



# Planning and Compulsory Purchase Act 2004

## 2004 CHAPTER 5

### PART 4

#### DEVELOPMENT CONTROL

##### *Applications*

#### **42 Applications for planning permission and certain consents**

- (1) In the principal Act for section 62 (form and content of applications for planning permission) there is substituted the following section—

##### **“62 Applications for planning permission**

- (1) A development order may make provision as to applications for planning permission made to a local planning authority.
- (2) Provision referred to in subsection (1) includes provision as to—
  - (a) the form and manner in which the application must be made;
  - (b) particulars of such matters as are to be included in the application;
  - (c) documents or other materials as are to accompany the application.
- (3) The local planning authority may require that an application for planning permission must include—
  - (a) such particulars as they think necessary;
  - (b) such evidence in support of anything in or relating to the application as they think necessary.
- (4) But a requirement under subsection (3) must not be inconsistent with provision made under subsection (1).

*Status: Point in time view as at 10/08/2006.*

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- (5) A development order must require that an application for planning permission of such description as is specified in the order must be accompanied by such of the following as is so specified—
- (a) a statement about the design principles and concepts that have been applied to the development;
  - (b) a statement about how issues relating to access to the development have been dealt with.
- (6) The form and content of a statement mentioned in subsection (5) is such as is required by the development order.”
- (2) In section 73 of the principal Act (determination of applications to develop land without compliance with conditions previously attached) subsection (3) is omitted.
- (3) In section 198 of that Act (tree preservation orders) after subsection (7) there is inserted—
- “(8) In relation to an application for consent under a tree preservation order the appropriate authority may by regulations make provision as to—
- (a) the form and manner in which the application must be made;
  - (b) particulars of such matters as are to be included in the application;
  - (c) the documents or other materials as are to accompany the application.
- (9) The appropriate authority is—
- (a) the Secretary of State in relation to England;
  - (b) the National Assembly for Wales in relation to Wales,
- and in the case of regulations made by the National Assembly for Wales section 333(3) must be ignored.”
- (4) In section 220 of that Act (regulations controlling display of advertisements) after subsection (2) there is inserted the following subsection—
- “(2A) The regulations may also make provision as to—
- (a) the form and manner in which an application for consent must be made;
  - (b) particulars of such matters as are to be included in the application;
  - (c) any documents or other materials which must accompany the application.”

(5) In the principal Act before section 328 (settled land and land of universities and colleges) there is inserted the following section—

**“327A Applications: compliance with requirements**

- (1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—
  - (a) the form or manner in which the application must be made;
  - (b) the form or content of any document or other matter which accompanies the application.
- (2) The local planning authority must not entertain such an application if it fails to comply with the requirement.”

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- (6) In section 10(2) of the listed buildings Act (applications for listed buildings consent) the words from “shall be made” to “require and” are omitted.
- (7) In section 10(3) of that Act for paragraph (a) there are substituted the following paragraphs—
- “(a) the form and manner in which such applications are to be made;
  - (aa) particulars of such matters as are to be included in such applications;
  - (ab) the documents or other materials as are to accompany such applications;”.
- (8) In section 10 of that Act after subsection (3) there are inserted the following subsections—
- “(4) The regulations must require that an application for listed building consent of such description as is prescribed must be accompanied by such of the following as is prescribed—
    - (a) a statement about the design principles and concepts that have been applied to the works;
    - (b) a statement about how issues relating to access to the building have been dealt with.
  - (5) The form and content of a statement mentioned in subsection (4) is such as is prescribed.”
- (9) In section 89(1) of that Act (application of certain provisions of the principal Act) after the entry relating to section 323 there is inserted— “ section 327A (compliance with requirements relating to applications), ”.

#### Commencement Information

- I1** S. 42 in force at 6.8.2004 for specified purposes by [S.I. 2004/2097](#), [art. 2](#)
- I2** S. 42(1)(5)-(9) in force at 10.8.2006 for E. by [S.I. 2006/1061](#), [art. 3\(a\)](#) (with [art. 4](#)) (which saving in art. 4 is revoked (11.2.2010) by [S.I. 2010/321](#), art. 4)

### 43 Power to decline to determine applications

- (1) For section 70A of the principal Act (power of local planning authority to decline to determine application) there are substituted the following sections—

#### “70A Power to decline to determine subsequent application

- (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 referred to him under section 76A or 77.

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- (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.
- (5) A relevant application is—
  - (a) an application for planning permission for the development of any land;
  - (b) an application for approval in pursuance of section 60(2).
- (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) and (4) the refusal of the similar application;
  - (b) for the purposes of subsection (3) the dismissal of the appeal.
- (8) 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.

#### **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 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.

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- (5) An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same.
- (6) The determination period is—
  - (a) the period prescribed by the development order for the determination of the application, or
  - (b) such longer period as the applicant and the authority have agreed for the determination of the application.”
- (2) In section 78(2)(aa) of that Act after “70A” there is inserted “ or 70B ”.
- (3) After section 81 of the listed buildings Act (authorities with functions under the Act) there are inserted the following sections—

*“Power to decline to determine application*

**81A Power to decline to determine subsequent application**

- (1) A local planning authority may decline to determine an application for a relevant consent if—
  - (a) one or more of the conditions in subsections (2) to (4) is satisfied, and
  - (b) the authority think there has been no significant change in any material 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 referred to him under section 12.
- (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 20(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.
- (5) Relevant consent is—
  - (a) listed building consent, or
  - (b) conservation area consent.
- (6) The relevant event is—
  - (a) for the purposes of subsections (2) and (4) the refusal of the similar application;
  - (b) for the purposes of subsection (3) the dismissal of the appeal.
- (7) An application for relevant consent is similar to another application if (and only if) the local planning authority think that the building and works to which the applications relate are the same or substantially the same.

*Status: Point in time view as at 10/08/2006.*

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- (8) For the purposes of an application for conservation area consent a reference to a provision of this Act is a reference to that provision as excepted or modified by regulations under section 74.

### **81B Power to decline to determine overlapping application**

- (1) A local planning authority may decline to determine an application for a relevant consent which is 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 12 or on an appeal under section 20 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 20 has not expired.
- (5) Relevant consent is—
- (a) listed building consent, or
  - (b) conservation area consent.
- (6) An application for relevant consent is similar to another application if (and only if) the local planning authority think that the building and works to which the applications relate are the same or substantially the same.
- (7) The determination period is—
- (a) the period prescribed 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.
- (8) For the purposes of an application for conservation area consent a reference to a provision of this Act is a reference to that provision as excepted or modified by regulations under section 74.”
- (4) Section 20(2) of that Act (appeals) is amended as follows—
- (a) for “neither” there is substituted “ done none of the following ”;
  - (b) after paragraph (a) for “nor” there is substituted—
    - “(aa) given notice to the applicant that they have exercised their power under section 81A or 81B to decline to determine the application;”.
- (5) This section has effect only in relation to applications made under the principal Act or the listed buildings Act which are received by the local planning authority after this section comes into force.

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**Commencement Information**

- I3** S. 43(1)(3)(4)(b) in force at 24.8.2005 for specified purposes for E. by S.I. 2005/2081, **art. 2(a)**
- I4** S. 43(4)(a)(5) in force at 24.8.2005 for E. by S.I. 2005/2081, **art. 2(a)**

**Status:**

Point in time view as at 10/08/2006.

**Changes to legislation:**

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