
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 6

ASSESSMENT OF PLANS AND PROJECTS

CHAPTER 2

PLANNING

Planning permission

Grant of planning permission

- 68.**—(1) The assessment provisions apply in relation to—
- (a) granting planning permission on an application under Part 3 of the TCPA 1990 (control over development);
 - (b) granting planning permission on an application under section 293A(1) of that Act (urgent Crown development);
 - (c) granting planning permission, or upholding a decision of the local planning authority to grant planning permission (whether or not subject to the same conditions and limitations as those imposed by the local planning authority), on determining an appeal under section 78(2) of that Act (right to appeal against planning decisions) in respect of such an application;
 - (d) granting planning permission under—
 - (i) section 141(2)(a) of that Act (action in relation to purchase notice), or
 - (ii) section 177(1)(a)(3) of that Act (grant or modification of planning permission on appeals against enforcement notices);
 - (e) directing under the following provisions that planning permission is deemed to be granted—
 - (i) subsection (1)(4), (2) or (2A)(5) of section 90 of that Act (development with government authorisation),
 - (ii) section 57(2) of the Town and Country Planning (Scotland) Act 1997(6) (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(7)), or

(1) Section 293A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 82(1).
(2) Section 78 was amended by the Planning and Compensation Act 1991 (c. 34), section 17(2); the Planning and Compulsory Purchase Act 2004 (c. 5), sections 40(2)(e) and 43(2); and the Planning Act 2008 (c. 29), paragraphs 1 and 3 of Schedule 10 and paragraphs 1 and 2 of Schedule 11.
(3) Section 177(1) (a) was substituted by the Planning and Compensation Act 1991 (c. 34), paragraph 24(1)(a) of Schedule 7.
(4) Section 90(1) was amended by the Environment Act 1995 (c. 25), paragraph 32(4) of Schedule 10.
(5) Subsection (2A) of section 90 was inserted by the Transport and Works Act 1992 (c. 42), section 16(1).
(6) 1997 c. 8.

- (iii) section 5(1) of the Pipe-lines Act 1962⁽⁸⁾ (provisions with respect to planning permission concerning pipe-lines);
- (f) making—
 - (i) an order under section 102⁽⁹⁾ of the TCPA 1990 (orders requiring discontinuance of use or alteration or removal of buildings or works), including an order made under that section by virtue of section 104 of that Act (powers in relation to section 102 orders) which grants planning permission, or confirming any such order under section 103 of that Act (confirmation of section 102 orders), or
 - (ii) an order under paragraph 1 of Schedule 9⁽¹⁰⁾ to that Act (order requiring discontinuance of mineral working), including an order made under that paragraph by virtue of paragraph 11 of that Schedule to that Act (powers in relation to orders under Schedule 9) which grants planning permission; or
- (g) directing under the following provisions that if an application is made for planning permission it must be granted—
 - (i) section 141(3) of that Act (action in relation to purchase notice), or
 - (ii) section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990⁽¹¹⁾ (action in relation to listed building purchase notice).

(2) Where the assessment provisions apply, the competent authority may, if they consider that any adverse effects of the plan or project on the integrity of a European site or a European offshore marine site would be avoided if the planning permission were subject to conditions or limitations, grant planning permission or, as the case may be, take action which results in planning permission being granted or deemed to be granted subject to those conditions or limitations.

(3) Where the assessment provisions apply, outline planning permission must not be granted unless the competent authority are satisfied (whether by reason of the conditions and limitations to which the outline planning permission is to be made subject, or otherwise) that no development likely adversely to affect the integrity of a European site or a European offshore marine site could be carried out under the permission, whether before or after obtaining approval of any reserved matters.

(4) In paragraph (3), “outline planning permission” and “reserved matters” have the same meanings as in section 92⁽¹²⁾ of the TCPA 1990 (outline planning permission).

(7) 1989 c. 29.

(8) 1962 c. 58; section 5(1) was amended by S.I. 1999/742, paragraph 2(3) of the Schedule.

(9) Section 102 was amended by the Planning and Compensation Act 1991 (c. 34), paragraph 6 of Schedule 1 and paragraph 21 of Schedule 7.

(10) Paragraph 1 of Schedule 9 was amended by the Planning and Compensation Act 1991 (c. 34), paragraph 15 of Schedule 1.

(11) 1990 c. 9.

(12) There are amendments to section 92 which are not relevant.