) does not apply to a condition attached to the planning permission by or under section 91 or 92.
- (5) Part I of Schedule 5 shall have effect for the purpose of making special provision with respect to the conditions which may be imposed on the grant of planning permission for development consisting of the winning and working of minerals [^{F35}or involving the depositing of refuse or waste materials], and subsection (2) has effect subject to paragraph 1(6)(a) of that Schedule.

Textual Amendments

F35 Words in s. 72(5) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 21, [Sch. 1 para.2](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#) (subject to art. 4)

Modifications etc. (not altering text)

- C4** S. 72: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), reg. 2(1), [Sch. 1](#)
- C5** S. 72 applied (7.7.2014) by [The East Anglia ONE Offshore Wind Farm Order 2014 \(S.I. 2014/1599\)](#), arts. 1, [35\(1\)](#) (with arts. 37, 38, [Sch. 9 para. 19](#))
- C6** S. 72(1)(a) modified (26.11.1992) by [S.I. 1992/2683](#), reg. 2, [Sch. para. 2](#)
S. 72(1)(a) modified (3.6.1995) by [S.I. 1995/1139](#), reg. 2, [Sch. para. 1](#)

73 Determination of applications to develop land without compliance with conditions previously attached.

- (1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
- (2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—
- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

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- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- (3) ^{F36}Special provision may be made with respect to such applications—
 - (a) by regulations under section 62 as regards the form and content of the application, and
 - (b) by a development order as regards the procedure to be followed in connection with the application.]
- (4) This section does not apply if the previous planning permission was granted subject to a condition as to the time within which the development to which it related was to be begun and that time has expired without the development having been begun.
- ^{F37}(5) Planning permission must not be granted under this section ^{F38}for the development of land in England] to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which—
 - (a) a development must be started;
 - (b) an application for approval of reserved matters (within the meaning of section 92) must be made.]

Textual Amendments

- F36** S. 73(3) repealed (6.8.2004 for certain purposes and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 42(2), 120, 121, [Sch. 9](#) (with s. 111); S.I. 2004/2097, [art. 2](#)
- F37** S. 73(5) inserted (24.8.2005 for E and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 51(3), 121 (with s. 111); S.I. 2005/2081, [art. 2](#) (subject to savings in art. 4)
- F38** Words in s. 73(5) inserted (6.9.2015 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), ss. 35(7), 58(2)(b)(4)(b)

Modifications etc. (not altering text)

- C7** S. 73: functions of local authority not to be responsibility, of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, [reg. 2\(1\)](#), [Sch. 1](#) para. A. 2
- C8** S. 73: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, [reg. 2\(1\)](#), [Sch. 1](#)
- C9** S. 73 applied (16.8.2012) by [The Hinkley Point Harbour Empowerment Order 2012 \(S.I. 2012/1914\)](#), arts. 1(1), [18\(4\)-\(6\)](#) (with arts. 34, 35, 37, 40)

^{F39}73A Planning permission for development already carried out.

- (1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.
- (2) Subsection (1) applies to development carried out—
 - (a) without planning permission;
 - (b) in accordance with planning permission granted for a limited period; or
 - (c) without complying with some condition subject to which planning permission was granted.
- (3) Planning permission for such development may be granted so as to have effect from—
 - (a) the date on which the development was carried out; or

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- (b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.]

Textual Amendments

F39 S. 73A inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 16\(1\)](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch.1](#) (subject to art. 5)

Modifications etc. (not altering text)

- C10** S. 73A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853, reg. 2\(1\)](#), [Sch. 1](#)
- C11** S. 73A applied (16.8.2012) by [The Hinkley Point Harbour Empowerment Order 2012 \(S.I. 2012/1914\)](#), arts. 1(1), [18\(4\)-\(6\)](#) (with arts. 34, 35, 37, 40)

74 Directions etc. as to method of dealing with applications.

- (1) Provision may be made by a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by local planning authorities, and in particular—
- (a) for enabling the Secretary of State to give directions restricting the grant of planning permission by the local planning authority, either indefinitely or during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
 - (b) for authorising the local planning authority, in such cases and subject to such conditions as may be prescribed by the order or by directions given by the Secretary of State under it, to grant planning permission for development which does not accord with the provisions of the development plan;
 - (c) for requiring that, before planning permission for any development is granted or refused, local planning authorities prescribed by the order or by directions given by the Secretary of State under it shall consult with such authorities or persons as may be so prescribed;
 - (d) for requiring the local planning authority to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
 - (e) for requiring the local planning authority to give any applicant for any consent, agreement or approval required by a condition imposed on a grant of planning permission notice of their decision on his application, within such time as may be so prescribed;
 - (f) for requiring the local planning authority to give to the Secretary of State, and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to the authority, including information as to the manner in which any such application has been dealt with.

[^{F40}(1ZA) In subsection (1)—

- (a) in paragraph (c) the reference to planning permission for any development includes a reference to [^{F41}—
 - (i) a consent, agreement or approval as mentioned in section 61DB(2), and

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- (ii)] an approval under section 61L(2), and
- (b) in paragraph (f) references to applications for planning permission include references to ^{F42}—
 - (i) applications for consent, agreement or approval as mentioned in section 61DB(2), and
 - (ii)] applications for approvals under section 61L(2).

[Provision may be made by a development order—

- ^{F43}(1A) (a) for determining the persons to whom applications under this Act are to be sent; and
- (b) for requiring persons to whom such applications are sent to send copies to other interested persons.]

[Provision may be made by a development order—

- ^{F44}(1B) (a) for enabling the Mayor of London in prescribed circumstances, and subject to such conditions as may be prescribed, to direct the local planning authority for a London borough to refuse an application for planning permission of a prescribed description in any particular case;
- (b) for prohibiting a local planning authority to which any such direction is given from implementing the direction in prescribed circumstances or during prescribed periods; and
- (c) for modifying any provision of this Act relating to an appeal against a refusal of planning permission (and, in particular, any such provision concerning parties or costs) in its application in relation to a refusal in compliance with such a direction;

and in the preceding provisions of this subsection “ prescribed ” means prescribed by, or by directions made under, a development order.

(1C) In determining whether to exercise any power under subsection (1B) to direct a local planning authority to refuse an application, the Mayor of London shall have regard to—

- (a) the development plan, and
 - (b) the spatial development strategy prepared and published under Part VIII of the Greater London Authority Act 1999,
- so far as material to the application.]

(2) Subsection (1) is subject to the provisions of ^{F45} . . . sections 67(7) and 73(1) of the ^{M5}Planning (Listed Buildings and Conservation Areas) Act 1990.]

Textual Amendments

F40 S. 74(1ZA) inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes) by [Localism Act 2011 \(c. 20\), s. 240\(5\)\(j\)](#), [Sch. 12 para. 9](#); [S.I. 2012/57, art. 4\(1\)\(h\)](#) (with arts. 6, 7, 9-11); [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](#))

F41 Words in s. 74(1ZA)(a) inserted (12.2.2015 for specified purposes, otherwise prosp.) by [Infrastructure Act 2015 \(c. 7\), s. 57\(5\)\(d\)](#), [Sch. 4 para. 10\(a\)](#)

F42 Words in s. 74(1ZA)(b) inserted (12.2.2015 for specified purposes, otherwise prosp.) by [Infrastructure Act 2015 \(c. 7\), s. 57\(5\)\(d\)](#), [Sch. 4 para. 10\(b\)](#)

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- F43** S. 74(1A) inserted (25.11.1991 for certain purposes and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 19(1) (with s. 84(5)); S.I. 1991/2728, art. 2; S.I. 1991/2905, art. 3 (subject to art. 5)
- F44** S. 74(1B)(1C) inserted (12.1.2000) by 1999 c. 29, s. 244(9) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 2
- F45** Words in s. 74(2) repealed (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), Sch. 7 para. 17, Sch. 19, Pt. 1 (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, 2

Modifications etc. (not altering text)

- C12** S. 74(1B)(a) excluded (30.3.2006) by London Olympic Games and Paralympic Games Act 2006 (c. 12), ss. 5(4)(a), 40

Marginal Citations

- M5** 1990 c. 9.

[^{F46}74A **Deemed discharge of planning conditions**

- (1) The Secretary of State may by development order make provision for the deemed discharge of a condition to which this section applies.
- (2) This section applies to a condition which—
 - (a) has been imposed on the grant of planning permission for the development of land in England, and
 - (b) requires the consent, agreement or approval of a local planning authority to any matter.
- (3) Deemed discharge of a condition means that the local planning authority's consent, agreement or approval to any matter as required by the condition is deemed to have been given.
- (4) A development order which makes provision for deemed discharge of a condition must provide that the condition is deemed to be discharged only if—
 - (a) a person (“the applicant”) has applied to the local planning authority for the consent, agreement or approval required by the condition,
 - (b) the period for the authority to give notice of their decision on the application has elapsed without that notice having been given, and
 - (c) the applicant has taken such further steps (if any) as are prescribed under subsection (5).
- (5) The Secretary of State may by development order make provision about the procedure for the deemed discharge of a planning condition and, in particular, provision—
 - (a) allowing or requiring steps to be taken by the applicant or the local planning authority;
 - (b) as to the time at which or period within which a step may or must be taken;
 - (c) as to the time at which the deemed discharge takes effect (including for this to be determined by the applicant, subject to such limitations as may be prescribed);
 - (d) for a time or period within paragraph (b) or (c) to be modified by agreement between the applicant and the local planning authority;
 - (e) as to the form or content of any notice which may or must be given as part of the procedure, and as to the means by which it may or must be given.

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- (6) The Secretary of State may by development order provide that provision for deemed discharge of a condition does not apply—
- (a) in relation to a condition of a prescribed description;
 - (b) in relation to a condition imposed on the grant of planning permission of a prescribed description;
 - (c) in relation to a condition imposed on the grant of planning permission for development of a prescribed description;
 - (d) in other prescribed circumstances.
- (7) The power in subsection (6)(d) includes power to provide that provision for deemed discharge of a condition does not apply where an applicant for planning permission and the local planning authority to whom the application is made agree, before or after planning permission is granted, that it should not apply in relation to a condition imposed on the grant of permission.
- (8) The Secretary of State may by development order make provision for section 78(2) (appeals to the Secretary of State) not to apply, or to apply with modifications, where—
- (a) a person has applied for the consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission,
 - (b) the local planning authority have not given notice to that person of their decision on the application within the period mentioned in section 78(2), and
 - (c) the person has taken such further steps (if any) as are prescribed to bring about the deemed discharge of the planning condition.
- (9) A development order which makes provision for deemed discharge of a condition must limit the application of that provision to a condition imposed on the grant of planning permission following an application made after the development order comes into force.
- (10) In this section—
- “condition” includes a limitation;
 - “prescribed” means prescribed by development order made by the Secretary of State.]

Textual Amendments

F46 S. 74A inserted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), ss. **29**, 57(5)(c)

75 Effect of planning permission.

- (1) Without prejudice to the provisions of this Part as to the duration, revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested in it.
- (2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used.
- (3) If no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.

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Modifications etc. (not altering text)

- C13** S. 75 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. I**
S. 75 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, **Sch. 2 Pt. II**

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