



Growth and Infrastructure Act 2013

2013 CHAPTER 27

Other infrastructure provisions

26 Bringing business and commercial projects within Planning Act 2008 regime

- (1) The Planning Act 2008 is amended as follows.
- (2) For section 35 substitute—

“35 Directions in relation to projects of national significance

- (1) The Secretary of State may give a direction for development to be treated as development for which development consent is required.

This is subject to the following provisions of this section and section 35ZA.

- (2) The Secretary of State may give a direction under subsection (1) only if—
 - (a) the development is or forms part of—
 - (i) a project (or proposed project) in the field of energy, transport, water, waste water or waste, or
 - (ii) a business or commercial project (or proposed project) of a prescribed description,
 - (b) the development will (when completed) be wholly in one or more of the areas specified in subsection (3), and
 - (c) the Secretary of State thinks the project (or proposed project) is of national significance, either by itself or when considered with—
 - (i) in a case within paragraph (a)(i), one or more other projects (or proposed projects) in the same field;
 - (ii) in a case within paragraph (a)(ii), one or more other business or commercial projects (or proposed projects) of a description prescribed under paragraph (a)(ii).
- (3) The areas are—

Status: This is the original version (as it was originally enacted).

- (a) England or waters adjacent to England up to the seaward limits of the territorial sea;
 - (b) in the case of a project for the carrying out of works in the field of energy, a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions.
- (4) The Secretary of State may give a direction under subsection (1) only with the consent of the Mayor of London if—
- (a) all or part of the development is or will be in Greater London, and
 - (b) the development is or forms part of a business or commercial project (or proposed project) of a description prescribed under subsection (2)(a)(ii).
- (5) Regulations under subsection (2)(a)(ii) may not prescribe a description of project which includes the construction of one or more dwellings.

35ZA Directions under sections 35: procedural matters

- (1) The power in section 35(1) to give a direction in a case within section 35(2)(a)(i) (projects in the field of energy etc) is exercisable only in response to a qualifying request if no application for a consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the development to which the request relates.
- (2) The power in section 35(1) to give a direction in a case within section 35(2)(a)(ii) (business or commercial projects of prescribed description) is exercisable only in response to a qualifying request made by one or more of the following—
- (a) a person who proposes to carry out any of the development to which the request relates;
 - (b) a person who has applied, or proposes to apply, for a consent or authorisation mentioned in section 33(1) or (2) in relation to any of that development;
 - (c) a person who, if a direction under section 35(1) is given in relation to that development, proposes to apply for an order granting development consent for any of that development.
- (3) If the Secretary of State gives a direction under section 35(1) in relation to development, the Secretary of State may—
- (a) if an application for a consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the development, direct the application to be treated as an application for an order granting development consent;
 - (b) if a person proposes to make an application for such a consent or authorisation in relation to the development, direct the proposed application to be treated as a proposed application for development consent.
- (4) A direction under section 35(1), or subsection (3) of this section, may be given so as to apply for specified purposes or generally.

- (5) A direction under subsection (3) may provide for specified provisions of or made under this or any other Act—
 - (a) to have effect in relation to the application, or proposed application, with any specified modifications, or
 - (b) to be treated as having been complied with in relation to the application or proposed application.
- (6) If the Secretary of State gives a direction under subsection (3), the relevant authority must refer the application, or proposed application, to the Secretary of State instead of dealing with it themselves.
- (7) If the Secretary of State is considering whether to give a direction under subsection (3), the Secretary of State may direct the relevant authority to take no further action in relation to the application, or proposed application, until the Secretary of State has decided whether to give the direction.
- (8) The Secretary of State may require an authority within subsection (9) to provide any information required by the Secretary of State for the purpose of enabling the Secretary of State to decide—
 - (a) whether to give a direction under section 35(1), and
 - (b) the terms in which such a direction should be given.
- (9) An authority is within this subsection if an application for a consent or authorisation mentioned in section 33(1) or (2) in relation to the development has been, or may be, made to it.
- (10) If the Secretary of State decides to give a direction under section 35(1), the Secretary of State must give reasons for the decision.
- (11) In this section—

“qualifying request” means a written request, for a direction under section 35(1) or subsection (3) of this section, that—

 - (a) specifies the development to which it relates, and
 - (b) explains why the conditions in section 35(2)(a) and (b) are met in relation to the development;

“relevant authority”—

 - (a) in relation to an application for a consent or authorisation mentioned in section 33(1) or (2) that has been made, means the authority to which the application was made, and
 - (b) in relation to such an application that a person proposes to make, means the authority to which the person proposes to make the application.”
- (3) In section 35A (timetable for deciding request for direction under section 35), in subsection (5), in the definition of “qualifying request”, for “35(10)” substitute “35ZA(11)”;
- (4) In section 232 (orders and regulations)—
 - (a) in subsection (5)(e) (regulations not subject to negative procedure), after “section” insert “35(2)(a)(ii),”;
 - (b) in subsection (7) (regulations subject to affirmative procedure), after “section” insert “35(2)(a)(ii),”.