



# 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—
  - <sup>F1</sup>(a) subject to sections 91 and 92, they may grant planning permission, either unconditionally or subject to such conditions as they think fit; or
  - <sup>F1</sup>(b) they may refuse planning permission.
- (2) In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.
- (3) Subsection (1) has effect subject to [<sup>F2</sup>section 65] and to the following provisions of this Act, to sections 66, 67, 72 and 73 of the <sup>M1</sup>Planning (Listed Buildings and Conservation Areas) Act 1990 and to section 15 of the <sup>M2</sup>Health Services Act 1976.

#### **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(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**

#### **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**

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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.

### [<sup>F3</sup>70A Power of local planning authority to decline to determine applications.

- (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 Secretary of State has refused a similar application referred to him under section 77 or has 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.]

#### Textual Amendments

- F3** S. 70A inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 17(1) (with s. 84(5)); S.I. 1991/2067, art.3 (subject to art. 4)

#### 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**

VALID FROM 06/04/2009

### [<sup>F4</sup>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
- [<sup>F5</sup>(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.

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- (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 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.
- [ A local planning authority in England may also decline to determine an application
- <sup>F6</sup>(4A) 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.
- [ If a local planning authority exercise their power under subsection (1)(a) to decline
- <sup>F7</sup>(7) 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

- F4** 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)**
- F5** 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**
- F6** 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**
- F7** 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**

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## 71 Consultations in connection with determinations under s. 70.

- [<sup>F8</sup>(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.
- (2A) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.]
- (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.
- (4) In this section—
- [<sup>F9</sup>“prescribed” means prescribed by a development order]  
“site licence” means a licence under Part 1 of the <sup>M3</sup>Caravan Sites and Control of Development Act 1960 authorising the use of land as a caravan site.

### Textual Amendments

- F8** 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](#)
- F9** 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](#)

### Marginal Citations

- M3** 1960 c. 62.

## [<sup>F10</sup>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 Community obligation of the United Kingdom about the assessment of the likely effects of development on the environment, under section 2(2) of the <sup>M4</sup>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

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1972 is approved by resolution of each House of Parliament, section 333(3) shall not apply.]

#### Textual Amendments

**F10** 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](#))

#### 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 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 [<sup>F11</sup>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

**F11** 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](#))

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**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(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
  - (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) 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.

**Modifications etc. (not altering text)**

- C6** 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
- 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](#)

**[<sup>F12</sup>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.

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

#### Textual Amendments

**F12** 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)

**C8** 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](#)

## 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.

[<sup>F13</sup>(1A) Provision may be made by a development order—

- (a) for determining the persons to whom applications under this Act are to be sent; and

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- (b) for requiring persons to whom such applications are sent to send copies to other interested persons.]

[<sup>F14</sup>(1B) Provision may be made by a development order—

- (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 <sup>F15</sup>. . . sections 67(7) and 73(1) of the <sup>M5</sup>Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Textual Amendments

- F13** 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](#))
- F14** 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](#)
- F15** 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. I (with [s. 84\(5\)](#)); [S.I. 1992/1491](#), [art. 2](#), [Schs. 1, 2](#)

#### Modifications etc. (not altering text)

- C9** 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](#).

## 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



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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.

**Modifications etc. (not altering text)**

- C10** 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

**76 Duty to draw attention to certain provisions for benefit of disabled.**

- (1) This section applies when planning permission is granted for any development which will result in the provision—
  - (a) of a building or premises to which section 4 of the <sup>M6</sup>Chronically Sick and Disabled Persons Act 1970 applies (buildings or premises to which the public are to be admitted whether on payment or otherwise);
  - (b) of any of the following (being in each case, premises in which persons are employed to work)—
    - (i) office premises, shop premises and railway premises to which the <sup>M7</sup>Offices, Shops and Railway Premises Act 1963 applies;
    - (ii) premises which are deemed to be such premises for the purposes of that Act; or
    - (iii) factories as defined by section 175 of the <sup>M8</sup>Factories Act 1961;
  - (c) of a building intended for the purposes of a university, university college or college, or of a school or hall of a university;
  - (d) of a building intended for the purposes of an institution within [<sup>F16</sup>the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992]; or
  - (e) of a building intended for the purposes of a school or an institution which provides higher education or further education (or both) and is maintained or assisted by a local education authority.

[<sup>F17</sup>(f) of a building intended for the purposes of an institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992]
- (2) The local planning authority granting the planning permission shall draw the attention of the person to whom the permission is granted—
  - (a) in the case of such a building or premises as are mentioned in subsection (1) (a)—
    - (i) to sections 4 and 7 of the <sup>M9</sup>Chronically Sick and Disabled Persons Act 1970; and
    - (ii) to the Code of Practice for Access of the Disabled to Buildings (British Standards Institution code of practice BS 5810: 1979) or any prescribed document replacing that code;

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- (b) in the case of such premises as are mentioned in subsection (1)(b), to sections 7 and 8A of that Act and to that code or any such prescribed document replacing it;
- (c) in the case of such a building as is mentioned in subsection (1)(c), (d) or (e), to sections 7 and 8 of that Act and to Design Note 18 “Access for Disabled People to Educational Buildings” published in 1984 on behalf of the Secretary of State, or any prescribed document replacing that note.

[<sup>F18</sup>(3) Expressions used in subsection (1)(e) and in the <sup>M10</sup>Education Act 1996 have the same meanings as in that Act.]

#### Textual Amendments

- F16** Words in s. 76(1)(d) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, **Sch. 8 para. 94(a)**; S.I. 1992/831, art. 2, **Sch. 3**
- F17** S. 76(1)(f) inserted (1.4.1993) by Further Education Act 1992 (c. 13), s. 93, **Sch. 8 para. 94(b)**; S.I. 1992/831, art. 2, **Sch. 3**
- F18** S. 76(3) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 99** (with s. 1(4), Sch. 39)

#### Modifications etc. (not altering text)

- C11** S. 76: 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**

#### Marginal Citations

- M6** 1970 c. 44.
- M7** 1963 c. 41.
- M8** 1961 c. 34.
- M9** 1970 c. 44.
- M10** 1996 c. 56.

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