



Levelling-up and Regeneration Act 2023

2023 CHAPTER 55

PART 3

PLANNING

CHAPTER 4

GRANT AND IMPLEMENTATION OF PLANNING PERMISSION

109 Crown development

- (1) TCPA 1990 is amended as follows.
- (2) After section 293A insert—

“293B Urgent Crown development: applications to the Secretary of State

- (1) This section applies where—
 - (a) the appropriate authority intends to make a relevant application, and
 - (b) the authority considers—
 - (i) that the development to which the application relates is of national importance, and
 - (ii) that it is necessary that the development is carried out as a matter of urgency.
- (2) The appropriate authority may make the application to the Secretary of State under this section.
- (3) In this section, “relevant application” means—
 - (a) an application for planning permission for the development of land in England, or

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Levelling-up and Regeneration Act 2023, Section 109. (See end of Document for details)*

- (b) an application for approval of a matter that, as defined in section 92, is a reserved matter in the case of an outline planning permission for the development of land in England,
but does not include an application of the kind described in section 73(1) or an application of a description excluded by regulations.
- (4) An application under this section must include—
 - (a) such information, documents or other matters as may be required by a development order, and
 - (b) a statement of the appropriate authority’s grounds for making the application.
- (5) As soon as practicable after receiving the application, the Secretary of State must give notice to the appropriate authority either agreeing or refusing to determine the application.
- (6) The Secretary of State may only agree to determine the application if the Secretary of State considers that—
 - (a) the development to which the application relates is of national importance, and
 - (b) it is necessary that the development is carried out as a matter of urgency.
- (7) The Secretary of State must send a copy of a notice given under subsection (5) to the local planning authority to whom the application could otherwise have been made.
- (8) The Secretary of State may by notice require the appropriate authority to provide such further information as is necessary for the purposes of—
 - (a) deciding whether to agree or to refuse to determine the application;
 - (b) determining the application.
- (9) A development order may make provision—
 - (a) as to the form and manner in which an application must be made;
 - (b) requiring notice to be given of an application;
 - (c) as to the form, content and service of a notice required under [paragraph \(b\)](#);
 - (d) requiring that an application be publicised in such manner as the order may specify.
- (10) A development order which makes provision under subsection (9) may include provision to ensure that the imposition of any requirement under that subsection does not result in the public disclosure of sensitive information.
- (11) For the purposes of subsection (10), information is “sensitive” if the Secretary of State directs that—
 - (a) it relates to matters of national security or measures taken or to be taken to ensure the security of any premises or property, and
 - (b) its public disclosure would be contrary to the national interest.
- (12) A development order making any provision by virtue of this section may make different provision for different cases or different classes of development.

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- (13) The Secretary of State may give directions requiring a local planning authority to do things in relation to an application made under [section 293B](#) that could otherwise have been made to that authority.
- (14) Directions under subsection (13)—
- (a) may relate to a particular application or to applications more generally;
 - (b) may be given to a particular authority or to authorities more generally.

293C Urgent Crown development: determination of applications by the Secretary of State

- (1) This section applies where —
- (a) the appropriate authority has made a relevant application to the Secretary of State under [section 293B](#), and
 - (b) the Secretary of State has given notice under [section 293B\(5\)](#) agreeing to determine the application.
- (2) Before determining the application, the Secretary of State must consult the following persons about the application—
- (a) the local planning authority to which the application could otherwise have been made, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (3) A development order may make provision as to the consultation required by subsection (2) including—
- (a) provision requiring the Secretary of State to consult other specified persons (or persons of a specified description);
 - (b) provision as to the manner in which persons may be consulted;
 - (c) different provision for different cases or classes of development.
- (4) The Secretary of State may—
- (a) grant the application, either unconditionally or subject to such conditions as the Secretary of State thinks fit, or
 - (b) refuse it.
- (5) The Secretary of State must notify the local planning authority to whom the application could otherwise have been made of the Secretary of State's decision on the application.
- (6) The decision of the Secretary of State on the application is final.
- (7) Section 73A applies, with any necessary modifications, to an application for planning permission under [section 293B](#) as it applies to an application for planning permission which is to be determined by the local planning authority under Part 3.
- (8) The following provisions do not apply for the purposes of determining an application for planning permission under [section 293B](#)—
- (a) [section 58B\(1\)](#) of this Act;
 - (b) sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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293D Crown development: applications to the Secretary of State

- (1) This section applies where—
 - (a) the appropriate authority intends to make a relevant application, and
 - (b) the authority considers that the development to which it relates is of national importance.
- (2) The appropriate authority may make the application to the Secretary of State under this section.
- (3) In this section and section 293E, “relevant application” means—
 - (a) an application for planning permission, or permission in principle, for the development of land in England, or
 - (b) an application for approval of a matter that, as defined by section 92, is a reserved matter in the case of an outline planning permission for the development of land in England,but does not include an application of the kind described in section 73(1) or an application of a description excluded by regulations.
- (4) After receiving the application, the Secretary of State must give a notice to the appropriate authority stating whether the Secretary of State considers the development to be of national importance.
- (5) If the Secretary of State considers the development to be of national importance, the Secretary of State must proceed to determine the application.
- (6) If the Secretary of State considers that the development is not of national importance, the Secretary of State may take the steps referred to in either subsection (7) or, where it applies, subsection (9).
- (7) The Secretary of State may—
 - (a) refer the application to the local planning authority to whom it could otherwise have been made, and
 - (b) direct that the application—
 - (i) is to be treated as having been made to the authority (and not to the Secretary of State under this section), and
 - (ii) is to be determined by that authority accordingly.
- (8) Subsection (9) applies where—
 - (a) the application could otherwise have been made to the Secretary of State under section 62A, and
 - (b) the appropriate authority has given notice to the Secretary of State that the authority consents to the application being treated as having been made to the Secretary of State under that section.
- (9) The Secretary of State may—
 - (a) direct that the application is to be treated as having been made to the Secretary of State under section 62A (and not to the Secretary of State under this section), and
 - (b) determine the application accordingly.

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293E Crown development: connected applications to the Secretary of State

- (1) This section applies where—
 - (a) the appropriate authority makes an application to the Secretary of State under section 293D, and
 - (b) the Secretary of State gives a notice to the appropriate authority under section 293D(4) stating that the development to which it relates is considered by the Secretary of State to be of national importance.
- (2) The appropriate authority may make an application (“a connected application”) under the planning Acts to the Secretary of State where the requirements of subsection (3) are met.
- (3) The requirements are that—
 - (a) the application is—
 - (i) for listed building consent under the Planning (Listed Buildings and Conservation Areas) Act 1990,
 - (ii) for hazardous substances consent under the Planning (Hazardous Substances) Act 1990, or
 - (iii) of a prescribed description,
 - (b) it is considered by the person making the application to be connected to an application under section 293D,
 - (c) it is neither a relevant application nor an application of the kind described in section 73(1), and
 - (d) it relates to land in England.
- (4) If a connected application is made under subsection (2), but the Secretary of State considers that it is not connected with the relevant application concerned, the Secretary of State may—
 - (a) refer the connected application to the local planning authority, or hazardous substances authority, to whom it could otherwise have been made, and
 - (b) direct that the connected application—
 - (i) is to be treated as having been made to that authority (and not to the Secretary of State under this section), and
 - (ii) is to be determined by that authority accordingly.

293F Applications under section 293D or 293E: supplementary matters

- (1) The decision of the Secretary of State on an application made under section 293D or 293E is final.
- (2) The Secretary of State may give directions requiring a local planning authority or hazardous substances authority to do things in relation to an application made under section 293D or 293E that could otherwise have been made to that authority.
- (3) Directions under subsection (2)—
 - (a) may relate to a particular application or to applications more generally;

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- (b) may be given to a particular authority or to authorities more generally.

293G Notifying parish councils of applications under section 293D(2)

- (1) If an application is made to the Secretary of State under section 293D(2) and a parish council would be entitled under paragraph 8 of Schedule 1 to be notified of the application were it made to the local planning authority, the Secretary of State must notify the council of—
- (a) the application, and
 - (b) any alteration of the application accepted by the Secretary of State.
- (2) Paragraph 8(4) and (5) of Schedule 1 apply in relation to duties of the Secretary of State under subsection (1) as they apply to duties of a local planning authority under paragraph 8(1) or (3B) of that Schedule.

293H Provisions applying to applications made under section 293D or 293E

- (1) Sections 62(3) and (4), 65(5), 70 to 70C, 72(1) and (5) and 73A apply, with any necessary modifications, to an application for planning permission made to the Secretary of State under section 293D as they apply to an application for planning permission which is to be determined by the local planning authority.
- (2) Any requirements imposed by a development order by virtue of section 62, 65 or 71 or paragraph 8(6) of Schedule 1, or by regulations under paragraph 14(3) or 16 of Schedule 7A, may be applied by a development order, with or without modifications, to an application for planning permission made to the Secretary of State under section 293D.
- (3) Sections 65(5) and 70 to 70C apply, with any necessary modifications, to an application for permission in principle made to the Secretary of State under section 293D as they apply to an application for permission in principle which is to be determined by the local planning authority.
- (4) Any requirements imposed by a development order by virtue of section 62(1), (2) or (8), 65 or 71 or paragraph 8(6) of Schedule 1 may be applied by a development order, with or without modifications, to an application for permission in principle made to the Secretary of State under section 293D.
- (5) Where an application is made to the Secretary of State under section 293E instead of to the authority to whom it could otherwise have been made, a development order may (with or without modifications) apply to the application any enactment that relates to applications of that kind when made to that authority.
- (6) A development order which makes provision under this section to apply to an application under section 293D or 293E (with or without modifications) any requirement to disclose information may include provision to secure that the requirement would not result in the public disclosure of sensitive information.
- (7) For the purposes of subsection (6), information is “sensitive” if the Secretary of State directs that—
 - (a) it relates to matters of national security or measures taken or to be taken to ensure the security of any premises or property, and

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- (b) its public disclosure would be contrary to the national interest.

293I Deciding applications made under section 293D or 293E

- (1) An application made to the Secretary of State under section 293D or 293E (“a direct application”) is to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State, subject to section 293J.
- (2) Where a person has been appointed under subsection (1) or this subsection to determine a direct application then, at any time before the person has determined the application, the Secretary of State may—
 - (a) revoke the person’s appointment;
 - (b) appoint another person to determine the application instead.
- (3) A person appointed under this section to determine a direct application has the same powers and duties that the Secretary of State has under section 293H.
- (4) Where a direct application is determined by a person appointed under this section, the person’s decision is to be treated as that of the Secretary of State.
- (5) Except as provided by Part 12, the validity of that decision is not to be questioned in any proceedings whatsoever.
- (6) It is not a ground of application to the High Court under section 288 that a direct application ought to have been determined by the Secretary of State and not by a person appointed under this section unless the applicant challenges the person’s power to determine the direct application before the person’s decision on the direct application is given.
- (7) Where any enactment (other than this section and section 319A)—
 - (a) refers (or is to be read as referring) to the Secretary of State in a context relating to or capable of relating to a direct application (otherwise than by referring to the application having been made to the Secretary of State), or
 - (b) refers (or is to be read as referring) to anything (other than the making of the application) done or authorised or required to be done by, to or before the Secretary of State in connection with any such application,then, so far as the context permits, the enactment is to be read, in relation to an application determined or to be determined by a person appointed under this section, as if the reference to the Secretary of State were or included a reference to that person.

293J Applications under section 293D or 293E: determination by the Secretary of State

- (1) The Secretary of State may direct that an application made to the Secretary of State under section 293D or 293E (“a direct application”) is to be determined by the Secretary of State instead of by a person appointed under section 293I.
- (2) Where a direction is given under subsection (1), the Secretary of State must serve a copy of the direction on—
 - (a) the person, if any, appointed under section 293I to determine the application concerned,

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- (b) the applicant, and
 - (c) the local planning authority.
- (3) Where a direct application is to be determined by the Secretary of State in consequence of a direction under subsection (1)—
- (a) in determining the application, the Secretary of State may take into account any report made to the Secretary of State by any person previously appointed to determine the application, and
 - (b) subject to that, the provisions of the planning Acts which are relevant to the application apply to it as if section 293I had never applied to it.
- (4) The Secretary of State may by a further direction revoke a direction under subsection (1) at any time before the determination of the direct application concerned.
- (5) Where a direction is given under subsection (4), the Secretary of State must serve a copy of the direction on—
- (a) the person, if any, previously appointed under section 293I to determine the application concerned,
 - (b) the applicant, and
 - (c) the local planning authority.
- (6) Where a direction is given under subsection (4) in relation to a direct application—
- (a) anything done by or on behalf of the Secretary of State in connection with the application which might have been done by a person appointed under section 293I to determine the application is, unless the person appointed under section 293I to determine the application directs otherwise, to be treated as having been done by that person, and
 - (b) subject to that, section 293I applies to the application as if no direction under subsection (1) had been given in relation to the application.”
- (3) [Schedule 10](#) contains consequential amendments.

Commencement Information

II [S. 109](#) in force at 26.12.2023 for specified purposes, see [s. 255\(3\)\(a\)](#)

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