
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

Grant of planning permission

70.—(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 of that Act (urgent Crown development) ^{M1};
- (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 of that Act (right to appeal against planning decisions) ^{M2} 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) of that Act (grant or modification of planning permission on appeals against enforcement notices) ^{M3};
- (e) directing under the following provisions that planning permission is deemed to be granted—
 - (i) section 90(1), (2) or (2A) of that Act (development with government authorisation);
 - (ii) section 57(2) or (2A) of the Town and Country Planning (Scotland) Act 1997 (development with government authorisation) ^{M4}; or
 - (iii) section 5(1) of the Pipe-lines Act 1962 (provisions with respect to planning permission concerning pipe-lines) ^{M5};
- (f) directing under section 90(2ZA)(a) or (b) of the TCPA 1990 ^{M6} or section 57(2ZA)(a) or (b) of the Town and Country Planning (Scotland) Act 1997 ^{M7}, in respect of a planning permission which is deemed to be granted under section 90(2) or section 57(2) (respectively) on varying a consent under section 36 or 37 of the Electricity Act 1989 ^{M8}, that that permission, or any conditions subject to which it was granted, be varied;
- (g) making—

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- (i) an order under section 102 of the TCPA 1990 (orders requiring discontinuance of use or alteration or removal of buildings or works)^{M9}, 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 to that Act (order requiring discontinuance of mineral working)^{M10}, including an order made under that paragraph by virtue of paragraph 11 of that Schedule (powers in relation to orders under Schedule 9) which grants planning permission; or
- (h) directing under the following provisions that, if an application is made for planning permission, it must be granted—
- (i) section 141(3) of the TCPA 1990 (action in relation to purchase notice); or
 - (ii) section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (action in relation to listed building purchase notice)^{M11}.

[^{F1}(1A) Subject to paragraph (1B), the assessment provisions apply to granting permission in principle under section 59A of the TCPA 1990 (Development orders: permission in principle).

(1B) Regulation 64 (Considerations of overriding public interest) does not apply to granting permission in principle under section 59A of the TCPA 1990.]

(2) Where the assessment provisions apply, the competent authority may, if it considers 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 is 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 of the TCPA 1990 (outline planning permission)^{M12}.

[^{F2}(5) See regulation 85A for the assumptions about nutrient pollution standards to be made in certain circumstances.]

Textual Amendments

- F1** Reg. 70(1A)(1B) inserted (28.12.2018) by [The Conservation of Habitats and Species and Planning \(Various Amendments\) \(England and Wales\) Regulations 2018 \(S.I. 2018/1307\)](#), regs. 1(1), **2(2)**
- F2** Reg. 70(5) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), s. 255(6), **Sch. 15 para. 3** (with s. 247)

Marginal Citations

- M1** Section 293A was inserted by the [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), section 82(1), and amended by the [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **Schedule 2**, paragraphs 8 and 9, and [Schedule 4](#), paragraphs 1 and 17; and the [Housing and Planning Act 2016 \(c. 22\)](#), **Schedule 12**, paragraph 34.
- M2** Section 78 was amended by the [Planning and Compensation Act 1991 \(c. 34\)](#), **section 17(2)**; the [Planning and Compulsory Purchase Act 2004](#), sections 40(2)(e) and 43(2); the [Planning Act 2008 \(c. 29\)](#), **Schedule 10**, paragraphs 1 and 3 and [Schedule 11](#), paragraphs 1 and 2; the [Localism Act 2011](#)

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- (c. 20), **section 123(1)** and (3), and Schedule 12, paragraphs 1 and 11; the **Growth and Infrastructure Act 2013 (c. 27), Schedule 1**, paragraphs 1 and 8; the **Infrastructure Act 2015 (c. 7), Schedule 4, Part 2**, paragraphs 2 and 12; the **Planning (Wales) Act 2015**, sections 45 and 47, and Schedule 7, paragraph 7; the **Housing and Planning Act 2016**, Schedule 12, paragraphs 1 and 21; and by **S.I. 2014/2773**.
- M3** Section 177(1)(a) was substituted by the **Planning and Compensation Act 1991**, Schedule 7, paragraph 24(1)(a).
- M4** 1997 c. 8. Section 57(2) was substituted by the **Growth and Infrastructure Act 2013 (c. 27), section 21(5)**.
- M5** 1962 c. 58. Section 5(1) was amended by **S.I. 1999/742**.
- M6** Section 90(2ZA) was inserted by the **Environment Act 1995 (c. 25), Schedule 10**.
- M7** Section 57(2ZA) was inserted by the **Growth and Infrastructure Act 2013 (c. 27), section 21(5)**.
- M8** 1989 c. 29. Section 36 was amended by the **Energy Act 2004 (c. 20), section 93**; by the **Planning Act 2008**, Schedule 2, paragraphs 31 and 32; by the **Marine Act**, section 12(7)(a) and (8); by the **Energy Act 2016 (c. 20)**, section 78; and by **S.I. 2006/1054**; and is prospectively amended by the **Wales Act 2017 (c. 4), section 39(7) to (11)**, and Schedule 6, Part 3, paragraph 47, from a date to be appointed. Section 36C of the Act, inserted by the **Growth and Infrastructure Act 2013 (c. 27), section 20**, provides for the variation of consents granted under section 36. Section 37 was amended by the **Planning Act 2008**, Schedule 2, paragraphs 31 and 33; and is prospectively amended by the **Wales Act 2017**, section 42 from a date to be appointed.
- M9** Section 102 was amended by the **Planning and Compensation Act 1991 (c. 34), Schedule 1, paragraph 6**, and Schedule 7, paragraph 21; and the **Planning (Wales) Act 2015 (anaw 4), section 33(1)** and (4).
- M10** Paragraph 1 of Schedule 9 was amended by the **Planning and Compensation Act 1991**, Schedule 1, paragraph 15.
- M11** 1990 c. 9.
- M12** Section 92 was amended by the **Planning (Wales) Act 2015 (anaw 4), section 36(1) to (6)**, and Schedule 4, paragraphs 1 and 10.

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 41(2)(aa) inserted by [2023 c. 55 Sch. 8 para. 38\(5\)](#)
- reg. 108(6) inserted by [2023 c. 55 Sch. 8 para. 39\(6\)](#)
- reg. 111(2)(aa)(ab) substituted for reg. 111(2)(a)(b) by [2023 c. 55 Sch. 8 para. 40\(3\)\(a\)](#)