
STATUTORY INSTRUMENTS

2017 No. 1012

The Conservation of Habitats and Species Regulations 2017

PART 6

Assessment of plans and projects

CHAPTER 2

Planning

Planning permission

Planning permission: duty to review

71.—(1) Subject to the following provisions of this regulation, the review provisions apply to any planning permission or deemed planning permission, unless—

- (a) the development to which it related has been completed;
- (b) it 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; or
- (c) it was granted for a limited period and that period has expired.

(2) The review provisions do not apply to planning permission granted or deemed to have been granted—

- (a) by a development order, local development order or neighbourhood development order (but see regulations 75 to 81);
- (b) by virtue of the adoption of a simplified planning zone scheme or of alterations to such a scheme (but see regulation 82); or
- (c) by virtue of the taking effect of an order designating an enterprise zone under paragraph 5 of Schedule 32 to the Local Government, Planning and Land Act 1980 (enterprise zones)^{M1}, or by virtue of the approval of a modified enterprise zone scheme (but see regulation 83).

(3) Planning permission deemed to be granted by virtue of a direction of a kind specified in paragraph (4) must be reviewed in accordance with Chapter 4, Chapter 5 or Chapter 6 (as the case may be) in conjunction with the review of the underlying authorisation, consent or order.

(4) Directions of a kind referred to in paragraph (3) are—

- (a) a direction under section 90(1) of the TCPA 1990 in respect of development for which an authorisation has been granted under section 1 of the Pipe-lines Act 1962 (pipe-line construction authorisations)^{M2};
- (b) a direction under section 5(1) of the Pipe-lines Act 1962;

Status: Point in time view as at 26/12/2023.

Changes to legislation: The Conservation of Habitats and Species Regulations 2017, Section 71 is up to date with all changes known to be in force on or before 22 June 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)

- (c) a direction under section 90(1) of the TCPA 1990 in respect of development for which a consent has been granted under section 36 or 37 of the Electricity Act 1989 (consents required in relation to generating stations and overhead lines);
- (d) a direction under section 90(2) of the TCPA 1990 or section 57(2) of the Town and Country Planning (Scotland) Act 1997 (which relate to development for which a consent has been granted under section 36 or 37 of the Electricity Act 1989);
- (e) a direction under section 90(2ZA)(a) or (b) of the TCPA 1990 or section 57(2ZA)(a) or (b) of the Town and Country Planning (Scotland) Act 1997 (which relate to the variation of a deemed grant of planning permission in relation to development for which a consent has been granted under section 36 or 37 of the Electricity Act 1989 and to the variation of conditions of any such deemed grant of planning permission); or
- (f) a direction under section 90(2A) of the TCPA 1990 (which relates to development in pursuance of an order under section 1 or 3 of the Transport and Works Act 1992 (orders as to railways, tramways or inland waterways) ^{M3}).
- (5) In the case of planning permission deemed to have been granted in any other case by a direction under section 90(1) of the TCPA 1990, the local planning authority must—
- (a) identify any such permission which it considers falls to be reviewed under the review provisions; and
- (b) refer the matter to the government department or person which made the direction.
- (6) The department or person to whom a reference is made under paragraph (5)(b) must, if in agreement that the planning permission does fall to be so reviewed, review the direction in accordance with the review provisions.
- (7) Except as otherwise expressly provided, the review provisions do not apply to planning permission granted or deemed to be granted by a public general Act of Parliament.
- (8) Subject to paragraphs (3) to (6), where planning permission granted by the appropriate authority falls to be reviewed under the review provisions—
- (a) it must be reviewed by the local planning authority; and
- (b) the power conferred by section 97 of the TCPA 1990 (power to revoke or modify planning permission) ^{M4} is exercisable by that local planning authority as in relation to planning permission granted on an application under Part 3 of that Act (control over development).
- (9) In a non-metropolitan county in England the function of reviewing any such planning permission is to be exercised by the district planning authority unless it relates to a county matter (within the meaning of paragraph 1 of Schedule 1 to the TCPA 1990 ^{M5}), in which case it is exercisable by the county planning authority.
- [^{F1}(10) See regulation 85A for the assumptions about nutrient pollution standards to be made in certain circumstances.]

Textual Amendments

- F1** Reg. 71(10) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), s. 255(6), [Sch. 15 para. 4](#) (with s. 247)

Marginal Citations

- M1** 1980 c. 65. Paragraph 5 of Schedule 32 was amended by the [Planning \(Consequential Provisions\) Act 1990 \(c. 11\)](#), [Schedule 1, Part 1](#).
- M2** 1962 c. 58. Section 1 was amended by the [Criminal Justice Act 1982 \(c. 48\)](#), [sections 37, 38](#) and 46; by the [Planning Act 2008 c. 29](#), [Schedule 2, paragraphs 5](#) and 6; and by S.I. 1999/742 and 2007/1519.

Changes to legislation: The Conservation of Habitats and Species Regulations 2017, Section 71 is up to date with all changes known to be in force on or before 22 June 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)

- M3** 1992 c. 42. Sections 1 and 3 were amended by the Planning Act 2008, Schedule 2, paragraphs 51, 52 and 53.
- M4** Section 97 was amended by the Planning and Compensation Act 1991 (c. 34), **Schedule 1**, paragraph 4; and by the Housing and Planning Act 2016 (c. 22), **Schedule 12**, paragraphs 1 and 25.
- M5** Paragraph 1 of Schedule 1 was amended by the Planning and Compensation Act 1991, Schedule 1, paragraph 13.

Status:

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

Changes to legislation:

The Conservation of Habitats and Species Regulations 2017, Section 71 is up to date with all changes known to be in force on or before 22 June 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.