



Town and Country Planning Act 1990

1990 CHAPTER 8

PART III

CONTROL OVER DEVELOPMENT

Determination of applications

70 Determination of applications: general considerations.

- (1) Where an application is made to a local planning authority for planning permission—
- ^{F1}(a) subject to [^{F2}section 62D(5) and] sections [^{F3}90B,] 91 and 92, they may grant planning permission, either unconditionally or subject to such conditions as they think fit; or
 - ^{F1}(b) they may refuse planning permission.
- [^{F4}(1A) Where an application is made to a local planning authority for permission in principle—
- (a) they may grant permission in principle; or
 - (b) they may refuse permission in principle.]
- (2) In dealing with [^{F5}an application for planning permission or permission in principle] the authority shall have regard [^{F6}to—
- (a) the provisions of the development plan, so far as material to the application,
 - [^{F7}(aza) a post-examination draft neighbourhood development plan, so far as material to the application,]
 - [^{F8}(aa) any considerations relating to the use of the Welsh language, so far as material to the application;]
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.]
- [^{F9}(2ZZA) The authority must determine an application for technical details consent in accordance with the relevant permission in principle.

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This is subject to subsection (2ZZC).

(2ZZB) An application for technical details consent is an application for planning permission that—

- (a) relates to land in respect of which permission in principle is in force,
- (b) proposes development all of which falls within the terms of the permission in principle, and
- (c) particularises all matters necessary to enable planning permission to be granted without any reservations of the kind referred to in section 92.

(2ZZC) Subsection (2ZZA) does not apply where—

- (a) the permission in principle has been in force for longer than a prescribed period, and
- (b) there has been a material change of circumstances since the permission came into force.

“Prescribed” means prescribed for the purposes of this subsection in a development order.]

[^{F10}(2ZA) Subsection (2)(aa) applies only in relation to Wales.]

[^{F11}(2A) [^{F12}Subsections (1A), (2)(b) and (2ZZA) to (2ZZC) do not] apply in relation to Wales.]

(3) Subsection (1) has effect subject to [^{F13}section 65] and to the following provisions of this Act, to sections 66, 67, 72 and 73 of the ^{M1}Planning (Listed Buildings and Conservation Areas) Act 1990 and to section 15 of the ^{M2}Health Services Act 1976.

[^{F14}(3B) For the purposes of subsection (2)(aza) (but subject to subsections (3D) and (3E)) a draft neighbourhood development plan is a “post-examination draft neighbourhood development plan” if—

- (a) a local planning authority have made a decision under paragraph 12(4) of Schedule 4B with the effect that a referendum or referendums are to be held on the draft plan under that Schedule,
- (b) the Secretary of State has directed under paragraph 13B(2)(a) of that Schedule that a referendum or referendums are to be held on the draft plan under that Schedule,
- (c) an examiner has recommended under paragraph 13(2)(a) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (examination of modified plan) that a local planning authority should make the draft plan, or
- (d) an examiner has recommended under paragraph 13(2)(b) of that Schedule that a local planning authority should make the draft plan with modifications.

(3C) In the application of subsection (2)(aza) in relation to a post-examination draft neighbourhood development plan within subsection (3B)(d), the local planning authority must take the plan into account as it would be if modified in accordance with the recommendations.

(3D) A draft neighbourhood development plan within subsection (3B)(a) or (b) ceases to be a post-examination draft neighbourhood development plan for the purposes of subsection (2)(aza) if—

- (a) section 38A(4)(a) (duty to make plan) or (6) (cases in which duty does not apply) of the Planning and Compulsory Purchase Act 2004 applies in relation to the plan,

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- (b) section 38A(5) (power to make plan) of that Act applies in relation to the plan and the plan is made by the local planning authority,
 - (c) section 38A(5) of that Act applies in relation to the plan and the local planning authority decide not to make the plan,
 - (d) a single referendum is held on the plan and half or fewer of those voting in the referendum vote in favour of the plan, or
 - (e) two referendums are held on the plan and half or fewer of those voting in each of the referendums vote in favour of the plan.
- (3E) A draft neighbourhood development plan within subsection (3B)(c) or (d) ceases to be a post-examination draft neighbourhood development plan for the purposes of subsection (2)(a) if—
- (a) the local planning authority make the draft plan (with or without modifications), or
 - (b) the local planning authority decide not to make the draft plan.
- (3F) The references in subsection (3B) to Schedule 4B are to that Schedule as applied to neighbourhood development plans by section 38A(3) of the Planning and Compulsory Purchase Act 2004.]

[^{F15}(4) In this section—

“local finance consideration” means—

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;

“relevant authority” means—

- (a) a district council;
- (b) a county council in England;
- (c) the Mayor of London;
- (d) the council of a London borough;
- (e) a Mayoral development corporation;
- (f) an urban development corporation;
- (g) a housing action trust;
- (h) the Council of the Isles of Scilly;
- (i) the Broads Authority;
- (j) a National Park authority in England;
- (k) the Homes and Communities Agency; or
- (l) a joint committee established under section 29 of the Planning and Compulsory Purchase Act 2004.]

Textual Amendments

- F1** S. 70(1)(a)(b): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853, reg. 2\(1\)](#), [Sch. 1](#)
- F2** Words in s. 70(1)(a) inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\), s. 58\(2\)\(b\)\(4\)\(b\)](#), [Sch. 4 para. 5](#); [S.I. 2016/52, art. 3\(e\)](#)

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- F3** Word in s. 70(1)(a) inserted (26.12.2023 for specified purposes) by [Levelling-up and Regeneration Act 2023 \(c. 55\), ss. 114\(5\), 255\(3\)](#) (with s. 247)
- F4** S. 70(1A) inserted (12.7.2016) by [Housing and Planning Act 2016 \(c. 22\), ss. 150\(3\)\(a\), 216\(2\)\(c\)](#)
- F5** Words in s. 70(2) substituted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 11\(2\); S.I. 2016/733, reg. 3\(d\)](#)
- F6** Words in s. 70(2) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\), ss. 143\(2\), 240\(1\)\(i\)](#) (with ss. 143(5), 144)
- F7** S. 70(2)(aza) inserted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\), ss. 1\(2\), 46\(1\); S.I. 2017/767, reg. 2\(a\)](#)
- F8** S. 70(2)(aa) inserted (6.9.2015 for specified purposes, 4.1.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\), ss. 31\(2\), 58\(2\)\(b\)\(4\)\(b\)](#) (with s. 31(4)); S.I. 2015/1987, art. 3(e)
- F9** S. 70(2ZZA)-(2ZZC) inserted (12.7.2016) by [Housing and Planning Act 2016 \(c. 22\), ss. 150\(3\)\(b\), 216\(2\)\(c\)](#)
- F10** S. 70(2ZA) inserted (6.9.2015 for specified purposes, 4.1.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\), ss. 31\(3\), 58\(2\)\(b\)\(4\)\(b\)](#) (with s. 31(4)); S.I. 2015/1987, art. 3(e)
- F11** S. 70(2A) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\), ss. 143\(3\), 240\(1\)\(i\)](#) (with ss. 143(5), 144)
- F12** Words in s. 70(2A) substituted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 11\(3\); S.I. 2016/733, reg. 3\(d\)](#)
- F13** 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](#)
- F14** S. 70(3B)-(3F) inserted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\), ss. 1\(3\), 46\(1\); S.I. 2017/767, reg. 2\(a\)](#)
- F15** S. 70(4) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\), ss. 143\(4\), 240\(1\)\(i\)](#) (with ss. 143(5), 144)

Modifications etc. (not altering text)

- C1** S. 70 modified (1.4.1996) by [1994 c. 19, s. 20\(3\), Sch. 5 Pt. III para. 19](#) (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, [art. 4.](#), Sch. 2
S. 70 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, [Sch. 2 Pt. I](#)
S. 70 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, [Sch. 2 Pt. II](#)
- C2** S. 70(1) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\), reg. 1\(2\), Sch. 7 para. 1\(1\)\(d\)](#) (with regs. 1(3), 47)
- C3** S. 70(1)(2) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Application of Enactments\) \(Wales\) Order 2016 \(S.I. 2016/54\), arts. 1, 3\(1\)\(d\)\(e\)](#)
- C4** S. 70(2) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\), reg. 1\(2\), Sch. 7 para. 1\(1\)\(e\)](#) (with regs. 1(3), 47)

Marginal Citations

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

[^{F17}70A ^{F16}[^{F17}Power of local planning authority to decline to determine applications.][Power to decline to determine subsequent application.]

- (1) A local planning authority may decline to determine an application for planning permission for the development of any land if—
- (a) within the period of two years ending with the date on which the application is received, the [^{F18}Welsh Ministers have refused a similar application made to them under section 62D, 62F, 62M or 62O, or referred to them under section 77, or have] dismissed an appeal against the refusal of a similar application; and

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- (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.]
- [^{F17}(1) A local planning authority may decline to determine a relevant application if—
- (a) any of the conditions in subsections (2) to (4) is satisfied, and
 - (b) the authority think there has been no significant change in the relevant considerations since the relevant event.
- (2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application [^{F19}made to the Secretary of State under section 62A or] referred to him under section 76A or 77.
- (3) The condition is that in that period the Secretary of State has dismissed an appeal—
- (a) against the refusal of a similar application, or
 - (b) under section 78(2) in respect of a similar application.
- (4) The condition is that—
- (a) in that period the local planning authority have refused more than one similar application, and
 - (b) there has been no appeal to the Secretary of State against any such refusal [^{F20}or, if there has been such an appeal, it has been withdrawn].
- [^{F21}(4A) A local planning authority in England may also decline to determine a relevant application if—
- (a) the condition in subsection (4B) is satisfied, and
 - (b) the authority think there has been no significant change in the relevant considerations since the relevant event.
- (4B) The condition is that—
- (a) in the period of two years ending with the date on which the application mentioned in subsection (4A) is received the Secretary of State has refused a similar application,
 - (b) the similar application was an application deemed to have been made by section 177(5), and
 - (c) the land to which the application mentioned in subsection (4A) and the similar application relate is in England.]
- (5) A relevant application is—
- (a) an application for planning permission for the development of any land;
 - [^{F22}(aa) an application for permission in principle for the development of any land;]
 - (b) an application for approval in pursuance of [^{F23}section 60(1A), (2)] [^{F24}, (2A) or (2B)].

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- (6) The relevant considerations are—
- (a) the development plan so far as material to the application;
 - (b) any other material considerations.
- (7) The relevant event is—
- (a) for the purposes of subsections (2) [^{F25}, (4) and (4B)] the refusal of the similar application;
 - (b) for the purposes of subsection (3) the dismissal of the appeal.
- (8) [^{F26}Subject to subsection (9), an application 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.]
- [^{F27}(9) An application within subsection (5)(a) or (b) is not similar to an earlier application within subsection (5)(aa).]

Textual Amendments

- F16** Ss. 70A, 70B substituted (24.8.2005 for E. in so far as relates to s. 70A, 6.4.2009 for E. in so far as relates to s. 70B, and not in force for W.) for s. 70A by [Planning and Compulsory Purchase Act 2004 \(c. 5\), ss. 43\(1\), 121 \(with s. 111\); S.I. 2005/2081, art. 2 \(subject to savings in art. 4\); S.I. 2009/384, art. 2\(a\)](#)
- F17** Ss. 70A, 70B substituted (24.8.2005 for E. in so far as relates to s. 70A, 6.4.2009 for E. in so far as relates to s. 70B, and not in force for W.) for s. 70A by [Planning and Compulsory Purchase Act 2004 \(c. 5\), ss. 43\(1\), 121 \(with s. 111\); S.I. 2005/2081, art. 2 \(subject to savings in art. 4\); S.I. 2009/384, art. 2\(a\)](#)
- F18** Words in s. 70A(1)(a) substituted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\), s. 58\(2\)\(b\)\(4\)\(b\), Sch. 4 para. 6; S.I. 2016/52, art. 3\(e\)](#)
- F19** Words in s. 70A(2) inserted (9.5.2013 for E. for specified purposes, 1.10.2013 for specified purposes, 1.10.2014 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\), s. 35\(1\), Sch. 1 para. 6; S.I. 2013/1124, art. 2; S.I. 2013/2143, art. 2\(1\)\(a\); S.I. 2014/1531, art. 2](#)
- F20** Words in s. 70A(4)(b) inserted (6.4.2009 for E. and otherwise prosp.) by [Planning Act 2008 \(c. 29\), ss. 187, 241, Sch. 7 para. 2\(2\) \(with s. 226\); S.I. 2009/400, art. 5](#)
- F21** S. 70A(4A)(4B) inserted (6.4.2009) by [Planning Act 2008 \(c. 29\), ss. 187, 241, Sch. 7 para. 2\(3\) \(with s. 226\); S.I. 2009/400, art. 3](#)
- F22** S. 70A(5)(aa) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 12\(2\); S.I. 2016/733, reg. 3\(d\)](#)
- F23** Words in s. 70A(5)(b) substituted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), ss. 152\(4\), 216\(3\); S.I. 2016/733, reg. 3\(e\)](#)
- F24** Words in s. 70A(5) inserted (25.4.2013) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 4\(2\), 35\(2\)](#)
- F25** Words in s. 70A(7)(a) substituted (6.4.2009) by [Planning Act 2008 \(c. 29\), ss. 187, 241, Sch. 7 para. 2\(4\) \(with s. 226\); S.I. 2009/400, art. 3](#)
- F26** Words in s. 70A(8) substituted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 12\(3\); S.I. 2016/733, reg. 3\(d\)](#)
- F27** S. 70A(9) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 12\(4\); S.I. 2016/733, reg. 3\(d\)](#)

Modifications etc. (not altering text)

- C5** 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\(b\)\)](#)

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- C6** 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](#)
- C7** S. 70A(1)(2) applied (W.) (with modifications) (1.3.2016) by [The Developments of National Significance \(Application of Enactments\) \(Wales\) Order 2016 \(S.I. 2016/54\)](#), arts. 1, [3\(1\)\(f\)\(g\)](#)
- C8** S. 70A(1) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\)](#), reg. 1(2), [Sch. 7 para. 1\(1\)\(f\)](#) (with regs. 1(3), 47)
- C9** S. 70A(2) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\)](#), reg. 1(2), [Sch. 7 para. 1\(1\)\(g\)](#) (with regs. 1(3), 47)

[^{F28}70B Power to decline to determine overlapping application

- (1) A local planning authority may decline to determine an application for planning permission^[^{F29}, or permission in principle,] for the development of any land which is
 - ^{F30}(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 [^{F31}62A,] 76A or 77 or on an appeal under section 78 and the Secretary of State has not issued his decision.
- (4) The condition is that a similar application—
 - (a) has been granted by the local planning authority,
 - (b) has been refused by them, or
 - (c) has not been determined by them within the determination period,and the time within which an appeal could be made to the Secretary of State under section 78 has not expired.

[A local planning authority in England may also decline to determine an application^{F32}(4A) for planning permission^[^{F33}, or permission in principle,] 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^{F34} ... is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.
 - (6) The determination period is—
 - (a) the period prescribed by the development order for the determination of the application, or
 - (b) such longer period as the applicant and the authority have agreed for the determination of the application.

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[If a local planning authority exercise their power under subsection (1)(a) to decline to^{F35}(7) 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

- F28** 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\(a\)](#)
- F29** Words in s. 70B(1) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), [s. 216\(3\)](#), [Sch. 12 para. 13\(2\)](#); [S.I. 2016/733](#), [reg. 3\(d\)](#)
- F30** 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](#)
- F31** Word in s. 70B(3) inserted (9.5.2013 for E. for specified purposes, 1.10.2013 for specified purposes, 1.10.2014 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), [s. 35\(1\)](#), [Sch. 1 para. 7](#); [S.I. 2013/1124](#), [art. 2](#); [S.I. 2013/2143](#), [art. 2\(1\)\(a\)](#); [S.I. 2014/1531](#), [art. 2](#)
- F32** 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](#)
- F33** Words in s. 70B(4A) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), [s. 216\(3\)](#), [Sch. 12 para. 13\(2\)](#); [S.I. 2016/733](#), [reg. 3\(d\)](#)
- F34** Words in s. 70B(5) omitted (13.7.2016) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), [s. 216\(3\)](#), [Sch. 12 para. 13\(3\)](#); [S.I. 2016/733](#), [reg. 3\(d\)](#)
- F35** 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](#)

[^{F36}70C Power to decline to determine retrospective application

- (1) A local planning authority^{F37}... may decline to determine an application for planning permission [^{F38}or permission in principle] for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.
- (2) For the purposes of the operation of this section in relation to any particular application for planning permission [^{F38}or permission in principle], a “pre-existing enforcement notice” is an enforcement notice issued before the application was received by the local planning authority.]

Textual Amendments

- F36** S. 70C inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 123\(2\)](#), [240\(2\)](#) (with [s. 144](#)); [S.I. 2012/628](#), [art. 8\(b\)](#) (with [arts. 9](#), [12](#), [13](#), [16](#), [18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), [arts. 2](#), [4](#))
- F37** Words in s. 70C(1) omitted (6.9.2015 for specified purposes, 16.3.2016 in so far as not already in force) by virtue of [Planning \(Wales\) Act 2015 \(anaw 4\)](#), [ss. 32](#), [58\(2\)\(b\)\(4\)\(b\)](#); [S.I. 2016/52](#), [art. 5\(b\)](#) (with [art. 11](#))
- F38** Words in s. 70C(1)(2) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), [s. 216\(3\)](#), [Sch. 12 para. 14](#); [S.I. 2016/733](#), [reg. 3\(d\)](#)

Status: Point in time view as at 26/12/2023.

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[^{F39}70D Power to decline to determine applications in cases of earlier non-implementation etc

- (1) A local planning authority in England may decline to determine an application for planning permission for the development of any land if—
 - (a) the development is development of a prescribed description,
 - (b) the application is made by—
 - (i) a person who has previously made an application for planning permission for development of land all or any part of which is in the local planning authority’s area at the time the current application is made (“the earlier application”), or
 - (ii) a person who has a connection of a prescribed description with the development to which the earlier application related (“the earlier development”),
 - (c) the earlier development was of a description prescribed under paragraph (a), and
 - (d) subsection (2) or (3) applies to the earlier development.
- (2) This subsection applies to the earlier development if the earlier development has not begun.
- (3) This subsection applies to the earlier development if—
 - (a) the earlier development has begun but has not been substantially completed, and
 - (b) the local planning authority is of the opinion that the carrying out of the earlier development has been unreasonably slow.
- (4) In forming an opinion as to whether the carrying out of the earlier development has been unreasonably slow, the local planning authority must have regard to all the circumstances, including in particular—
 - (a) in a case where a commencement notice under section 93G has been given, whether the development—
 - (i) was begun by the date specified in the notice, and
 - (ii) was carried out in accordance with any timescales specified in it,
 - (b) whether a completion notice was served in respect of the earlier development under section 93H or (before the coming into force of section 93H) section 94 or 96 and, if so, whether the permission granted became invalid under section 93J or (as the case may be) section 95, and
 - (c) any prescribed circumstances.
- (5) Where a person applies to a local planning authority for planning permission for development of a description prescribed under subsection (1)(a), the authority may by notice require the person to provide such information, being information of a prescribed description, as the authority may specify in the notice for the purpose of its functions under this section.
- (6) If a person does not comply with a notice under subsection (5) within the period of 21 days beginning with the day on which the notice was served, the local planning authority may decline to determine the application.
- (7) If a person to whom a notice under subsection (5) is given—
 - (a) makes a statement purporting to comply with the notice which the person knows to be false or misleading in a material particular, or

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- (b) recklessly makes such a statement which is false or misleading in a material particular,
the person is guilty of an offence.
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine.
- (9) Subsection (1) does not permit a local planning authority to decline to determine an application for planning permission to which section 73, 73A or 73B applies.]

Textual Amendments

F39 S. 70D inserted (26.12.2023 for specified purposes) by [Levelling-up and Regeneration Act 2023](#) (c. 55), [ss. 113\(2\), 255\(3\)](#) (with s. 247)

71 Consultations in connection with determinations under s. 70.

- [^{F40}(1) A development order may provide that a local planning authority shall not determine an application for planning permission [^{F41}or permission in principle] before the end of such period as may be prescribed.
- (2) A development order may require a local planning authority—
 - (a) to take into account in determining such an application such representations, made within such period, as may be prescribed; and
 - (b) to give to any person whose representations have been taken into account such notice as may be prescribed of their decision.
- [In subsections (1) and (2) references to [^{F43}—
- ^{F42}(2ZA) (a) an application for consent, agreement or approval as mentioned in section 61DB(2), and
- (b)] an application for planning permission include references to an application for approval under section 61L(2).]
- (2A) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.]
- (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.
- [^{F44}(3A) Subsection (3) does not apply in relation to planning permission granted by [^{F45}a Mayoral development order or] a neighbourhood development order.]
- (4) In this section—
 - [^{F46}“ prescribed ” means prescribed by a development order]
 - “site licence” means a licence under Part 1 of the ^{M3}Caravan Sites and Control of Development Act 1960 authorising the use of land as a caravan site [^{F47}or under Part 2 of the Mobile Homes (Wales) Act 2013 authorising the use of the land as a site for mobile homes (within the meaning of that Act)].

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Textual Amendments

- F40** 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](#)
- F41** Words in s. 71(1) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 12 para. 15](#); S.I. 2016/733, [reg. 3\(d\)](#)
- F42** S. 71(2ZA) inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), [Sch. 12 para. 8\(2\)](#); S.I. 2012/57, [art. 4\(1\)\(h\)](#) (with arts. 6, 7, 9-11); S.I. 2012/628, [art. 8\(a\)](#) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, [3\(a\)](#) (with [art. 5](#)) (as amended (6.4.2013) by S.I. 2013/797, [art. 4](#))
- F43** Words in s. 71(2ZA) inserted (12.2.2015 for specified purposes, otherwise prosp.) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(5)(d), [Sch. 4 para. 9\(2\)](#)
- F44** S. 71(3A) inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), [Sch. 12 para. 8\(3\)](#); S.I. 2012/57, [art. 4\(1\)\(h\)](#) (with arts. 6, 7, 9-11); S.I. 2012/628, [art. 8\(a\)](#) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, [3\(a\)](#) (with [art. 5](#)) (as amended (6.4.2013) by S.I. 2013/797, [art. 4](#))
- F45** Words in s. 71(3A) inserted (12.2.2015 for specified purposes, otherwise prosp.) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(5)(d), [Sch. 4 para. 9\(3\)](#)
- F46** 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](#)
- F47** Words in s. 71(4) inserted (5.11.2013) by [Mobile Homes \(Wales\) Act 2013 \(anaw 6\)](#), s. 64(1), [Sch. 4 para. 6\(2\)](#) (with [Sch. 5 para. 7](#)) (this amendment is to be treated as not having effect until 1.10.2014 by virtue of S.I. 2014/11, [art. 3\(2\)](#))

Modifications etc. (not altering text)

- C10** S. 71(1) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\)](#), [reg. 1\(2\)](#), [Sch. 7 para. 1\(1\)\(h\)](#) (with [regs. 1\(3\)](#), 47)
- C11** S. 71(1)(2) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Application of Enactments\) \(Wales\) Order 2016 \(S.I. 2016/54\)](#), arts. 1, [3\(1\)\(h\)\(i\)](#)
- C12** S. 71(2) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\)](#), [reg. 1\(2\)](#), [Sch. 7 para. 1\(1\)\(i\)](#) (with [regs. 1\(3\)](#), 47)

Marginal Citations

- M3** 1960 c. 62.

[^{F48}71ZADecision notices: Wales

- (1) A development order may include provision as to—
 - (a) the form of decision notices,
 - (b) the manner in which decision notices are to be given, and
 - (c) the particulars to be contained in decision notices.
- (2) A decision notice must specify any plans or other documents in accordance with which the development to which it relates is to be carried out.
- (3) Where the decision notice relating to a development specifies any plans or other documents in accordance with which the development is to be carried out, the planning permission relating to the development is deemed to be granted subject to the condition

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that the development must be carried out in accordance with those plans or other documents.

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

Textual Amendments

F48 S. 71ZA inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes, 16.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 33(2), 58(2)(b)(4)(b)**; [S.I. 2016/52](#), [arts. 3\(b\), 5\(b\)](#) (with [art. 12](#))

[^{F49}71ZB] Notification of initiation of development and display of notice: Wales

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

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Textual Amendments

F49 S. 71ZB inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes, 16.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 34, 58(2)(b)(4)(b)**; [S.I. 2016/52](#), **arts. 3(b), 5(b)** (with [art. 12](#))

^{F50}71A Assessment of environmental effects.

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Textual Amendments

F50 S. 71A omitted (26.12.2023) by virtue of [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 165(2), 255(5)** (with [s. 247](#))

72 Conditional grant of planning permission.

- (1) Without prejudice to the generality of section 70(1), conditions may be imposed on the grant of planning permission under that section—
 - (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission;
 - (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.
- (2) A planning permission granted subject to such a condition as is mentioned in subsection (1)(b) is in this Act referred to as “planning permission granted for a limited period”.
- (3) Where—
 - (a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition; and
 - (b) any building or other operations are commenced after the time so specified, the commencement and carrying out of those operations do not constitute development for which that permission was granted.
- (4) Subsection (3)(a) does not apply to a condition attached to the planning permission by or under section 91 or 92.
- (5) Part I of Schedule 5 shall have effect for the purpose of making special provision with respect to the conditions which may be imposed on the grant of planning permission for development consisting of the winning and working of minerals [^{F51}or involving the depositing of refuse or waste materials], and subsection (2) has effect subject to paragraph 1(6)(a) of that Schedule.

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[^{F52}(6) See also section 100ZA, which makes provision about restrictions on the power to impose conditions by virtue of this section on a grant of planning permission in relation to land in England.]

Textual Amendments

F51 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)

F52 S. 72(6) inserted (1.10.2018) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), s. 46(1), [Sch. 3 para. 3](#); S.I. 2018/567, [reg. 3\(b\)](#)

Modifications etc. (not altering text)

C13 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](#)

C14 S. 72 applied (7.7.2014) by [The East Anglia ONE Offshore Wind Farm Order 2014 \(S.I. 2014/1599\)](#), [arts. 1, 35\(1\)](#) (with [arts. 37, 38, Sch. 9 para. 19](#))

C15 S. 72(1) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\)](#), [reg. 1\(2\)](#), [Sch. 7 para. 1\(1\)\(j\)](#) (with [regs. 1\(3\), 47](#))

C16 S. 72(1) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Application of Enactments\) \(Wales\) Order 2016 \(S.I. 2016/54\)](#), [arts. 1, 3\(1\)\(j\)](#)

C17 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.

[^{F53}(2A) See also section 100ZA, which makes provision about restrictions on the power to impose conditions under subsection (2) on a grant of planning permission in relation to land in England.]

[^{F54}(2E) Nothing in this section authorises the disapplication of the condition under section 90B (condition relating to development progress reports in England).]

[^{F55}(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.
- [^{F56}(5) Planning permission must not be granted under this section [^{F57}for the development of land in England] to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which—
- (a) a development must be started;
 - (b) an application for approval of reserved matters (within the meaning of section 92) must be made.]

Textual Amendments

- F53** S. 73(2A) inserted (1.10.2018) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), s. 46(1), **Sch. 3 para. 4**; S.I. 2018/567, reg. 3(b)
- F54** S. 73(2E) inserted (26.12.2023 for specified purposes) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), **ss. 114(6)**, 255(3) (with s. 247)
- F55** S. 73(3) repealed (6.8.2004 for certain purposes and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 42(2), 120, 121, **Sch. 9** (with s. 111); S.I. 2004/2097, **art. 2**
- F56** S. 73(5) inserted (24.8.2005 for E and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 51(3)**, 121 (with s. 111); S.I. 2005/2081, **art. 2** (subject to savings in art. 4)
- F57** Words in s. 73(5) inserted (6.9.2015 for specified purposes, 16.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 35(7)**, 58(2)(b)(4)(b); S.I. 2016/52, **art. 5(b)** (with art. 13)

Modifications etc. (not altering text)

- C18** 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
- C19** 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**
- C20** S. 73 applied (16.8.2012) by [The Hinkley Point Harbour Empowerment Order 2012 \(S.I. 2012/1914\)](#), arts. 1(1), **18(4)-(6)** (with arts. 34, 35, 37, 40)
- C21** S. 73(2) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\)](#), reg. 1(2), **Sch. 7 para. 1(1)(k)** (with regs. 1(3), 47)
- C22** S. 73(2) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Application of Enactments\) \(Wales\) Order 2016 \(S.I. 2016/54\)](#), arts. 1, **3(1)(k)**

[^{F58}73A Planning permission for development already carried out.

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

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

Textual Amendments

F58 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)

- C23** 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](#)
- C24** S. 73A applied (16.8.2012) by [The Hinkley Point Harbour Empowerment Order 2012 \(S.I. 2012/1914\)](#), arts. 1(1), [18\(4\)-\(6\)](#) (with arts. 34, 35, 37, 40)
- C25** S. 73A(1) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Application of Enactments\) \(Wales\) Order 2016 \(S.I. 2016/54\)](#), arts. 1, [3\(1\)\(I\)](#)
- C26** S. 73A(1) applied (with modifications) (W.) (1.3.2016) by [The Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\)](#), reg. 1(2), [Sch. 7 para. 1\(1\)\(I\)](#) (with regs. 1(3), 47)

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^[F59], or permission in principle,] 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 [^{F60}or permission in principle] by the local planning authority, either indefinitely or during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
 - (b) for authorising the local planning authority, in such cases and subject to such conditions as may be prescribed by the order or by directions given by the Secretary of State under it, to grant planning permission^[F61], or permission in principle,] for development which does not accord with the provisions of the development plan;
 - (c) for requiring that, before planning permission [^{F62}or permission in principle] 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 [^{F63}or permission in principle], 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 [^{F64}or permission in principle] made to the authority, including information as to the manner in which any such application has been dealt with.

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[^{F65}(1ZA) In subsection (1)—

- (a) in paragraph (c) the reference to planning permission for any development includes a reference to [^{F66}—
 - (i) a consent, agreement or approval as mentioned in section 61DB(2), and
 - (ii) an approval under section 61L(2), and
- (b) in paragraph (f) references to applications for planning permission include references to [^{F67}—
 - (i) applications for consent, agreement or approval as mentioned in section 61DB(2), and
 - (ii) applications for approvals under section 61L(2).

[Provision may be made by a development order—

- ^{F68}(1A) (a) for determining the persons to whom applications under this Act are to be sent; and
- (b) for requiring persons to whom such applications are sent to send copies to other interested persons.]

[Provision may be made by a development order—

- ^{F69}(1B) (a) for enabling the Mayor of London in prescribed circumstances, and subject to such conditions as may be prescribed, to direct the local planning authority for a [^{F70}London borough—
 - (i) to consult with the Mayor of London before granting or refusing an application for planning permission, or permission in principle, that is an application of a prescribed description, or
 - (ii) to refuse] an application for planning permission[^{F71}, or permission in principle,] of a prescribed description in any particular case;
- (b) for prohibiting a local planning authority to which any such direction is given from implementing the direction in prescribed circumstances or during prescribed periods; and
- (c) for modifying any provision of this Act relating to an appeal against a refusal of planning permission [^{F72}or permission in principle] (and, in particular, any such provision concerning parties or costs) in its application in relation to a refusal in compliance with [^{F73}a direction given by virtue of paragraph (a)(ii).]

^{F74}
...

[In subsection (1B) “prescribed” means—

- ^{F75}(1BA) (a) prescribed by a development order, or
- (b) specified in directions made under a development order by the Secretary of State or the Mayor of London.

(1BB) Matters prescribed under subsection (1B) by a development order may be prescribed by reference to the spatial development strategy, or a development plan document (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004), as it has effect from time to time.]

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

- (a) the development plan, and

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- (b) the spatial development strategy prepared and published under Part VIII of the Greater London Authority Act 1999,
so far as material to the application.]
- (2) Subsection (1) is subject to the provisions of ^{F76}. . . sections 67(7) and 73(1) of the ^{M4}Planning (Listed Buildings and Conservation Areas) Act 1990.]

Textual Amendments

- F59** Words in s. 74(1) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 17\(2\)\(a\)](#); S.I. 2016/733, reg. 3(d)
- F60** Words in s. 74(1)(a) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 17\(2\)\(b\)](#); S.I. 2016/733, reg. 3(d)
- F61** Words in s. 74(1)(b) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 17\(2\)\(c\)](#); S.I. 2016/733, reg. 3(d)
- F62** Words in s. 74(1)(c) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 17\(2\)\(b\)](#); S.I. 2016/733, reg. 3(d)
- F63** Words in s. 74(1)(d) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 17\(2\)\(b\)](#); S.I. 2016/733, reg. 3(d)
- F64** Words in s. 74(1)(f) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 17\(2\)\(b\)](#); S.I. 2016/733, reg. 3(d)
- F65** [S. 74\(1ZA\)](#) inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes) by [Localism Act 2011 \(c. 20\), s. 240\(5\)\(j\), Sch. 12 para. 9](#); S.I. 2012/57, [art. 4\(1\)\(h\)](#) (with arts. 6, 7, 9-11); S.I. 2012/628, [art. 8\(a\)](#) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, [3\(a\)](#) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, [art. 4](#))
- F66** Words in s. 74(1ZA)(a) inserted (12.2.2015 for specified purposes, otherwise prosp.) by [Infrastructure Act 2015 \(c. 7\), s. 57\(5\)\(d\), Sch. 4 para. 10\(a\)](#)
- F67** Words in s. 74(1ZA)(b) inserted (12.2.2015 for specified purposes, otherwise prosp.) by [Infrastructure Act 2015 \(c. 7\), s. 57\(5\)\(d\), Sch. 4 para. 10\(b\)](#)
- F68** [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)
- F69** [S. 74\(1B\)\(1C\)](#) inserted (12.1.2000) by [1999 c. 29, s. 244\(9\)](#) (with Sch. 12 para. 9(1)); S.I. 1999/3434, [art. 2](#)
- F70** Words in s. 74(1B)(a) substituted (12.5.2016) by [Housing and Planning Act 2016 \(c. 22\), ss. 149\(2\)\(a\), 216\(1\)\(d\)](#)
- F71** Words in s. 74(1B)(a) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 17\(3\)\(a\)](#); S.I. 2016/733, reg. 3(d)
- F72** Words in s. 74(1B)(c) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 12 para. 17\(3\)\(b\)](#); S.I. 2016/733, reg. 3(d)
- F73** Words in s. 74(1B)(c) substituted (12.5.2016) by [Housing and Planning Act 2016 \(c. 22\), ss. 149\(2\)\(b\), 216\(1\)\(d\)](#)
- F74** Words in s. 74(1B) omitted (12.5.2016) by virtue of [Housing and Planning Act 2016 \(c. 22\), ss. 149\(2\)\(c\), 216\(1\)\(d\)](#)
- F75** [S. 74\(1BA\)\(1BB\)](#) inserted (12.5.2016) by [Housing and Planning Act 2016 \(c. 22\), ss. 149\(3\), 216\(1\)\(d\)](#)
- F76** Words in s. 74(2) repealed (17.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), ss. 32, 84\(6\), Sch. 7 para. 17, Sch. 19, Pt. 1](#) (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, 2

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Modifications etc. (not altering text)

C27 S. 74(1B)(a) excluded (30.3.2006) by [London Olympic Games and Paralympic Games Act 2006](#) (c. 12), [ss. 5\(4\)\(a\)](#), 40

Marginal Citations

M4 1990 c. 9.

[^{F77}**74A Deemed discharge of planning conditions**

- (1) The Secretary of State may by development order make provision for the deemed discharge of a condition to which this section applies.
- (2) This section applies to a condition which—
 - (a) has been imposed on the grant of planning permission for the development of land in England, and
 - (b) requires the consent, agreement or approval of a local planning authority to any matter.
- (3) Deemed discharge of a condition means that the local planning authority's consent, agreement or approval to any matter as required by the condition is deemed to have been given.
- (4) A development order which makes provision for deemed discharge of a condition must provide that the condition is deemed to be discharged only if—
 - (a) a person (“the applicant”) has applied to the local planning authority for the consent, agreement or approval required by the condition,
 - (b) the period for the authority to give notice of their decision on the application has elapsed without that notice having been given, and
 - (c) the applicant has taken such further steps (if any) as are prescribed under subsection (5).
- (5) The Secretary of State may by development order make provision about the procedure for the deemed discharge of a planning condition and, in particular, provision—
 - (a) allowing or requiring steps to be taken by the applicant or the local planning authority;
 - (b) as to the time at which or period within which a step may or must be taken;
 - (c) as to the time at which the deemed discharge takes effect (including for this to be determined by the applicant, subject to such limitations as may be prescribed);
 - (d) for a time or period within paragraph (b) or (c) to be modified by agreement between the applicant and the local planning authority;
 - (e) as to the form or content of any notice which may or must be given as part of the procedure, and as to the means by which it may or must be given.
- (6) The Secretary of State may by development order provide that provision for deemed discharge of a condition does not apply—
 - (a) in relation to a condition of a prescribed description;
 - (b) in relation to a condition imposed on the grant of planning permission of a prescribed description;
 - (c) in relation to a condition imposed on the grant of planning permission for development of a prescribed description;

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

Textual Amendments

F77 S. 74A inserted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), ss. 29, 57(5)(c)

[^{F78}74B Conditions relating to construction working hours

- (1) This section applies where—
- (a) planning permission has been granted for the development of land in England, other than for the relevant development of a dwellinghouse, and
 - (b) a condition has been imposed on the grant of that permission which specifies the times during which construction activities may be carried out.
- (2) This section also applies where—
- (a) planning permission has been granted for the development of land in England, other than for the relevant development of a dwellinghouse,
 - (b) a condition has been imposed on the grant of that permission which requires the approval by a local planning authority of a document relating to the carrying out of the development,
 - (c) the authority has approved a document of that kind, and
 - (d) the document as approved (the “approved document”) specifies the times during which construction activities may be carried out.
- (3) A person with an interest in the land, or a person acting on behalf of such a person, may make an application to a local planning authority in whose area the land is situated

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for the condition or approved document to be modified in either or both of the ways specified in subsection (4).

- (4) Those ways are—
- (a) to allow construction activities to be carried out for a longer period on a particular day (which may be the whole of that day);
 - (b) to allow construction activities to be carried out for the whole or part of a day on which they would not otherwise be allowed to be carried out.
- (5) The application must—
- (a) be made in writing and sent to the local planning authority using electronic communications in such manner as the authority may specify,
 - (b) give sufficient information to enable the authority to identify the planning permission in respect of which it is made, and
 - (c) give sufficient information to enable the authority to identify the condition or approved document in respect of which it is made.
- (6) The application must specify—
- (a) the date on which the application is sent,
 - (b) the proposed modifications to the condition or approved document,
 - (c) the date from which it is proposed the modifications should take effect,
 - (d) the date at the end of which it is proposed the modifications should cease to have effect, and
 - (e) the times which are specified in the condition or approved document as it has effect when the application is made as times during which construction activities may be carried out.
- (7) The date specified under subsection (6)(c) must not be earlier than the end of the period of 14 days beginning with the day after that on which the application is sent to the local planning authority.
- (8) The date specified under subsection (6)(d) must not be later than 1 April 2021.
- (9) In this section “relevant development of a dwellinghouse” means development—
- (a) of an existing dwellinghouse, or within the curtilage of an existing dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse, and
 - (b) which does not involve a change of use of the dwellinghouse or a change in the number of dwellings in a building.
- (10) For the purposes of subsection (9)—
- “dwellinghouse” does not include a building containing one or more flats or a flat contained within such a building;
 - “flat” means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally.

Textual Amendments

F78 Ss. 74B-74D inserted (temp.) (28.7.2020) by virtue of [Business and Planning Act 2020 \(c. 16\)](#), ss. **16(1)**, 25(3)(a) (with s. 16(6))

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Modifications etc. (not altering text)

C28 S. 74B(8): power to amend conferred (28.7.2020) by [Business and Planning Act 2020 \(c. 16\)](#), **ss. 16(7)(a)**, 25(3)(a)

74C Effect of application under section 74B

- (1) If a person makes an application in accordance with section 74B to a local planning authority, the authority may by notice in writing to the person—
 - (a) modify the condition or approved document in accordance with the application,
 - (b) refuse to modify the condition or approved document, or
 - (c) make a determination about any of the matters specified in subsection (2).
- (2) Those matters are—
 - (a) the modifications to be made to the condition or approved document, so far as it relates to the times during which construction activities are permitted to be carried out,
 - (b) the date from which the modifications to the condition or approved document are to take effect, and
 - (c) the date at the end of which the modifications to the condition or approved document are to cease to have effect.
- (3) The local planning authority may make a determination under subsection (1)(c) only if the person who made the application has agreed in writing to the terms of the determination.
- (4) A modification under subsection (2)(a) must not prohibit construction activities from being carried out at any time when they are permitted to be carried out under the condition or approved document as it had effect when the application was made.
- (5) A date determined under subsection (2)(c) must not be later than 1 April 2021.
- (6) Subsection (7) applies if the local planning authority does not give notice under subsection (1) before the end of the period of 14 days beginning with the day after that on which the application in accordance with section 74B was sent to the authority.
- (7) The condition or approved document to which the application relates is deemed to have been modified in accordance with the application.
- (8) If the local planning authority makes a determination under subsection (1)(c) about only some of the matters specified in subsection (2), the condition or approved document is deemed to have been modified in accordance with the application in respect of the other matters specified in subsection (2).

Textual Amendments

F78 Ss. 74B-74D inserted (temp.) (28.7.2020) by virtue of [Business and Planning Act 2020 \(c. 16\)](#), **ss. 16(1)**, 25(3)(a) (with s. 16(6))

Modifications etc. (not altering text)

C29 S. 74C(5): power to amend conferred (28.7.2020) by [Business and Planning Act 2020 \(c. 16\)](#), **ss. 16(7)(b)**, 25(3)(a)

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74D Sections 74B and 74C: supplementary

- (1) In sections 74B and 74C and this section—
 - “approved document” has the meaning given by section 74B(2)(d);
 - “condition” includes limitation;
 - “construction activities”, in relation to the development of land, means activities consisting of or relating to the carrying out of the development;
 - “development” does not include mining operations in, on, over or under land.
- (2) References in sections 74B and 74C to construction activities include references to construction activities of a particular kind.
- (3) In calculating a period of 14 days for the purposes of section 74B(7) or 74C(6), no account is to be taken of a day which, apart from this subsection, would fall within that period and is—
 - (a) Christmas Day,
 - (b) Good Friday, or
 - (c) a day which under the Banking and Financial Dealings Act 1971 is a bank holiday in England.
- (4) References in sections 74B and 74C to a condition or approved document include a condition or approved document as previously modified under section 74C.
- (5) A person who makes an application under section 74B is to be taken to have agreed—
 - (a) to the use of electronic communications for all purposes relating to the application which are capable of being carried out electronically, and
 - (b) that the person’s address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the person’s application.
- (6) In discharging its functions under sections 74B and 74C, a local planning authority must have regard to guidance issued by the Secretary of State.]

Textual Amendments

F78 Ss. 74B-74D inserted (temp.) (28.7.2020) by virtue of [Business and Planning Act 2020 \(c. 16\)](#), **ss. 16(1), 25(3)(a)** (with [s. 16\(6\)](#))

75 Effect of planning permission [^{F79}or permission in principle].

- (1) Without prejudice to the provisions of this Part as to the duration, revocation or modification of planning permission [^{F80}or permission in principle], any grant of planning permission [^{F80}or permission in principle] 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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Textual Amendments

- F79** Words in s. 75 heading inserted (E.) (27.3.2017) by [The Housing and Planning Act 2016 \(Permission in Principle etc\) \(Miscellaneous Amendments\) \(England\) Regulations 2017 \(S.I. 2017/276\)](#), regs. 1, **3(3)(a)**
- F80** Words in s. 75(1) inserted (E.) (27.3.2017) by [The Housing and Planning Act 2016 \(Permission in Principle etc\) \(Miscellaneous Amendments\) \(England\) Regulations 2017 \(S.I. 2017/276\)](#), regs. 1, **3(3)(b)**

Modifications etc. (not altering text)

- C30** 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**

[^{F81} 75ZB] Information about neighbourhood development plans

- (1) This section applies where—
- (a) a report of the kind mentioned in section 75ZA(1) recommends the grant of planning permission or permission in principle, and
 - (b) the proposed development is in an area for which a neighbourhood development plan (made under section 38A of the Planning and Compulsory Purchase Act 2004) is in force.
- (2) The report must—
- (a) set out how the plan was taken into account in making the recommendation, and
 - (b) identify any points of conflict between the plan and the recommendation.]

Textual Amendments

- F81** S. 75ZB inserted (1.10.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), ss. 156, 216(3); S.I. 2016/733, reg. 4(1)(g) (with reg. 4(2))

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