



# Planning Act 2008

## 2008 CHAPTER 29

VALID FROM 01/03/2010

### PART 4

#### REQUIREMENT FOR DEVELOPMENT CONSENT

#### **31 When development consent is required**

Consent under this Act (“development consent”) is required for development to the extent that the development is or forms part of a nationally significant infrastructure project.

#### **32 Meaning of “development”**

(1) In this Act (except in Part 11) “development” has the same meaning as it has in TCPA 1990.

This is subject to subsections (2) and (3).

(2) For the purposes of this Act (except Part 11)—

- (a) the conversion of a generating station with a view to its being fuelled by crude liquid petroleum, a petroleum product or natural gas is treated as a material change in the use of the generating station;
- (b) starting to use a cavity or strata for the underground storage of gas is treated as a material change in the use of the cavity or strata;
- (c) an increase in the permitted use of an airport is treated as a material change in the use of the airport.

(3) For the purposes of this Act (except Part 11) the following works are taken to be development (to the extent that they would not be otherwise)—

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- (a) works for the demolition of a listed building or its alteration or extension in a manner which would affect its character as a building of special architectural or historic interest;
- (b) demolition of a building in a conservation area;
- (c) works resulting in the demolition or destruction of or any damage to a scheduled monument;
- (d) works for the purpose of removing or repairing a scheduled monument or any part of it;
- (e) works for the purpose of making any alterations or additions to a scheduled monument;
- (f) flooding or tipping operations on land in, on or under which there is a scheduled monument.

(4) In this section—

“conservation area” has the meaning given by section 91(1) of the Listed Buildings Act;

“flooding operations” has the meaning given by section 61(1) of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46);

“listed building” has the meaning given by section 1(5) of the Listed Buildings Act;

“permitted” means permitted by planning permission or development consent;

“petroleum products” has the meaning given by section 21 of the Energy Act 1976 (c. 76);

“scheduled monument” has the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46);

“tipping operations” has the meaning given by section 61(1) of that Act.

### **33 Effect of requirement for development consent on other consent regimes**

(1) To the extent that development consent is required for development, none of the following is required to be obtained for the development or given in relation to it—

- (a) planning permission;
- (b) consent under section 10(1), 11(1) or 12(1) of the Green Belt (London and Home Counties) Act 1938 (c. xciii) (erection of buildings and construction of sewer main pipes, watercourses and electric lines etc. on Green Belt land);
- (c) a pipe-line construction authorisation under section 1(1) of the Pipe-lines Act 1962 (c. 58) (authorisation for construction of cross-country pipe-lines);
- (d) authorisation by an order under section 4(1) of the Gas Act 1965 (c. 36) (storage of gas in underground strata);
- (e) notice under section 14(1) of the Energy Act 1976 (conversion of generating station from one fuel to another);
- (f) to the extent that the development relates to land in England, consent under section 2(3) or 3 of the Ancient Monuments and Archaeological Areas Act 1979;
- (g) to the extent that the development relates to land in England, notice under section 35 of the Ancient Monuments and Archaeological Areas Act 1979;
- (h) consent under section 36 or 37 of the Electricity Act 1989 (c. 29) (construction etc. of generating stations and installation of overhead lines);

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- (i) to the extent that the development relates to land in England, consent under section 8(1), (2) or (3) of the Listed Buildings Act;
  - (j) to the extent that the development relates to land in England, consent under section 74(1) of the Listed Buildings Act.
- (2) To the extent that development consent is required for development, the development may not be authorised by any of the following—
- (a) an order under section 14 or 16 of the Harbours Act 1964 (c. 40) (orders in relation to harbours, docks and wharves);
  - (b) an order under section 4(1) of the Gas Act 1965 (order authorising storage of gas in underground strata);
  - (c) an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders as to railways, tramways, inland waterways etc.).
- (3) Subsection (2) is subject to section 34.
- (4) If development consent is required for the construction, improvement or alteration of a highway, none of the following may be made or confirmed in relation to the highway or in connection with the construction, improvement or alteration of the highway—
- (a) an order under section 10 of the Highways Act 1980 (c. 66) (general provisions as to trunk roads) directing that the highway should become a trunk road;
  - (b) an order under section 14 of that Act (supplementary orders relating to trunk roads and classified roads);
  - (c) a scheme under section 16 of that Act (schemes authorising the provision of special roads);
  - (d) an order under section 18 of that Act (supplementary orders relating to special roads);
  - (e) an order or scheme under section 106 of that Act (orders and schemes providing for construction of bridges over or tunnels under navigable waters);
  - (f) an order under section 108 or 110 of that Act (orders authorising the diversion of navigable and non-navigable watercourses);
  - (g) an order under section 6 of the New Roads and Street Works Act 1991 (c. 22) (toll orders).

### **34 Welsh offshore generating stations**

- (1) Section 33(2) does not prevent an order under section 3 of the Transport and Works Act 1992 (c. 42) from authorising the carrying out of works consisting of the construction or extension of a generating station that is or (when constructed or extended) will be a Welsh offshore generating station.
- (2) A “Welsh offshore generating station” is a generating station that is in waters in or adjacent to Wales up to the seaward limits of the territorial sea.
- (3) If, by virtue of subsection (1), an order under section 3 of the Transport and Works Act 1992 authorises the carrying out of any works, development consent is treated as not being required for the carrying out of those works.

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### **35 Directions in relation to projects of national significance**

- (1) This section applies if—
  - (a) an application for a consent or authorisation mentioned in section 33(1) or (2) is made to an authority (“the relevant authority”) in relation to development,
  - (b) the development is or forms part of a project in a field specified in subsection (2),
  - (c) the development will (when completed) be wholly in one or more of the areas specified in subsection (3), and
  - (d) the Secretary of State thinks that the project is of national significance, either by itself or when considered with one or more other projects or proposed projects in the same field.
- (2) The fields are—
  - (a) energy;
  - (b) transport;
  - (c) water;
  - (d) waste water;
  - (e) waste.
- (3) The areas are—
  - (a) England;
  - (b) waters adjacent to England up to the seaward limits of the territorial sea;
  - (c) in the case of a project for the carrying out of works in the field of energy, a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.
- (4) The Secretary of State may direct—
  - (a) the application to be treated as an application for an order granting development consent, and
  - (b) the development to which the application relates to be treated as development for which development consent is required,
 for specified purposes or generally.
- (5) A direction under subsection (4) may provide for specified provisions of or made under this or any other Act—
  - (a) to have effect in relation to the application with any specified modifications, or
  - (b) to be treated as having been complied with in relation to the application.
- (6) If the Secretary of State gives a direction under subsection (4), the relevant authority must refer the application to the Commission instead of dealing with it themselves.
- (7) If the Secretary of State is considering whether to give a direction under subsection (4), the Secretary of State may direct the relevant authority to take no further action in relation to the application until the Secretary of State has decided whether to give the direction.
- (8) The Secretary of State may require the relevant authority to provide any information required by the Secretary of State for the purpose of enabling the Secretary of State to decide—
  - (a) whether to give a direction under subsection (4), and

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(b) the terms in which a direction under subsection (4) should be given.

(9) If the Secretary of State decides to give a direction under subsection (4), the Secretary of State must give reasons for the decision.

**36 Amendments consequential on development consent regime**

Schedule 2 makes amendments consequential on the development consent regime.

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