



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART III

#### CONTROL OVER DEVELOPMENT

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

- C1** Pt. III (ss. 55-106) except ss. 76, 90(2)(5) applied (with modifications) (17.7.1992) by S.I. 1992/1492, **regs. 2(1)(b), 3-11**
- Pt. III (ss. 55-106): power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(1)(a)**; S.I. 1993/2762, **art. 3**
- Pt. III (ss. 55-106) applied (5.11.1993) by 1993 c. 42, **s. 24(1)** (with ss. 2, 30(1), Sch. 2 para.9)
- Pt. III (ss. 55-106) extended (1.11.1995) by 1995 c. 25, **s. 96(2)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
- Pt. III (ss. 55-106) modified (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**
- Pt. III (ss. 55-106) modified (18.12.1996) by 1996 c. 61, **s. 9(1)(2)**
- Pt. III (ss. 55-106) modified (18.12.1996) by 1996 c. 61, **s. 51**
- Pt. III (ss. 55-106) modified (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), **art. 20(1)**

#### *Meaning of development*

##### **55 Meaning of “development” and “new development”.**

- (1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

[<sup>F1</sup>(1A) For the purposes of this Act “building operations” includes—

- (a) demolition of buildings;
- (b) rebuilding;

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- (c) structural alterations of or additions to buildings; and
  - (d) other operations normally undertaken by a person carrying on business as a builder.]
- (2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—
- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
    - (i) affect only the interior of the building, or
    - (ii) do not materially affect the external appearance of the building,
 and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;
  - (b) the carrying out on land within the boundaries of a road by a local highway authority of any works required for the maintenance or improvement of the road;
  - (c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
  - (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;
  - (e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;
  - (f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.
  - [<sup>F2</sup>(g) the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority.]
- (3) For the avoidance of doubt it is hereby declared that for the purposes of this section—
- (a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used;
  - (b) the deposit of refuse or waste materials on land involves a material change in its use, notwithstanding that the land is comprised in a site already used for that purpose, if—
    - (i) the superficial area of the deposit is extended, or
    - (ii) the height of the deposit is extended and exceeds the level of the land adjoining the site.
- (4) For the purposes of this Act mining operations include—
- (a) the removal of material of any description—
    - (i) from a mineral-working deposit;
    - (ii) from a deposit of pulverised fuel ash or other furnace ash or clinker; or
    - (iii) from a deposit of iron, steel or other metallic slags; and
  - (b) the extraction of minerals from a disused railway embankment.

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[<sup>F3</sup>(4A) Where the placing or assembly of any tank in any part of any inland waters for the purpose of fish farming there would not, apart from this subsection, involve development of the land below, this Act shall have effect as if the tank resulted from carrying out engineering operations over that land; and in this subsection—

“fish farming” means the breeding, rearing or keeping of fish or shellfish (which includes any kind of crustacean and mollusc);

“inland waters” means waters which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows; and

“tank” includes any cage and any other structure for use in fish farming.]

(5) Without prejudice to any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

<sup>F4</sup>(6) .....

#### Subordinate Legislation Made

**P1** S. 55(2)(f); s. 55(2)(f) (with s. 333(7)) power exercised (5.7.1991) by S.I. 1991/1567

#### Textual Amendments

**F1** S. 55(1A) inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 13(1) (with s. 84(5)); S.I. 1992/1279, art. 2 (with art. 3)

**F2** S. 55(2)(g) inserted (25.11.1991 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 13(2) (with s. 84(5)); S.I. 1991/2728, art. 2; S.I. 1992/1279, art. 2 (with art. 3)

**F3** S. 55(4A) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 14(1)(2) (with s. 84(5)); S.I. 1991/2905, art. 3 (subject to art. 4)

**F4** S. 55(6) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Sch. 6 para. 9, Sch. 19, Pts. I, II (with s. 84(5)); S.I. 1991/2067, art. 3, Sch. 1

## 56 Time when development begun.

(1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—

- (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
- (b) if the development consists of a change in use, at the time when the new use is instituted;
- (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).

(2) For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.

(3) The provisions referred to in subsection (2) are sections 85(2), 86(6), 87(4), [<sup>F5</sup>89] 91, 92 and 94.

(4) In subsection (2) “material operation” means—

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- (a) any work of construction in the course of the erection of a building;
  - [<sup>F6</sup>(aa) any work of demolition of a building;]
  - (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
  - (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);
  - (d) any operation in the course of laying out or constructing a road or part of a road;
  - (e) any change in the use of any land which constitutes material development.
- (5) In subsection (4)(e) “material development” means any development other than—
- (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;
  - [<sup>F7</sup>(b) development of a class specified in paragraph 1 or 2 of Schedule 3; ] and
  - (c) development of any class prescribed for the purposes of this subsection.
- (6) In subsection (5) “general development order” means a development order (within the meaning of section 59) made as a general order applicable (subject to such exceptions as may be specified in it) to all land in England and Wales.

#### Textual Amendments

- F5** Word in s. 56(3) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 32, 84(2)-(4), [Sch. 7 para. 10\(1\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#) (subject to art. 4)
- F6** S. 56(4)(aa) inserted (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 10\(2\)](#) (with s. 84(5)); S.I. 1992/1279, [art. 2](#) (with art. 3)
- F7** S. 56(5)(b) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31(4), 84(2)-(4), [Sch. 6 para. 10](#); S.I. 1991/2067, [art. 3](#) (subject to art. 4)

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

- C2** S. 56 applied (with modifications) (3.11.1995) by [S.I. 1995/2863](#), [reg. 3](#), [Sch.](#)

### *Requirement for planning permission*

#### **57 Planning permission required for development.**

- (1) Subject to the following provisions of this section, planning permission is required for the carrying out of any development of land.
- (2) Where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of its use for the purpose for which it was normally used before the permission was granted.
- (3) Where by a development order planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is its normal use.

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- (4) Where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out.
- (5) In determining for the purposes of subsections (2) and (3) what is or was the normal use of land, no account shall be taken of any use begun in contravention of this Part or of previous planning control.
- (6) For the purposes of this section a use of land shall be taken to have been begun in contravention of previous planning control if it was begun in contravention of Part III of the 1947 Act, Part III of the 1962 Act or Part III of the 1971 Act.
- (7) Subsection (1) has effect subject to Schedule 4 (which makes special provision about use of land on 1st July 1948).

## 58 Granting of planning permission: general.

- (1) Planning permission may be granted—
  - (a) by a development order;
  - (b) by the local planning authority (or, in the cases provided in this Part, by the Secretary of State) on application to the authority in accordance with a development order;
  - (c) on the adoption or approval of a simplified planning zone scheme or alterations to such a scheme in accordance with section 82 or, as the case may be, section 86; or
  - (d) on the designation of an enterprise zone or the approval of a modified scheme under Schedule 32 to the <sup>M1</sup>Local Government, Planning and Land Act 1980 in accordance with section 88 of this Act.
- (2) Planning permission may also be deemed to be granted under section 90 (development with government authorisation).
- (3) This section is without prejudice to any other provisions of this Act providing for the granting of permission.

### Modifications etc. (not altering text)

**C3** S. 58(1)(b) excluded (17.12.1996) by 1996 c. ix, s. 10(d)

### Marginal Citations

**M1** 1980 c. 65.

## *Development orders*

## 59 Development orders: general.

- (1) The Secretary of State shall by order (in this Act referred to as a “development order”) provide for the granting of planning permission.
- (2) A development order may either—

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- (a) itself grant planning permission for development specified in the order or for development of any class specified; or
  - (b) in respect of development for which planning permission is not granted by the order itself, provide for the granting of planning permission by the local planning authority (or, in the cases provided in the following provisions, by the Secretary of State) on application to the authority in accordance with the provisions of the order.
- (3) A development order may be made either—
- (a) as a general order applicable, except so far as the order otherwise provides, to all land, or
  - (b) as a special order applicable only to such land or descriptions of land as may be specified in the order.

#### Subordinate Legislation Made

**P2** S. 59: power previously exercised by [S.I. 1990/2032](#)

**P3** S. 59: s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by [S.I. 1991/1536](#)

## 60 Permission granted by development order.

- (1) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.
- (2) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for the erection, extension or alteration of any buildings, the order may require the approval of the local planning authority to be obtained with respect to the design or external appearance of the buildings.
- (3) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for development of a specified class, the order may enable the Secretary of State or the local planning authority to direct that the permission shall not apply either—
- (a) in relation to development in a particular area, or
  - (b) in relation to any particular development.
- (4) Any provision of a development order by which permission is granted for the use of land for any purpose on a limited number of days in a period specified in that provision shall (without prejudice to the generality of references in this Act to limitations) be taken to be a provision granting permission for the use of land for any purpose subject to the limitation that the land shall not be used for any one purpose in pursuance of that provision on more than that number of days in that period.

#### Subordinate Legislation Made

**P4** S. 60 power previously exercised by [S.I. 1990/2032](#)

**P5** S. 60(1): s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by [S.I. 1991/1536](#)

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## 61 Development orders: supplementary provisions.

- (1) A general development order may make different provision with respect to different descriptions of land.
- (2) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any pre 1947 Act enactment, or any regulations, orders or byelaws made at any time under any such enactment—
  - (a) shall not apply to any development specified in the order, or
  - (b) shall apply to it subject to such modifications as may be so specified.
- (3) In subsection (2) “pre 1947 Act enactment” means—
  - (a) any enactment passed before 6th August 1947 (the date of the passing of the 1947 Act), and
  - (b) any enactment contained in the <sup>M2</sup>Highways Act 1980 which—
    - (i) is an enactment derived from the <sup>M3</sup>Highways Act 1959, and
    - (ii) re-enacts (with or without modifications) any such enactment as is mentioned in paragraph (a).

### Subordinate Legislation Made

**P6** S. 61(1): s. 59 (with ss. 60(1), 61(1) and 333(7)) power exercised by [S.I. 1991/1536](#)

### Marginal Citations

**M2** 1980 c. 66.

**M3** 1959 c. 25.

VALID FROM 06/08/2004

## <sup>F8</sup>Local development orders

### Textual Amendments

**F8** Ss. 61A-61C and preceding cross-heading inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 40(1), 121** (with [s. 111](#)); [S.I. 2004/2097](#), **art. 2**; [S.I. 2006/ 1061](#), {art. 2}

## 61A Local development orders

- (1) A local planning authority may by order (a local development order) make provision to implement policies—
  - (a) in one or more development plan documents (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004);
  - (b) in a local development plan (within the meaning of Part 6 of that Act).
- (2) A local development order may grant planning permission—
  - (a) for development specified in the order;

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(b) for development of any class so specified.

(3) A local development order may relate to—

- (a) all land in the area of the relevant authority;
- (b) any part of that land;
- (c) a site specified in the order.

(4) A local development order may make different provision for different descriptions of land.

(5) But a development order may specify any area or class of development in respect of which a local development order must not be made.

(6) A local planning authority may revoke a local development order at any time.

(7) Schedule 4A makes provision in connection with local development orders.

#### **61B Intervention by Secretary of State or National Assembly**

(1) At any time before a local development order is adopted by a local planning authority the appropriate authority may direct that the order (or any part of it) is submitted to it for its approval.

(2) If the appropriate authority gives a direction under subsection (1)—

- (a) the authority must not take any step in connection with the adoption of the order until the appropriate authority gives its decision;
- (b) the order has no effect unless it (or, if the direction relates to only part of an order, the part) has been approved by the appropriate authority.

(3) In considering an order or part of an order submitted under subsection (1) the appropriate authority may take account of any matter which it thinks is relevant.

(4) It is immaterial whether any such matter was taken account of by the local planning authority.

(5) The appropriate authority—

- (a) may approve or reject an order or part of an order submitted to it under subsection (1);
- (b) must give reasons for its decision under paragraph (a).

(6) If the appropriate authority thinks that a local development order is unsatisfactory—

- (a) it may at any time before the order is adopted by the local planning authority direct them to modify it in accordance with the direction;
- (b) if it gives such a direction it must state its reasons for doing so.

(7) The local planning authority—

- (a) must comply with the direction;
- (b) must not adopt the order unless the appropriate authority gives notice that it is satisfied that they have complied with the direction.

(8) The appropriate authority—

- (a) may at any time by order revoke a local development order if it thinks it is expedient to do so;
- (b) must, if it revokes a local development order, state its reasons for doing so.



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- (9) Subsections (3) to (6) of section 100 apply to an order under subsection (8) above as they apply to an order under subsection (1) of that section and for that purpose references to the Secretary of State must be construed as references to the appropriate authority.
- (10) The appropriate authority is—
- (a) the Secretary of State in relation to England;
  - (b) the National Assembly for Wales in relation to Wales.

### **61C Permission granted by local development order**

- (1) Planning permission granted by a local development order may be granted—
- (a) unconditionally, or
  - (b) subject to such conditions or limitations as are specified in the order.
- (2) If the permission is granted for development of a specified description the order may enable the local planning authority to direct that the permission does not apply in relation to—
- (a) development in a particular area, or
  - (b) any particular development.

### **61D Effect of revision or revocation of development order on incomplete development**

- (1) A development order or local development order may include provision permitting the completion of development if—
- (a) planning permission is granted by the order in respect of the development, and
  - (b) the planning permission is withdrawn at a time after the development is started but before it is completed.
- (2) Planning permission granted by a development order is withdrawn—
- (a) if the order is revoked;
  - (b) if the order is amended so that it ceases to grant planning permission in respect of the development or materially changes any condition or limitation to which the grant of permission is subject;
  - (c) by the issue of a direction under powers conferred by the order.
- (3) Planning permission granted by a local development order is withdrawn—
- (a) if the order is revoked under section 61A(6) or 61B(8);
  - (b) if the order is revised in pursuance of paragraph 2 of Schedule 4A so that it ceases to grant planning permission in respect of the development or materially changes any condition or limitation to which the grant of permission is subject;
  - (c) by the issue of a direction under powers conferred by the order.
- (4) The power under this section to include provision in a development order or a local development order may be exercised differently for different purposes.]]

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**Textual Amendments**

**F9** S. 61D inserted (6.8.2004 for specified purposes, 10.5.2006 for E. so far as not already in force, 30.4.2012 for W. so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 41](#) (with s. 111); S.I. 2004/2097, art. 2; S.I. 2006/1061, art. 2(a); S.I. 2012/1100, art. 2

*Applications for planning permission*

**62 Form and content of applications for planning permission.**

Any application to a local planning authority for planning permission—

- (a) shall be made in such manner as may be prescribed by regulations under this Act; and
- (b) shall include such particulars and be verified by such evidence as may be required by the regulations or by directions given by the local planning authority under them.

<sup>F10</sup>**63** .....

**Textual Amendments**

**F10** S. 63 repealed (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 32, 84(6), [Sch. 7 para. 11, Sch. 19, Pt.I](#) (with s. 84(5)); S.I. 1991/2905, art.3, [Sch. 1](#) (subject to art. 5)

<sup>F11</sup>**64** .....

**Textual Amendments**

**F11** S. 64 repealed (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 32, 84(6), [Sch. 7 para. 12, Sch. 19, Pt.I](#) (with s. 84(5)); S.I. 1992/1630, art. 2, [Schs. 1, 2](#) (with art. 3(1))

*Publicity for applications*

<sup>F12</sup>**65 Notice etc. of applications for planning permission.**

- (1) A development order may make provision requiring—
  - (a) notice to be given of any application for planning permission, and
  - (b) any applicant for such permission to issue a certificate as to the interests in the land to which the application relates or the purpose for which it is used, and provide for publicising such applications and for the form, content and service of such notices and certificates.
- (2) Provision shall be made by a development order for the purpose of securing that, in the case of any application for planning permission, any person (other than the applicant) who on such date as may be prescribed by the order is an owner of the land to which

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the application relates, or a tenant of any agricultural holding any part of which is comprised in that land, is given notice of the application in such manner as may be required by the order.

- (3) A development order may require an applicant for planning permission to certify, in such form as may be prescribed by the order, or to provide evidence, that any requirements of the order have been satisfied.
- (4) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.
- (5) A local planning authority shall not entertain an application for planning permission unless any requirements imposed by virtue of this section have been satisfied.
- (6) If any person—
  - (a) issues a certificate which purports to comply with any requirement imposed by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or
  - (b) recklessly issues a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particular,he shall be guilty of an offence.
- (7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) In this section—

“agricultural holding” has the same meaning as in the <sup>M4</sup>Agricultural Holdings Act 1986; and

“owner” in relation to any land means any person who—

  - (a) is the estate owner in respect of the fee simple;
  - (b) is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired; or
  - (c) in the case of such applications as may be prescribed by a development order, is entitled to an interest in any mineral so prescribed,and the reference to the interests in the land to which an application for planning permission relates includes any interest in any mineral in, on or under the land.
- (9) Notwithstanding section 127 of the <sup>M5</sup>Magistrates’ Courts Act 1980, a magistrates’ court may try an information in respect of an offence under this section whenever laid.]

#### Textual Amendments

**F12** S. 65 substituted for ss. 65-68 (25.11.1991 for certain purposes and otherwise 17.7.1992) by Planning and Compensation Act 1991 c. 34, s. 16(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1992/1491, art. 2

#### Marginal Citations

**M4** 1986 c. 5.

**M5** 1980 c. 43.

**Status:** Point in time view as at 01/04/1993. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Town and Country Planning Act 1990, Part III is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## 69 Registers of applications, etc.

- (1) Every local planning authority shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect to applications for planning permission <sup>F16</sup> . . .
- (2) The register shall contain—
  - (a) information as to the manner in which such applications have been dealt with, and
  - (b) such information as may be prescribed by a development order with respect to simplified planning zone schemes relating to zones in the authority's area.
- (3) A development order may make provision for the register to be kept in two or more parts, each part containing such information relating to applications for planning permission <sup>F16</sup> . . . as may be prescribed by the order.
- (4) A development order may also make provision—
  - (a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted with them; and
  - (b) for the entry relating to any application, and everything relating to it, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of (without prejudice to the inclusion of any different entry relating to it in another part of the register).
- (5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

### Textual Amendments

**F16** Words in s. 69(1)(3) repealed (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 32, 84(6), [Sch. 7 para. 13\(a\)\(b\)](#), [Sch. 19](#), Pt.I (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch. 1](#), [Sch.2](#) (subject to art. 5)

### Modifications etc. (not altering text)

**C4** S. 69 extended (with modifications) (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 22, [Sch. 2 para. 9\(1\)\(2\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#) (subject to art. 4)  
 S. 69 applied (with modifications) (2.8.1999) by S.I. 1999/1892, [reg. 2\(1\)](#), [Sch. art. 7](#), [Sch. 2 Pt. I](#)  
 S. 69 applied (with modifications) (2.8.1999) by S.I. 1999/1892, [reg. 2\(1\)](#), [Sch. art. 7](#), [Sch. 2 Pt. II](#)

**C5** S. 69: 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](#)

## *Determination of applications*

## 70 Determination of applications: general considerations.

- (1) Where an application is made to a local planning authority for planning permission—
  - <sup>F17</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>F17</sup>(b) they may refuse planning permission.

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- (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>F18</sup>section 65] and to the following provisions of this Act, to sections 66, 67, 72 and 73 of the <sup>M7</sup>Planning (Listed Buildings and Conservation Areas) Act 1990 and to section 15 of the <sup>M8</sup>Health Services Act 1976.

#### Textual Amendments

- F17** 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**
- F18** 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)

- C6** 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

- M7** 1990 c. 9.
- M8** 1976 c. 83.

### <sup>F19</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

- F19** 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)

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

- C7** 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\(b\)\)](#)
- C8** 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>F20</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>F21</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.
- (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>F22</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

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(b) such longer period as the applicant and the authority have agreed for the determination of the application.

<sup>F23</sup> [ If a local planning authority exercise their power under subsection (1)(a) to decline (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

- F20** 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)**
- F21** 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**
- F22** 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**
- F23** 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**

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

<sup>F24</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—
- to take into account in determining such an application such representations, made within such period, as may be prescribed; and
  - 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>F25</sup>“prescribed” means prescribed by a development order]

“site licence” means a licence under Part 1 of the <sup>M9</sup>Caravan Sites and Control of Development Act 1960 authorising the use of land as a caravan site.

#### 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(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**

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#### Marginal Citations

**M9** 1960 c. 62.

### [<sup>F26</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>M10</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 1972 is approved by resolution of each House of Parliament, section 333(3) shall not apply.]

#### Textual Amendments

**F26** 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

**M10** 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—



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- (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>F27</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

**F27** 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)

- C9** 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](#)
- C10** 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.

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- (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)**

- C11** 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
- C12** 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>F28</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.
- (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**

- F28** 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)**

- C13** 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

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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>F29</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
- (b) for requiring persons to whom such applications are sent to send copies to other interested persons.]

(2) Subsection (1) is subject to the provisions of <sup>F30</sup> . . . sections 67(7) and 73(1) of the <sup>M11</sup>Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Textual Amendments

**F29** 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](#))

**F30** 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](#)

#### Marginal Citations

**M11** 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 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)

- C14** 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>M12</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>M13</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>M14</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>F31</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>F32</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>M15</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;
  - (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.

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- (3) Expressions used in subsection (1)(d) and (e) and in the <sup>M16</sup>Education Act 1944 have the same meanings as in that Act.

#### Textual Amendments

- F31** 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
- F32** 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

#### Marginal Citations

- M12** 1970 c. 44.  
**M13** 1963 c. 41.  
**M14** 1961 c. 34.  
**M15** 1970 c. 44.  
**M16** 1944 c. 31.

### *Secretary of State's powers as respects planning applications and decisions*

VALID FROM 06/08/2004

#### <sup>F33</sup>76A Major infrastructure projects

- (1) This section applies to—
- an application for planning permission;
  - an application for the approval of a local planning authority required under a development order,
- if the Secretary of State thinks that the development to which the application relates is of national or regional importance.
- (2) The Secretary of State may direct that the application must be referred to him instead of being dealt with by the local planning authority.
- (3) If the Secretary of State gives a direction under subsection (2) he may also direct that any application—
- under or for the purposes of the planning Acts, and
  - which he thinks is connected with the application mentioned in subsection (1),
- must also be referred to him instead of being dealt with by the local planning authority.
- (4) If the Secretary of State gives a direction under this section—
- the application must be referred to him;
  - he must appoint an inspector to consider the application.
- (5) If the Secretary of State gives a direction under subsection (2) the applicant must prepare an economic impact report which must—
- be in such form and contain such matter as is prescribed by development order;

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- (b) be submitted to the Secretary of State in accordance with such provision as is so prescribed.
- (6) For the purposes of subsection (5) the Secretary of State may, by development order, prescribe such requirements as to publicity and notice as he thinks appropriate.
- (7) A direction under this section or section 76B may be varied or revoked by a subsequent direction.
- (8) The decision of the Secretary of State on any application referred to him under this section is final.
- (9) Regional relates to a region listed in Schedule 1 to the Regional Development Agencies Act 1998 (c. 45).
- (10) The following provisions of this Act apply (with any necessary modifications) to an application referred to the Secretary of State under this section as they apply to an application which falls to be determined by a local planning authority—
  - (a) section 70;
  - (b) section 72(1) and (5);
  - (c) section 73;
  - (d) section 73A.
- (11) A development order may apply (with or without modifications) any requirements imposed by the order by virtue of section 65 or 71 to an application referred to the Secretary of State under this section.
- (12) This section does not apply to an application which relates to the development of land in Wales.

#### Textual Amendments

**F33** Ss. 76A, 76B inserted (6.8.2004 for certain purposes, 24.8.2005 for E. and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 44, 121**; S.I. 2004/2097, **art. 2**; S.I. 2005/2081, **art. 2** (subject to savings in [art. 4](#))

VALID FROM 06/08/2004

#### **76B Major infrastructure projects: inspectors**

- (1) This section applies if the Secretary of State appoints an inspector under section 76A(4)(b) (the lead inspector).
- (2) The Secretary of State may direct the lead inspector—
  - (a) to consider such matters relating to the application as are prescribed;
  - (b) to make recommendations to the Secretary of State on those matters.
- (3) After considering any recommendations of the lead inspector the Secretary of State may—
  - (a) appoint such number of additional inspectors as he thinks appropriate;
  - (b) direct that each of the additional inspectors must consider such matters relating to the application as the lead inspector decides.

**Status:** Point in time view as at 01/04/1993. This version of this part contains provisions that are not valid for this point in time.

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- (4) An additional inspector must—
  - (a) comply with such directions as to procedural matters as the lead inspector gives;
  - (b) report to the lead inspector on the matters he is appointed to consider.
- (5) A copy of directions given as mentioned in subsection (4)(a) must be given to—
  - (a) the person who made the application;
  - (b) the local planning authority;
  - (c) any other person who requests it.
- (6) If the Secretary of State does not act under subsection (3) he must direct the lead inspector to consider the application on his own.
- (7) In every case the lead inspector must report to the Secretary of State on—
  - (a) his consideration of the application;
  - (b) the consideration of the additional inspectors (if any) of the matters mentioned in subsection (3)(b).
- (8) The function of the lead inspector in pursuance of subsection (2)—
  - (a) may be exercised from time to time;
  - (b) includes making recommendations as to the number of additional inspectors required from time to time.
- (9) The power of the Secretary of State under subsection (3) to appoint an additional inspector includes power to revoke such an appointment.]

#### Textual Amendments

**F33** Ss. 76A, 76B inserted (6.8.2004 for certain purposes, 24.8.2005 for E. and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 44, 121](#); [S.I. 2004/2097](#), [art. 2](#); [S.I. 2005/2081](#), [art. 2](#) (subject to savings in [art. 4](#))

## 77 Reference of applications to Secretary of State.

- (1) The Secretary of State may give directions requiring applications for planning permission, or for the approval of any local planning authority required under a development order, to be referred to him instead of being dealt with by local planning authorities.
- (2) A direction under this section—
  - (a) may be given either to a particular local planning authority or to local planning authorities generally; and
  - (b) may relate either to a particular application or to applications of a class specified in the direction.
- (3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.
- (4) Subject to subsection (5), where an application for planning permission is referred to the Secretary of State under this section, sections [<sup>F34</sup>70, 72(1) and (5), 73 and 73A] shall apply, with any necessary modifications, as they apply to such an application

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which falls to be determined by the local planning authority [<sup>F35</sup>and a development order may apply, with or without modifications, to an application so referred any requirements imposed by such an order by virtue of section 65 or 71].

- (5) Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant or the local planning authority wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (6) Subsection (5) does not apply to an application for planning permission referred to a Planning Inquiry Commission under section 101.
- (7) The decision of the Secretary of State on any application referred to him under this section shall be final.

#### Textual Amendments

- F34** Words in s. 77(4) substituted (2.1.1992 so far as relating to the inclusion of a reference to s. 73A otherwise 17.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para.18](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch.1](#) (subject to art. 5) and S.I. 1992/1491, art.2, [Sch.1](#)
- F35** Words in s. 77(4) inserted (17.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 18](#) (with s. 84(5)); S.I. 1992/1491, art. 2, [Sch.1](#)

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

- C15** S. 77 extended (3.11.1994) by [1994 c. 33, ss. 80\(3\)](#), 172(4)
- C16** S. 77(5) excluded (27.5.1997) by [1997 c. 8, ss. 70\(4\), 278\(2\)](#), [Sch. 7 para. 7](#) (with ss. 20, 64, 219)

## 78 Right to appeal against planning decisions and failure to take such decisions.

- (1) Where a local planning authority—
  - (a) refuse an application for planning permission or grant it subject to conditions;
  - (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of planning permission or grant it subject to conditions; or
  - (c) refuse an application for any approval of that authority required under a development order or grant it subject to conditions,
 the applicant may by notice appeal to the Secretary of State.
- (2) A person who has made such an application may also appeal to the Secretary of State if the local planning authority have [<sup>F36</sup>done none of the following]—
  - (a) given notice to the applicant of their decision on the application;
  - [<sup>F37</sup>(aa) given notice to the applicant that they have exercised their power under section 70A to decline to determine the application;]
  - (b) given notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 77,
 within such period as may be prescribed by the development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.
- (3) Any appeal under this section shall be made by notice served within such time and in such manner as may be prescribed by a development order.



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- (4) The time prescribed for the service of such a notice must not be less than—
  - (a) 28 days from the date of notification of the decision; or
  - (b) in the case of an appeal under subsection (2), 28 days from the end of the period prescribed as mentioned in subsection (2) or, as the case may be, the extended period mentioned in that subsection.
- (5) For the purposes of the application of sections 79(1), 253(2)(c), 266(1)(b) and 288(10)(b) in relation to an appeal under subsection (2), it shall be assumed that the authority decided to refuse the application in question.

#### Textual Amendments

- F36** Words in s. 78(2) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 17\(2\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2067, art.3](#) (subject to [art. 4](#))
- F37** S. 78(2)(aa) substituted (25.9.1991) for 'nor' by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 17\(2\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2067, art. 3](#) (subject to [art. 4](#))

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

- C17** S. 78 modified by [S.I. 1989/670, reg. 15](#) as amended by [S.I. 1990/1562, regs. 2, 3, 6](#)  
S. 78 applied (with modifications) (6.4.1992) by [S.I. 1992/666, reg. 15\(1\)\(3\), Sch. 4 Pts. I, IV, V](#)  
S. 78 applied (with modifications) (2.8.1999) by [S.I. 1999/1892, reg. 2\(1\), Sch. art. 7, Sch. 2 Pt. I](#)  
S. 78 applied (with modifications) (2.8.1999) by [S.I. 1999/1892, reg. 2\(1\), Sch. art. 7, Sch. 2 Pt. II](#)
- C18** S. 78 restricted (18.12.1996) by [1996 c. 61, s. 9\(5\), Sch. 6 Pt. IV para. 33](#)
- C19** S. 78 applied (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), ss. 89, 121, Sch. 4 para. 5\(3\)](#) (with [s. 111](#)); [S.I. 2006/1281, art. 2](#)

VALID FROM 06/08/2004

#### <sup>F38</sup>78A Appeal made: functions of local planning authorities

- (1) This section applies if a person who has made an application mentioned in section 78(1)(a) appeals to the Secretary of State under section 78(2).
- (2) At any time before the end of the additional period the local planning authority may give the notice referred to in section 78(2).
- (3) If the local planning authority give notice as mentioned in subsection (2) that their decision is to refuse the application—
  - (a) the appeal must be treated as an appeal under section 78(1) against the refusal;
  - (b) the Secretary of State must give the person making the appeal an opportunity to revise the grounds of the appeal;
  - (c) the Secretary of State must give such a person an opportunity to change any option the person has chosen relating to the procedure for the appeal.
- (4) If the local planning authority give notice as mentioned in subsection (2) that their decision is to grant the application subject to conditions the Secretary of State must give the person making the appeal the opportunity—
  - (a) to proceed with the appeal as an appeal under section 78(1) against the grant of the application subject to conditions;

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- (b) to revise the grounds of the appeal;
  - (c) to change any option the person has chosen relating to the procedure for the appeal.
- (5) The Secretary of State must not issue his decision on the appeal before the end of the additional period.
- (6) The additional period is the period prescribed by development order for the purposes of this section and which starts on the day on which the person appeals under section 78(2).]

#### Textual Amendments

**F38** S. 78A inserted (6.8.2004 for certain purposes and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 50\(1\), 121](#) (with s. 111); [S.I. 2004/2097](#), [art. 2](#)

## 79 Determination of appeals.

- (1) On an appeal under section 78 the Secretary of State may—
- (a) allow or dismiss the appeal, or
  - (b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not),
- and may deal with the application as if it had been made to him in the first instance.
- (2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the local planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) Subsection (2) does not apply to an appeal referred to a Planning Inquiry Commission under section 101.
- (4) Subject to subsection (2), the provisions of sections [<sup>F39</sup>70, 72(1) and (5), 73 and 73A] and Part I of Schedule 5 shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for planning permission which falls to be determined by the local planning authority [<sup>F40</sup>and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71].
- (5) The decision of the Secretary of State on such an appeal shall be final.
- (6) If, before or during the determination of such an appeal in respect of an application for planning permission to develop land, the Secretary of State forms the opinion that, having regard to the provisions of sections 70 and 72(1), the development order and any directions given under that order, planning permission for that development—
- (a) could not have been granted by the local planning authority; or
  - (b) could not have been granted otherwise than subject to the conditions imposed,
- he may decline to determine the appeal or to proceed with the determination.

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- [<sup>F41</sup>(6A) If at any time before or during the determination of such an appeal it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, he may—
- (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal; and
  - (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.]
- (7) Schedule 6 applies to appeals under section 78, including appeals under that section as applied by or under any other provision of this Act.

**Textual Amendments**

- F39** Words in s. 79(4) substituted (2.1.1992 so far as relating to the inclusion of a reference to s. 73A and otherwise 17.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 19](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch. 1](#) (subject to art. 5); S.I. 1992/1491, art. 2, [Sch. 1](#)
- F40** Words at end of s. 79(4) inserted (17.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 19](#) (with s. 84(5)); S.I. 1992/1491, art. 2, [Sch. 1](#)
- F41** S. 79(6A) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 18 (with s. 84(5)); S.I. 1991/2067, art. 3 (subject to art. 4)

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

- C20** Ss. 78, 79 modified by S.I. 1989/670, [reg. 15](#) as amended by S.I. 1990/1562, [regs. 2, 3, 6](#)  
Ss. 78, 79 applied (with modifications) (6.4.1992) by S.I. 1992/666, [reg. 15\(1\)\(3\)](#), [Sch. 4 Pts. I, IV, V](#)  
S. 79 applied (with modifications) (2.8.1999) by S.I. 1999/1892, [reg. 2\(1\)](#), [Sch. art. 7](#), [Sch. 2 Pt. I](#)  
S. 79 applied (with modifications) (2.8.1999) by S.I. 1999/1892, [reg. 2\(1\)](#), [Sch. art. 7](#), [Sch. 2 Pt. II](#)
- C21** Ss. 78, 79 applied (with modifications) (6.4.2007) by [The Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007 \(S.I. 2007/783\)](#), [reg. 17](#), [Sch. 4](#) (as amended (1.10.2013) by S.I. 2013/2114, [regs. 1\(1\), 3](#))
- C22** S. 79(2) excluded (27.5.1997) by 1997 c. 8, [ss. 70\(4\), 278\(2\)](#), [Sch. 7 para. 7](#) (with [ss. 20, 64, 219](#))

<sup>F42</sup>80 .....

**Textual Amendments**

- F42** S. 80 repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [ss. 31, 84\(6\)](#), [Sch. 6 para. 11](#), [Sch. 19, Pt.II](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#) (subject to art. 4)

<sup>F43</sup>81 .....

**Textual Amendments**

- F43** S. 81 repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [ss. 31, 84\(6\)](#), [Sch. 6 para. 11](#), [Sch. 19, Pt.II](#); S.I. 1991/2067, [art.3](#) (subject to art. 4)

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*Status:* Point in time view as at 01/04/1993. This version of this part contains provisions that are not valid for this point in time.

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### *Simplified planning zones*

#### **82 Simplified planning zones.**

- (1) A simplified planning zone is an area in respect of which a simplified planning zone scheme is in force.
- (2) The adoption or approval of a simplified planning zone scheme has effect to grant in relation to the zone, or any part of it specified in the scheme, planning permission—
  - (a) for development specified in the scheme, or
  - (b) for development of any class so specified.
- (3) Planning permission under a simplified planning zone scheme may be unconditional or subject to such conditions, limitations or exceptions as may be specified in the scheme.

#### **83 Making of simplified planning zone schemes.**

- (1) Every local planning authority shall consider, as soon as practicable after 2nd November 1987, the question for which part or parts of their area a simplified planning zone scheme is desirable, and then shall keep that question under review.
- (2) If as a result of their original consideration or of any such review a local planning authority decide that it is desirable to prepare a scheme for any part of their area they shall do so; and a local planning authority may at any time decide—
  - (a) to make a simplified planning zone scheme, or
  - (b) to alter a scheme adopted by them, or
  - (c) with the consent of the Secretary of State, to alter a scheme approved by him.
- (3) Schedule 7 has effect with respect to the making and alteration of simplified planning zone schemes and other related matters.

#### **84 Simplified planning zone schemes: conditions and limitations on planning permission.**

- (1) The conditions and limitations on planning permission which may be specified in a simplified planning zone scheme may include—
  - (a) conditions or limitations in respect of all development permitted by the scheme or in respect of particular descriptions of development so permitted, and
  - (b) conditions or limitations requiring the consent, agreement or approval of the local planning authority in relation to particular descriptions of permitted development.
- (2) Different conditions or limitations may be specified in a simplified planning zone scheme for different cases or classes of case.
- (3) Nothing in a simplified planning zone scheme shall affect the right of any person—
  - (a) to do anything not amounting to development, or
  - (b) to carry out development for which planning permission is not required or for which permission has been granted otherwise than by the scheme.

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- (4) No limitation or restriction subject to which permission has been granted otherwise than under the scheme shall affect the right of any person to carry out development for which permission has been granted under the scheme.

#### **85 Duration of simplified planning zone scheme.**

- (1) A simplified planning zone scheme shall take effect on the date of its adoption or approval and shall cease to have effect at the end of the period of 10 years beginning with that date.
- (2) When the scheme ceases to have effect planning permission under it shall also cease to have effect except in a case where the development authorised by it has been begun.

#### **86 Alteration of simplified planning zone scheme.**

- (1) This section applies where alterations to a simplified planning zone scheme are adopted or approved.
- (2) The adoption or approval of alterations providing for the inclusion of land in the simplified planning zone has effect to grant in relation to that land, or such part of it as is specified in the scheme, planning permission for development so specified or of any class so specified.
- (3) The adoption or approval of alterations providing for the grant of planning permission has effect to grant such permission in relation to the simplified planning zone, or such part of it as is specified in the scheme, for development so specified or development of any class so specified.
- (4) The adoption or approval of alterations providing for the withdrawal or relaxation of conditions, limitations or restrictions to which planning permission under the scheme is subject has effect to withdraw or relax the conditions, limitations or restrictions immediately.
- (5) The adoption or approval of alterations providing for—
  - (a) the exclusion of land from the simplified planning zone,
  - (b) the withdrawal of planning permission, or
  - (c) the imposition of new or more stringent conditions, limitations or restrictions to which planning permission under the scheme is subject,has effect to withdraw permission, or to impose the conditions, limitations or restrictions, with effect from the end of the period of 12 months beginning with the date of the adoption or approval.
- (6) The adoption or approval of alterations to a scheme does not affect planning permission under the scheme in any case where the development authorised by it has been begun.

#### **87 Exclusion of certain descriptions of land or development.**

- (1) The following descriptions of land may not be included in a simplified planning zone—
  - (a) land in a National Park;
  - (b) land in a conservation area;

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- (c) land within the Broads;
  - (d) land in an area designated under section 87 of the National Parks and Access to the <sup>M17</sup>Countryside Act 1949 as an area of outstanding natural beauty;
  - (e) land identified in the development plan for the district as part of a green belt;
  - (f) land in respect of which a notification or order is in force under section 28 or 29 of the <sup>M18</sup>Wildlife and Countryside Act 1981 (areas of special scientific interest).
- (2) Where land included in a simplified planning zone becomes land of a description mentioned in subsection (1), that subsection does not operate to exclude it from the zone.
- (3) The Secretary of State may by order provide that no simplified planning zone scheme shall have effect to grant planning permission—
- (a) in relation to an area of land specified in the order or to areas of land of a description so specified, or
  - (b) for development of a description specified in the order.
- (4) An order under subsection (3) has effect to withdraw such planning permission under a simplified planning zone scheme already in force with effect from the date on which the order comes into force, except in a case where the development authorised by the permission has been begun.

#### Marginal Citations

**M17** 1949 c. 97.

**M18** 1981 c. 69.

### *Enterprise zone schemes*

#### **88 Planning permission for development in enterprise zones.**

- (1) An order designating an enterprise zone under Schedule 32 to the <sup>M19</sup>Local Government, Planning and Land Act 1980 shall (without more) have effect on the date on which the order designating the zone takes effect to grant planning permission for development specified in the scheme or for development of any class so specified.
- (2) The approval of a modified scheme under paragraph 11 of that Schedule shall (without more) have effect on the date on which the modifications take effect to grant planning permission for development specified in the modified scheme or for development of any class so specified.
- (3) Planning permission so granted shall be subject to such conditions or limitations as may be specified in the scheme or modified scheme or, if none is specified, shall be unconditional.
- (4) Subject to subsection (5), where planning permission is so granted for any development or class of development the enterprise zone authority may direct that the permission shall not apply in relation—
- (a) to a specified development; or
  - (b) to a specified class of development; or

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- (c) to a specified class of development in a specified area within the enterprise zone.
- (5) An enterprise zone authority shall not give a direction under subsection (4) unless—
  - (a) they have submitted it to the Secretary of State, and
  - (b) he has notified them that he approves of their giving it.
- (6) If the scheme or the modified scheme specifies, in relation to any development it permits, matters which will require approval by the enterprise zone authority, the permission shall have effect accordingly.
- (7) The Secretary of State may by regulations make provision as to—
  - (a) the procedure for giving a direction under subsection (4); and
  - (b) the method and procedure relating to the approval of matters specified in a scheme or modified scheme as mentioned in subsection (6).
- (8) Such regulations may modify any provision of the planning Acts or any instrument made under them or may apply any such provision or instrument (with or without modification) in making any such provision as is mentioned in subsection (7).
- (9) Nothing in this section prevents planning permission being granted in relation to land in an enterprise zone otherwise than by virtue of this section (whether the permission is granted in pursuance of an application made under this Part or by a development order).
- (10) Nothing in this section prejudices the right of any person to carry out development apart from this section.

#### Marginal Citations

M19 1980 c.65.

### 89 Effect on planning permission of modification or termination of scheme.

- (1) Modifications to an enterprise zone scheme do not affect planning permission under the scheme in any case where the development authorised by it has been begun before the modifications take effect.
- (2) When an area ceases to be an enterprise zone, planning permission under the scheme shall cease to have effect except in a case where the development authorised by it has been begun.

#### *Deemed planning permission*

### 90 Development with government authorisation.

- (1) Where the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority, or by statutory undertakers who are not a local authority, that department may, on granting that authorisation, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

**Status:** Point in time view as at 01/04/1993. This version of this part contains provisions that are not valid for this point in time.

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- (2) On granting a consent under section 36 or 37 of the <sup>M20</sup>Electricity Act 1989 in respect of any operation or change of use that constitutes development, the Secretary of State may direct that planning permission for that development and any ancillary development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.
- [<sup>F44</sup>(2A) On making an order under section 1 or 3 of the Transport and Works Act 1992 which includes provision for development, the Secretary of State may direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.]
- (3) The provisions of this Act (except [<sup>F45</sup>Part]XII) shall apply in relation to any planning permission deemed to be granted by virtue of a direction under this section as if it had been granted by the Secretary of State on an application referred to him under section 77.
- (4) For the purposes of this section development is authorised by a government department if—
- (a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment;
  - (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;
  - (c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose;
  - (d) authority is given by the department—
    - (i) for the borrowing of money for the purpose of the development, or
    - (ii) for the application for that purpose of any money not otherwise so applicable; or
  - (e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants;
- and references in this section to the authorisation of a government department shall be construed accordingly.
- (5) In subsection (2) “ancillary development”, in relation to development consisting of the extension of a generating station, does not include any development which is not directly related to the generation of electricity by that station; and in this subsection “extension” and “generating station” have the same meanings as in Part I of the <sup>M21</sup>Electricity Act 1989.

#### Textual Amendments

- F44** S. 90(2A) inserted (1.1.1993) by [Transport and Works Act 1992 \(c. 42\), s. 16\(1\)](#); S.I. 1992/2784, art. 2, [Sch. 1](#).
- F45** Word in s. 90(3) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 31, [Sch. 6 para. 12](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#) (subject to art. 4)

#### Marginal Citations

- M20** 1989 c. 29.
- M21** 1989 c. 29.



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### *Duration of planning permission*

#### **91 General condition limiting duration of planning permission.**

- (1) Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—
  - (a) five years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or
  - (b) such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of planning permission may direct.
- (2) The period mentioned in subsection (1)(b) shall be a period which the authority consider appropriate having regard to the provisions of the development plan and to any other material considerations.
- (3) If planning permission is granted without the condition required by subsection (1), it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.
- (4) Nothing in this section applies—
  - (a) to any planning permission granted by a development order;
  - (b) to any planning permission [<sup>F46</sup>granted for development carried out before the grant of that permission];
  - (c) to any planning permission granted for a limited period;
  - [<sup>F47</sup>(d) to any planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste which is granted (or deemed to be granted) subject to a condition that the development to which it relates must be begun before the expiration of a specified period after—
    - (i) the completion of other development consisting of the winning and working of minerals already being carried out by the applicant for the planning permission; or
    - (ii) the cessation of depositing of mineral waste already being carried out by the applicant for the planning permission;]
  - (e) to any planning permission granted by an enterprise zone scheme;
  - (f) to any planning permission granted by a simplified planning zone scheme; or
  - (g) to any outline planning permission, as defined by section 92.

#### **Textual Amendments**

**F46** Words in s. 91(4)(b) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1, s. 32, Sch. 7 para.20](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch.1](#)

**F47** S. 91(4)(d) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 21, Sch. 1 para. 3](#); S.I. 1991/2067, art. 3 (subject to art. 4)

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

**C23** S. 91 excluded (5.11.1993) by [1993 c. 42, s. 24\(2\)](#) (with ss. 2, 30(1), [Sch. 2 para.9](#))  
S. 91 excluded (18.12.1996) by [1996 c. 61, s. 10\(4\)](#)

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## 92 Outline planning permission.

- (1) In this section and section 91 “outline planning permission” means planning permission granted, in accordance with the provisions of a development order, with the reservation for subsequent approval by the local planning authority or the Secretary of State of matters not particularised in the application (“reserved matters”).
- (2) Subject to the following provisions of this section, where outline planning permission is granted for development consisting in or including the carrying out of building or other operations, it shall be granted subject to conditions to the effect—
  - (a) that, in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and
  - (b) that the development to which the permission relates must be begun not later than—
    - (i) the expiration of five years from the date of the grant of outline planning permission; or
    - (ii) if later, the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (3) If outline planning permission is granted without the conditions required by subsection (2), it shall be deemed to have been granted subject to those conditions.
- (4) The authority concerned with the terms of an outline planning permission may, in applying subsection (2), substitute, or direct that there be substituted, for the periods of three years, five years or two years referred to in that subsection such other periods respectively (whether longer or shorter) as they consider appropriate.
- (5) They may also specify, or direct that there be specified, separate periods under paragraph (a) of subsection (2) in relation to separate parts of the development to which the planning permission relates; and, if they do so, the condition required by paragraph (b) of that subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole.
- (6) In considering whether to exercise their powers under subsections (4) and (5), the authority shall have regard to the provisions of the development plan and to any other material considerations.

### Modifications etc. (not altering text)

**C24** S. 92: 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](#)

## 93 Provisions supplementary to ss. 91 and 92.

- (1) The authority referred to in section 91(1)(b) or 92(4) is—
  - (a) the local planning authority or the Secretary of State, in the case of planning permission granted by them,
  - (b) in the case of planning permission deemed to be granted under section 90(1), the department on whose direction planning permission is deemed to be granted, and

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- (c) in the case of planning permission deemed to be granted under section 90(2), the Secretary of State.
- (2) For the purposes of section 92, a reserved matter shall be treated as finally approved—
- (a) when an application for approval is granted, or
  - (b) in a case where the application is made to the local planning authority and on an appeal to the Secretary of State against the authority's decision on the application the Secretary of State grants the approval, when the appeal is determined.
- (3) Where a local planning authority grant planning permission, the fact that any of the conditions of the permission are required by the provisions of section 91 or 92 to be imposed, or are deemed by those provisions to be imposed, shall not prevent the conditions being the subject of an appeal under section 78 against the decision of the authority.
- (4) In the case of planning permission (whether outline or other) which has conditions attached to it by or under section 91 or 92—
- (a) development carried out after the date by which the conditions require it to be carried out shall be treated as not authorised by the permission; and
  - (b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.

#### **94 Termination of planning permission by reference to time limit: completion notices.**

- (1) This section applies where—
- (a) by virtue of section 91 or 92, a planning permission is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period, that development has been begun within that period, but that period has elapsed without the development having been completed; or
  - (b) development has been begun in accordance with planning permission under a simplified planning zone scheme but has not been completed by the time the area ceases to be a simplified planning zone; or
  - (c) development has been begun in accordance with planning permission under an enterprise zone scheme but has not been completed by the time the area ceases to be an enterprise zone.
- (2) If the local planning authority are of the opinion that the development will not be completed within a reasonable period, they may serve a notice (“a completion notice”) stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice.
- (3) The period so specified must not be less than 12 months after the notice takes effect.
- (4) A completion notice shall be served—
- (a) on the owner of the land,
  - (b) on the occupier of the land, and
  - (c) on any other person who in the opinion of the local planning authority will be affected by the notice.

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- (5) The local planning authority may withdraw a completion notice at any time before the expiration of the period specified in it as the period at the expiration of which the planning permission is to cease to have effect.
- (6) If they do so they shall immediately give notice of the withdrawal to every person who was served with the completion notice.

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

**C25** S. 94 applied (with modifications) (18.12.1996) by 1996 c. 61, s. 10(5)(6)

**C26** S. 94(2): 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

**95 Effect of completion notice.**

- (1) A completion notice shall not take effect unless and until it is confirmed by the Secretary of State.
- (2) In confirming a completion notice the Secretary of State may substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.
- (3) If, within such period as may be specified in a completion notice (which must not be less than 28 days from its service) any person on whom the notice is served so requires, the Secretary of State, before confirming the notice, shall give him and the local planning authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) If a completion notice takes effect, the planning permission referred to in it shall become invalid at the expiration of the period specified in the notice (whether the original period specified under section 94(2) or a longer period substituted by the Secretary of State under subsection (2)).
- (5) Subsection (4) shall not affect any permission so far as development carried out under it before the end of the period mentioned in that subsection is concerned.

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

**C27** S. 95(2) modified (18.12.1996) by 1996 c. 61, s. 10(6)

**96 Power of Secretary of State to serve completion notices.**

- (1) If it appears to the Secretary of State to be expedient that a completion notice should be served in respect of any land, he may himself serve such a notice.
- (2) A completion notice served by the Secretary of State shall have the same effect as if it had been served by the local planning authority.
- (3) The Secretary of State shall not serve such a notice without consulting the local planning authority.

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VALID FROM 01/10/2009

*[<sup>F48</sup>Non-material changes to planning permission*

**Textual Amendments**

**F48** S. 96A and cross-heading inserted (1.10.2009) by [Planning Act 2008 \(c. 29\)](#), **ss. 190(2)**, 241 (with [s. 226](#)); [S.I. 2009/2260](#), **art. 3**

**96A Power to make non-material changes to planning permission**

- (1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.
- (2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.
- (3) The power conferred by subsection (1) includes power—
  - (a) to impose new conditions;
  - (b) to remove or alter existing conditions.
- (4) The power conferred by subsection (1) may be exercised only on an application made by or on behalf of a person with an interest in the land to which the planning permission relates.
- (5) An application under subsection (4) must be made in the form and manner prescribed by development order.
- (6) Subsection (7) applies in relation to an application under subsection (4) made by or on behalf of a person with an interest in some, but not all, of the land to which the planning permission relates.
- (7) The application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest.
- (8) A local planning authority must comply with such requirements as may be prescribed by development order as to consultation and publicity in relation to the exercise of the power conferred by subsection (1).]

*Revocation and modification of planning permission*

**97 Power to revoke or modify planning permission.**

- (1) If it appears to the local planning authority that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part, the authority may by order revoke or modify the permission to such extent as they consider expedient.
- (2) In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.

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- (3) The power conferred by this section may be exercised—
- (a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;
  - (b) where the permission relates to a change of the use of any land, at any time before the change has taken place.
- (4) The revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.
- (5) References in this section to the local planning authority are to be construed in relation to development consisting of the winning and working of minerals as references to the mineral planning authority, <sup>F49</sup> . . .
- [<sup>F50</sup>(6) Part II of Schedule 5 shall have effect for the purpose of making special provision with respect to the conditions that may be imposed by an order under this section which revokes or modifies permission for development—
- (a) consisting of the winning and working of minerals; or
  - (b) involving the depositing of refuse or waste materials.]

#### Textual Amendments

- F49** Words in s. 97(5) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 21, 84(6), [Sch. 1 para. 4](#), [Sch. 19](#), Pt.I (with s. 84(5)); S.I. 1991/2067, art. 3, [Sch.1](#) (subject to art. 4)
- F50** S. 97(6) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 21, [Sch. 1 para.4](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#) (subject to art. 4)

#### 98 Procedure for s. 97 orders: opposed cases.

- (1) Except as provided in section 99, an order under section 97 shall not take effect unless it is confirmed by the Secretary of State.
- (2) Where a local planning authority submit such an order to the Secretary of State for confirmation, they shall serve notice on—
  - (a) the owner of the land affected,
  - (b) the occupier of the land affected, and
  - (c) any other person who in their opinion will be affected by the order.
- (3) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (4) If within that period such a person so requires, before the Secretary of State confirms the order he shall give such an opportunity both to him and to the local planning authority.
- (5) The period referred to in subsection (3) must not be less than 28 days from the service of the notice.
- (6) The Secretary of State may confirm an order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

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## **99 Procedure for s. 97 orders: unopposed cases.**

- (1) This section applies where—
  - (a) the local planning authority have made an order under section 97; and
  - (b) the owner and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to it.
- (2) Where this section applies, instead of submitting the order to the Secretary of State for confirmation the authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement must specify—
  - (a) the period within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and
  - (b) the period at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section without being confirmed by the Secretary of State.
- (3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(b).
- (4) The period referred to in subsection (2)(a) must not be less than 28 days from the date the advertisement first appears.
- (5) The period referred to in subsection (2)(b) must not be less than 14 days from the expiration of the period referred to in subsection (2)(a).
- (6) The authority shall send a copy of any advertisement published under subsection (2) to the Secretary of State not more than three days after the publication.
- (7) If—
  - (a) no person claiming to be affected by the order has given notice to the Secretary of State under subsection (2)(a) within the period referred to in that subsection, and
  - (b) the Secretary of State has not directed within that period that the order be submitted to him for confirmation,the order shall take effect at the expiry of the period referred to in subsection (2)(b), without being confirmed by the Secretary of State as required by section 98(1).
- (8) This section does not apply—
  - (a) to an order revoking or modifying a planning permission granted or deemed to have been granted by the Secretary of State under this Part or Part VII, or
  - (b) to an order modifying any conditions to which a planning permission is subject by virtue of section 91 or 92.

## **100 Revocation and modification of planning permission by the Secretary of State.**

- (1) If it appears to the Secretary of State that it is expedient that an order should be made under section 97, he may himself make such an order.
- (2) Such an order which is made by the Secretary of State shall have the same effect as if it had been made by the local planning authority and confirmed by the Secretary of State.

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- (3) The Secretary of State shall not make such an order without consulting the local planning authority.
- (4) Where the Secretary of State proposes to make such an order he shall serve notice on the local planning authority.
- (5) The notice shall specify the period (which must not be less than 28 days from the date of its service) within which the authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (6) If within that period the authority so require, before the Secretary of State makes the order he shall give the authority such an opportunity.
- (7) The provisions of this Part and of any regulations made under this Act with respect to the procedure to be followed in connection with the submission by the local planning authority of any order under section 97 and its confirmation by the Secretary of State shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order and its making by him.
- [<sup>F51</sup>(8) Subsections (5) and (6) of section 97 apply for the purposes of this section as they apply for the purposes of that.]

#### Textual Amendments

**F51** S. 100(8) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 21, [Sch. 1 para.5](#) (with s. 84(5)); [S.I. 1991/2067](#), [art.3](#) (subject to [art. 4](#))

#### *References to Planning Inquiry Commission*

### **101 Power to refer certain planning questions to Planning Inquiry Commission.**

- (1) The Secretary of State may constitute a Planning Inquiry Commission to inquire into and report on any matter referred to them under subsection (2) in the circumstances mentioned in subsection (3).
- (2) The matters that may be referred to a Planning Inquiry Commission are—
  - (a) an application for planning permission which the Secretary of State has under section 77 directed to be referred to him instead of being dealt with by a local planning authority;
  - (b) an appeal under section 78 (including that section as applied by or under any other provision of this Act);
  - (c) a proposal that a government department should give a direction under section 90(1) that planning permission shall be deemed to be granted for development by a local authority or by statutory undertakers which is required by any enactment to be authorised by that department;
  - (d) a proposal that development should be carried out by or on behalf of a government department.
- (3) Any of those matters may be referred to any such commission under this section if it appears expedient to the responsible Minister or Ministers that the question whether the proposed development should be permitted to be carried out should be the subject of a special inquiry on either or both of the following grounds—



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- (a) that there are considerations of national or regional importance which are relevant to the determination of that question and require evaluation, but a proper evaluation of them cannot be made unless there is a special inquiry for the purpose;
  - (b) that the technical or scientific aspects of the proposed development are of so unfamiliar a character as to jeopardise a proper determination of that question unless there is a special inquiry for the purpose.
- (4) Part I of Schedule 8 shall have effect as respects the constitution of any such commission and its functions and procedure on references to it under this section, and the references in subsection (3) and in that Schedule to “the responsible Minister or Ministers” shall be construed in accordance with Part II of that Schedule.
- (5) In relation to any matter affecting both England and Wales, the functions of the Secretary of State under subsection (1) shall be exercised by the Secretaries of State for the time being having general responsibility in planning matters in relation to England and in relation to Wales acting jointly.

#### *Other controls over development*

### **102 Orders requiring discontinuance of use or alteration or removal of buildings or works.**

- (1) If, having regard to the development plan and to any other material considerations, it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity)—
- (a) that any use of land should be discontinued or that any conditions should be imposed on the continuance of a use of land; or
  - (b) that any buildings or works should be altered or removed,
- they may by order—
- (i) require the discontinuance of that use, or
  - (ii) impose such conditions as may be specified in the order on the continuance of it, or
  - (iii) require such steps as may be so specified to be taken for the alteration or removal of the buildings or works,
- as the case may be.
- (2) An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order.
- (3) Section 97 shall apply in relation to any planning permission granted by an order under this section as it applies in relation to planning permission granted by the local planning authority on an application made under this Part.
- [<sup>F52</sup>(4) The planning permission which may be granted by an order under this section includes planning permission, subject to such conditions as may be specified in the order, for development carried out before the date on which the order was submitted to the Secretary of State under section 103.
- (5) 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.]
- (6) Where the requirements of an order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the local planning authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacement.
- (7) Subject to section 103(8), in the case of planning permission granted by an order under this section, the authority referred to in sections 91(1)(b) and 92(4) is the local planning authority making the order.
- (8) The previous provisions of this section do not apply to the use of any land for development [<sup>F53</sup>consisting of the winning and working of minerals or involving the depositing of refuse or waste materials] except as provided in Schedule 9, and that Schedule shall have effect for the purpose of making provision as respects land which is or has been so used.

#### Textual Amendments

- F52** S. 102(4)(5) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para.21](#) (with s. 84(5)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))
- F53** Words in s. 102(8) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 21, [Sch. 1 para. 6](#) (with s. 84(5)); [S.I. 1991/2067](#), [art. 3](#) (subject to [art. 4](#))

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

- C28** S. 102: 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](#)

### 103 Confirmation by Secretary of State of s. 102 orders.

- (1) An order under section 102 shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.
- (2) The power of the Secretary of State under this section to confirm an order subject to modifications includes power—
- (a) to modify any provision of the order granting planning permission, as mentioned in subsections (2) to (5) of section 102;
  - (b) to include in the order any grant of planning permission which might have been included in the order as submitted to him.
- (3) Where a local planning authority submit an order to the Secretary of State for his confirmation under this section, they shall serve notice—
- (a) on the owner of the land affected,
  - (b) on the occupier of that land, and
  - (c) on any other person who in their opinion will be affected by the order.
- (4) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

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- (5) If within that period such a person so requires, before the Secretary of State confirms the order, he shall give such an opportunity both to him and to the local planning authority.
- (6) The period referred to in subsection (4) must not be less than 28 days from the service of the notice.
- (7) Where an order under section 102 has been confirmed by the Secretary of State, the local planning authority shall serve a copy of the order on the owner and occupier of the land to which the order relates.
- (8) Where the Secretary of State exercises his powers under subsection (2) in confirming an order granting planning permission, he is the authority referred to in sections 91(1)(b) and 92(4).

#### **104 Power of the Secretary of State to make s. 102 orders.**

- (1) If it appears to the Secretary of State that it is expedient that an order should be made under section 102, he may himself make such an order.
- (2) Such an order made by the Secretary of State shall have the same effect as if it had been made by the local planning authority and confirmed by the Secretary of State.
- (3) The Secretary of State shall not make such an order without consulting the local planning authority.
- (4) Where the Secretary of State proposes to make such an order he shall serve notice on the local planning authority.
- (5) The notice shall specify the period within which the authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (6) If within that period the authority so require, before the Secretary of State makes the order he shall give the authority such an opportunity.
- (7) The period referred to in subsection (5) must not be less than 28 days from the date of the service of the notice.
- (8) The provisions of this Part and of any regulations made under this Act with respect to the procedure to be followed in connection with the submission by the local planning authority of any order under section 102, its confirmation by the Secretary of State and the service of copies of it as confirmed shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order, its making by him and the service of copies of it.

#### **[<sup>F54</sup>105 Reviews by mineral planning authorities.**

- (1) Every mineral planning authority shall undertake periodic reviews about the winning and working of minerals and the depositing of mineral waste in their area.
- (2) Subject to regulations made by virtue of subsection (4), the duty under this section is, at such intervals as they think fit—
  - (a) to review every mining site in their area; and

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- (b) to consider whether they should make an order under section 97 or under paragraph 1, 3, 5 or 6 of Schedule 9, and if they do consider that they should make any such order, to make it.
- (3) For the purposes of subsection (2) “a mining site” means a site which—
  - (a) is being used for the winning and working of minerals or the depositing of mineral waste;
  - (b) has been so used at any time during—
    - (i) the period of five years preceding the date of the beginning of the review; or
    - (ii) such other period preceding that date as may be prescribed; or
  - (c) is authorised to be so used.
- (4) If regulations so require, the reviews shall be undertaken at prescribed intervals and shall cover such matters as may be prescribed.]

#### Textual Amendments

**F54** S. 105 substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 21, [Sch. 1 para.7](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#) (subject to art. 4)

#### [106] <sup>F55</sup> **Planning obligations.**

- (1) Any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation (referred to in this section and sections 106A and 106B as “a planning obligation”), enforceable to the extent mentioned in subsection (3)—
  - (a) restricting the development or use of the land in any specified way;
  - (b) requiring specified operations or activities to be carried out in, on, under or over the land;
  - (c) requiring the land to be used in any specified way; or
  - (d) requiring a sum or sums to be paid to the authority on a specified date or dates or periodically.
- (2) A planning obligation may—
  - (a) be unconditional or subject to conditions;
  - (b) impose any restriction or requirement mentioned in subsection (1)(a) to (c) either indefinitely or for such period or periods as may be specified; and
  - (c) if it requires a sum or sums to be paid, require the payment of a specified amount or an amount determined in accordance with the instrument by which the obligation is entered into and, if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period.
- (3) Subject to subsection (4) a planning obligation is enforceable by the authority identified in accordance with subsection (9)(d)—
  - (a) against the person entering into the obligation; and
  - (b) against any person deriving title from that person.
- (4) The instrument by which a planning obligation is entered into may provide that a person shall not be bound by the obligation in respect of any period during which he no longer has an interest in the land.

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- (5) A restriction or requirement imposed under a planning obligation is enforceable by injunction.
- (6) Without prejudice to subsection (5), if there is a breach of a requirement in a planning obligation to carry out any operations in, on, under or over the land to which the obligation relates, the authority by whom the obligation is enforceable may—
  - (a) enter the land and carry out the operations; and
  - (b) recover from the person or persons against whom the obligation is enforceable any expenses reasonably incurred by them in doing so.
- (7) Before an authority exercise their power under subsection (6)(a) they shall give not less than twenty-one days' notice of their intention to do so to any person against whom the planning obligation is enforceable.
- (8) Any person who wilfully obstructs a person acting in the exercise of a power under subsection (6)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) A planning obligation may not be entered into except by an instrument executed as a deed which—
  - (a) states that the obligation is a planning obligation for the purposes of this section;
  - (b) identifies the land in which the person entering into the obligation is interested;
  - (c) identifies the person entering into the obligation and states what his interest in the land is; and
  - (d) identifies the local planning authority by whom the obligation is enforceable.
- (10) A copy of any such instrument shall be given to the authority so identified.
- (11) A planning obligation shall be a local land charge and for the purposes of the <sup>M22</sup>Local Land Charges Act 1975 the authority by whom the obligation is enforceable shall be treated as the originating authority as respects such a charge.
- (12) Regulations may provide for the charging on the land of—
  - (a) any sum or sums required to be paid under a planning obligation; and
  - (b) any expenses recoverable by a local planning authority under subsection (6)(b),and this section and sections 106A and 106B shall have effect subject to any such regulations.
- (13) In this section “specified” means specified in the instrument by which the planning obligation is entered into and in this section and section 106A “land” has the same meaning as in the <sup>M23</sup>Local Land Charges Act 1975.]

#### Textual Amendments

**F55** Ss. 106-106B substituted for s. 106 (25.10.1991 so far as substituting the new s. 106, 25.11.1991 for certain purposes and otherwise 9.11.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 12\(1\)](#) (with s. 84(5)); S.I. 1991/2272, [art. 3\(1\)\(a\)](#); S.I. 1991/2728, [art. 2](#); S.I. 1992/2831, [art. 2](#)

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

- C29** S. 106 modified (1.4.1996) by 1994 c. 19, s. 66(7), **Sch. 17 para. 15(2)(b)** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 6(3), **Sch. 5**
- C30** S. 106: 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**

- M22** 1975 c. 76.  
**M23** 1975 c. 76.

### [<sup>F56</sup> **106A Modification and discharge of planning obligations.**

- (1) A planning obligation may not be modified or discharged except—
  - (a) by agreement between the authority by whom the obligation is enforceable and the person or persons against whom the obligation is enforceable; or
  - (b) in accordance with this section and section 106B.
- (2) An agreement falling within subsection (1)(a) shall not be entered into except by an instrument executed as a deed.
- (3) A person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to the local planning authority by whom the obligation is enforceable for the obligation—
  - (a) to have effect subject to such modifications as may be specified in the application; or
  - (b) to be discharged.
- (4) In subsection (3) “the relevant period” means—
  - (a) such period as may be prescribed; or
  - (b) if no period is prescribed, the period of five years beginning with the date on which the obligation is entered into.
- (5) An application under subsection (3) for the modification of a planning obligation may not specify a modification imposing an obligation on any other person against whom the obligation is enforceable.
- (6) Where an application is made to an authority under subsection (3), the authority may determine—
  - (a) that the planning obligation shall continue to have effect without modification;
  - (b) if the obligation no longer serves a useful purpose, that it shall be discharged; or
  - (c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.
- (7) The authority shall give notice of their determination to the applicant within such period as may be prescribed.
- (8) Where an authority determine that a planning obligation shall have effect subject to modifications specified in the application, the obligation as modified shall be enforceable as if it had been entered into on the date on which notice of the determination was given to the applicant.

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- (9) Regulations may make provision with respect to—
- (a) the form and content of applications under subsection (3);
  - (b) the publication of notices of such applications;
  - (c) the procedures for considering any representations made with respect to such applications; and
  - (d) the notices to be given to applicants of determinations under subsection (6).
- (10) Section 84 of the <sup>M24</sup>Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land) does not apply to a planning obligation.]

#### Textual Amendments

**F56** S. 106- 106B substituted for s. 106 (25.10.1991 so far as substituting the new s. 106, 25.11.1991 for certain purposes and otherwise 9.11.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 12\(1\)](#); [S.I. 1991/2272, art. 3\(1\)\(a\)](#); [S.I. 1991/2728, art. 2](#); [S.I. 1992/2831, art. 2](#)

#### Marginal Citations

**M24** 1925 c. 20.

### 106B <sup>F57</sup>Appeals.

- (1) Where a local planning authority—
- (a) fail to give notice as mentioned in section 106A(7); or
  - (b) determine that a planning obligation shall continue to have effect without modification,
- the applicant may appeal to the Secretary of State.
- (2) For the purposes of an appeal under subsection (1)(a), it shall be assumed that the authority have determined that the planning obligation shall continue to have effect without modification.
- (3) An appeal under this section shall be made by notice served within such period and in such manner as may be prescribed.
- (4) Subsections (6) to (9) of section 106A apply in relation to appeals to the Secretary of State under this section as they apply in relation to applications to authorities under that section.
- (5) Before determining the appeal the Secretary of State shall, if either the applicant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (6) The determination of an appeal by the Secretary of State under this section shall be final.
- (7) Schedule 6 applies to appeals under this section.

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### Textual Amendments

**F57** Ss. 106-106B substituted for s. 106 (25.10.1991 so far as substituting the new s. 106, 25.11.1991 for certain purposes and otherwise 9.11.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 12\(1\)](#); [S.I. 1991/2272, art. 3\(1\)\(a\)](#); [S.I. 1991/2728, art.2](#); [S.I. 1992/2831, art. 2](#)

VALID FROM 01/03/2010

### [<sup>F58</sup>106C Legal challenges relating to development consent obligations

- (1) A court may entertain proceedings for questioning a failure by the Secretary of State or the Infrastructure Planning Commission to give notice as mentioned in section 106A(7) only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed during the period of 6 weeks beginning with the day on which the period prescribed under section 106A(7) ends.
- (2) A court may entertain proceedings for questioning a determination by the Secretary of State or the Infrastructure Planning Commission that a planning obligation shall continue to have effect without modification only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed during the period of 6 weeks beginning with the day on which notice of the determination is given under section 106A(7).]

### Textual Amendments

**F58** S. 106C inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), [ss. 174\(5\)](#), 241 (with s. 226); [S.I. 2010/101, art. 3\(k\)](#) (with [art. 6](#))



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