



Town and Country Planning Act 1990

1990 CHAPTER 8

PART III

CONTROL OVER DEVELOPMENT

Determination of applications

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
 - (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.

[^{F1}(2A) See also section 100ZA, which makes provision about restrictions on the power to impose conditions under subsection (2) on a grant of planning permission in relation to land in England.]

[^{F2}(2B) Nothing in this section authorises the disapplication of the condition under paragraph 13 of Schedule 7A (biodiversity gain condition).]

(2C) Subsection (2D) applies where—

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- (a) for the purposes of paragraph 13 of Schedule 7A a biodiversity gain plan was approved in relation to the previous planning permission (“the earlier biodiversity gain plan”),
 - (b) planning permission is granted under this section, and
 - [^{F3}(c) the conditions subject to which the planning permission is granted under this section—
 - (i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and
 - (ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.]
- (2D) Where this subsection applies, the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A in relation to the planning permission granted under this section.]
- [^{F4}(2E) Nothing in this section authorises the disapplication of the condition under section 90B (condition relating to development progress reports in England).]
- [^{F5}(3) 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.
- [^{F6}(5) Planning permission must not be granted under this section [^{F7}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

- F1** S. 73(2A) inserted (1.10.2018) by Neighbourhood Planning Act 2017 (c. 20), s. 46(1), Sch. 3 para. 4; S.I. 2018/567, reg. 3(b)
- F2** S. 73(2B)-(2D) inserted (12.2.2024) by Environment Act 2021 (c. 30), s. 147(3), Sch. 14 para. 3(5) (with s. 144); S.I. 2024/44, reg. 2(1)(e) (with reg. 4)
- F3** S. 73(2C)(c) substituted (12.2.2024) by The Biodiversity Gain (Town and Country Planning) (Consequential Amendments) Regulations 2024 (S.I. 2024/49), regs. 1(2), 7; S.I. 2024/44, reg. 2(1)(e)
- F4** S. 73(2E) inserted (26.12.2023 for specified purposes) by Levelling-up and Regeneration Act 2023 (c. 55), ss. 114(6), 255(3) (with s. 247)
- F5** 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
- F6** 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)

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- F7** Words in s. 73(5) inserted (6.9.2015 for specified purposes, 16.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\), ss. 35\(7\), 58\(2\)\(b\)\(4\)\(b\); S.I. 2016/52, art. 5\(b\)](#) (with [art. 13](#))

Modifications etc. (not altering text)

- C1** 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
- C2** 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](#)
- C3** 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](#))
- C4** S. 73(2) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\), reg. 1\(2\), Sch. 7 para. 1\(1\)\(k\)](#) (with [regs. 1\(3\), 47](#))
- C5** S. 73(2) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Application of Enactments\) \(Wales\) Order 2016 \(S.I. 2016/54\), arts. 1, 3\(1\)\(k\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [2023 asc 3 s. 79\(2\)](#)
- Act applied by [2023 asc 3 s. 83\(4\)](#)
- Act excluded by [2023 asc 3 s. 140\(4\)\(b\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7(3) inserted by [2023 c. 55 Sch. 17 para. 2\(2\)](#)
- s. 7A(6) inserted by [2023 c. 55 Sch. 17 para. 2\(4\)](#)
- s. 7ZA inserted by [2023 c. 55 Sch. 17 para. 2\(3\)](#)
- s. 58B and cross-heading inserted by [2023 c. 55 s. 102\(1\)](#)
- s. 59A(3)(ba) inserted by [2023 c. 55 Sch. 8 para. 4\(b\)](#)
- s. 62(2A)(za) inserted by [2023 c. 55 s. 124\(2\)](#)
- s. 62B(5)(ca) inserted by [2023 c. 55 Sch. 17 para. 2\(5\)](#)
- s. 69(1)(g) inserted by [2023 c. 55 s. 111\(4\)\(a\)](#)
- s. 69(2)(d) inserted by [2023 c. 55 s. 111\(4\)\(b\)](#)
- s. 70(2)(azb) inserted by [2023 c. 55 Sch. 6 para. 3\(a\)](#)
- s. 70(3)(ca) inserted in earlier affecting provision 2016 c. 22, s. 5(8) by [2023 asc 3 Sch. 13 para. 194](#)
- s. 70(3A) inserted by [2017 c. 20 Sch. 3 para. 2](#)
- s. 70A(5A) inserted by [2023 c. 55 Sch. 6 para. 4\(a\)](#)
- s. 70A(10)(11) inserted by [2023 c. 55 s. 110\(4\)\(b\)](#)
- s. 70B(5A)(5B) inserted by [2023 c. 55 s. 110\(5\)\(b\)](#)
- s. 73B inserted by [2023 c. 55 s. 110\(2\)](#)
- s. 74(1C)(aa) inserted by [2023 c. 55 Sch. 6 para. 5\(b\)](#)
- s. 75ZA and cross-heading inserted by [2016 c. 22 s. 155](#)
- s. 83(1A)-(1C) amendment to earlier affecting provision 2004 c. 5, s. 45(2) by [2011 c. 20 Sch. 8 para. 14\(4\)\(5\)Sch. 25 Pt. 16](#)
- s. 83(1A)-(1C) inserted by [2004 c. 5 s. 45\(2\)](#)
- s. 83(2)-(2B) amendment to earlier affecting provision 2004 c. 5, s. 45(3) by [2011 c. 20 Sch. 8 para. 14\(4\)\(5\)Sch. 25 Pt. 16](#)
- s. 83(2)-(2B) substituted for s. 83(2) by [2004 c. 5 s. 45\(3\)](#)
- s. 83(4) inserted by [2004 c. 5 s. 45\(4\)](#)
- s. 85(1A) inserted by [2004 c. 5 s. 45\(6\)](#)
- s. 93(5)(6) inserted by [2017 c. 20 Sch. 3 para. 6](#)
- s. 93G and cross-heading inserted by [2023 c. 55 s. 111\(2\)](#)
- s. 94(1)(e) and word inserted by [2023 c. 55 Sch. 9 para. 1\(15\)](#)
- s. 102(1A) inserted by [2023 c. 55 Sch. 6 para. 9\(b\)](#)
- s. 106A(9A) inserted by [2023 c. 55 s. 125](#)
- s. 106ZA inserted by [2016 c. 22 s. 158\(1\)](#)
- s. 106ZB inserted by [2016 c. 22 s. 159\(1\)](#)
- s. 106ZB(2)(a) omitted by [2023 c. 55 s. 130\(3\)\(b\)](#)
- s. 108(1A)(1B) inserted by [2015 c. 7 Sch. 4 para. 15\(4\)](#)
- s. 108(3A) inserted by [2004 c. 5 Sch. 6 para. 6](#)
- s. 108(3B)(ba) inserted by [2015 c. 7 Sch. 4 para. 15\(6\)](#)
- s. 108(3B)(ba) word omitted by [2023 c. 55 Sch. 9 para. 1\(16\)\(d\)\(i\)](#)
- s. 108(3B)(bb) inserted by [2023 c. 55 Sch. 9 para. 1\(16\)\(d\)\(ii\)](#)
- s. 108(3DA) inserted by [2015 c. 7 Sch. 4 para. 15\(7\)](#)
- s. 108(3DB) inserted by [2023 c. 55 Sch. 9 para. 1\(16\)\(e\)](#)
- s. 141(6) inserted by [2017 c. 20 Sch. 3 para. 7](#)
- s. 153(4A)(c) excluded by [S.I. 2024/393 art. 34\(3\)](#)

- s. 157(A1) inserted by [2023 c. 55 s. 190\(5\)](#)
- s. 169(1)(a) words renumbered as s. 169(1)(a) by [2017 c. 20 s. 26\(5\)\(a\)](#)
- s. 169(1)(b) inserted by [2017 c. 20 s. 26\(5\)\(b\)](#)
- s. 170(8BA) inserted by [2017 c. 20 s. 26\(6\)](#)
- s. 171A(2)(za) inserted by [2023 c. 55 s. 117\(2\)\(a\)](#)
- s. 171B(1)(a)(b) substituted for words by [2023 c. 55 s. 115\(1\)](#)
- s. 171B(2)(a)(b) substituted for words by [2023 c. 55 s. 115\(2\)](#)
- s. 171E(8) inserted by [2023 c. 55 s. 116\(3\)](#)
- s. 172ZA inserted by [2023 c. 55 s. 117\(3\)](#)
- s. 174(2AA)(b) words substituted by [2023 c. 55 s. 113\(6\)](#)
- s. 176(6) inserted by [2023 c. 55 s. 119\(2\)](#)
- s. 188(1)(zb) inserted by [2023 c. 55 s. 117\(4\)\(a\)](#)
- s. 195(3A) inserted by [2023 c. 55 s. 119\(3\)](#)
- s. 196(1A) inserted by [2008 c. 29 Sch. 10 para. 8\(2\)](#)
- s. 208(5A) inserted by [2008 c. 29 Sch. 10 para. 9\(2\)](#)
- s. 216(2)(a)(b) substituted for words by [2023 c. 55 s. 120\(2\)\(a\)](#)
- s. 216(6A) inserted by [2023 c. 55 s. 120\(2\)\(c\)](#)
- s. 303(1ZZA) inserted by [2023 asc 3 Sch. 13 para. 87](#)
- s. 303(10A) inserted by [2015 c. 7 Sch. 4 para. 19\(3\)](#)
- s. 303(12) inserted by [2015 c. 7 Sch. 4 para. 19\(4\)](#)
- s. 303A(1A)(za) inserted by [2023 c. 55 Sch. 8 para. 7\(2\)\(a\)](#)
- s. 303A(9B) inserted by [2023 c. 55 Sch. 8 para. 7\(4\)](#)
- s. 303A(10)(za) inserted by [2023 c. 55 Sch. 8 para. 7\(5\)](#)
- s. 303A(12) inserted by [2023 c. 55 Sch. 8 para. 7\(6\)](#)
- s. 303ZB inserted by [2023 c. 55 s. 134](#)
- s. 314A inserted by [2023 asc 3 Sch. 13 para. 90](#)
- s. 324(1A)(a) words in s. 324(1A) renumbered as s. 324(1A)(a) by [2023 c. 55 Sch. 9 para. 1\(20\)\(a\)](#)
- s. 324(1A)(b) and word inserted by [2023 c. 55 Sch. 9 para. 1\(20\)\(b\)](#)
- s. 327ZA applied (with modifications) by 1990 c. 10, s. 37 (as amended) by [2023 c. 55 s. 124\(7\)\(a\)](#)
- s. 327ZA applied by 1990 c. 9, s. 89(1) (as amended) by [2023 c. 55 s. 124\(5\)\(a\)](#)
- s. 327ZA inserted by [2023 c. 55 s. 124\(1\)](#)
- s. 327ZA modified by 1990 c. 9, s. 89(1ZC) (as inserted) by [2023 c. 55 s. 124\(5\)\(b\)](#)
- s. 333(3ZZAA) inserted by [2023 c. 55 Sch. 9 para. 1\(21\)\(b\)](#)
- s. 333(3ZB) inserted by [2016 c. 22 s. 159\(2\)](#)
- s. 333(3ZZA) inserted by [2023 c. 55 Sch. 9 para. 1\(21\)\(a\)](#)
- Sch. 1 para. 5(4) inserted by [2023 c. 55 Sch. 17 para. 2\(7\)\(c\)](#)
- Sch. 1 para. 7(10)(10A) substituted for Sch. 1 para. 7(10) by [2023 c. 55 Sch. 8 para. 11\(2\)](#)
- Sch. 4B para. 11(3)-(5) inserted by [2017 c. 20 s. 7](#)
- Sch. 4B para. 8(2)(fa) inserted by [2023 c. 55 s. 99\(1\)\(b\)](#)
- Sch. 4B para. 8(2)(ca) inserted by [2023 c. 55 s. 102\(2\)\(a\)\(ii\)](#)
- Sch. 4B para. 8(4A)(4B) inserted by [2023 c. 55 s. 102\(2\)\(b\)](#)
- Sch. 4B para. 5(5)(za) inserted by [2023 c. 55 Sch. 6 para. 12\(a\)](#)
- Sch. 4B para. 8(2)(da) inserted by [2023 c. 55 Sch. 6 para. 12\(b\)](#)
- Sch. 4B para. 8(2)(ea) substituted for Sch. 4B para. 8(2)(e) by [2023 c. 55 s. 99\(1\)\(a\)](#)
- Sch. 7 para. 12(1)-(1C) amendment to earlier affecting provision 2004 c. 5 s. 45(9) by [2011 c. 20 Sch. 8 para. 14\(7\)](#)
- Sch. 7 para. 12(1)-(1C) substituted for Sch. 7 para. 12(1) by [2004 c. 5 s. 45\(9\)](#)
- Sch. 7A para. 14(4) inserted by [2023 c. 55 s. 124\(3\)](#)
- Sch. 9 para. 1(1A) inserted by [2023 c. 55 Sch. 6 para. 13\(b\)](#)
- Sch. 9A inserted by [2016 c. 22 Sch. 13](#)
- Sch. 13 para. 24A inserted by [2017 c. 20 s. 26\(7\)](#)