

Town and Country Planning Act 1990 c. 8

s. 70 Determination of applications: general considerations.



Law In Force With Amendments Pending

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Version 8 of 9

19 July 2017 - Present

Subjects

Planning

70.— Determination of applications: general considerations.

(1) Where an application is made to a local planning authority for planning permission—

- (a) subject to [section 62D(5) and]¹ sections 91 and 92, they may grant planning permission, either unconditionally or subject to such conditions as they think fit; or
- (b) they may refuse planning permission.

[

(1A) Where an application is made to a local planning authority for permission in principle—

- (a) they may grant permission in principle; or
- (b) they may refuse permission in principle.

]²

(2) In dealing with [an application for planning permission or permission in principle]³ the authority shall have regard [to—]⁴ [

- (a) the provisions of the development plan, so far as material to the application,

[

- (aza) a post-examination draft neighbourhood development plan, so far as material to the application,

]⁵ [

- (aa) any considerations relating to the use of the Welsh language, so far as material to the application;

]⁶

- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

]⁴

[

(2ZZA) The authority must determine an application for technical details consent in accordance with the relevant permission in principle. This is subject to subsection (2ZZC).

(2ZZB) An application for technical details consent is an application for planning permission that—

- (a) relates to land in respect of which permission in principle is in force,
- (b) proposes development all of which falls within the terms of the permission in principle, and
- (c) particularises all matters necessary to enable planning permission to be granted without any reservations of the kind referred to in [section 92](#).

(2ZZC) Subsection (2ZZA) does not apply where—

- (a) the permission in principle has been in force for longer than a prescribed period, and
- (b) there has been a material change of circumstances since the permission came into force.

“Prescribed” means prescribed for the purposes of this subsection in a development order.

] ⁷ [

(2ZA) Subsection (2)(aa) applies only in relation to Wales.

] ⁸ [

(2A) [Subsections (1A), (2)(b) and (2ZZA) to (2ZZC) do not] ¹⁰ apply in relation to Wales.

] ⁹

(3) Subsection (1) has effect subject to [\[section 65\]](#) ¹¹ and to the following provisions of this Act, to [sections 66, 67, 72 and 73](#) of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) and to [section 15](#) of the [Health Services Act 1976](#).

[

(3B) For the purposes of subsection (2)(aza) (but subject to subsections (3D) and (3E)) a draft neighbourhood development plan is a “postexamination draft neighbourhood development plan” if—

- (a) a local planning authority have made a decision under [paragraph 12\(4\) of Schedule 4B](#) with the effect that a referendum or referendums are to be held on the draft plan under that Schedule,
- (b) the Secretary of State has directed under [paragraph 13B\(2\)\(a\)](#) of that Schedule that a referendum or referendums are to be held on the draft plan under that Schedule,
- (c) an examiner has recommended under [paragraph 13\(2\)\(a\) of Schedule A2](#) to the [Planning and Compulsory Purchase Act 2004](#) (examination of modified plan) that a local planning authority should make the draft plan, or
- (d) an examiner has recommended under [paragraph 13\(2\)\(b\)](#) of that Schedule that a local planning authority should make the draft plan with modifications.

(3C) In the application of subsection (2)(aza) in relation to a postexamination draft neighbourhood development plan within subsection (3B)(d), the local planning authority must take the plan into account as it would be if modified in accordance with the recommendations.

(3D) A draft neighbourhood development plan within subsection (3B)(a) or (b) ceases to be a post-examination draft neighbourhood development plan for the purposes of subsection (2)(aza) if—

- (a) [section 38A\(4\)\(a\)](#) (duty to make plan) or [\(6\)](#) (cases in which duty does not apply) of the [Planning and Compulsory Purchase Act 2004](#) applies in relation to the plan,
- (b) [section 38A\(5\)](#) (power to make plan) of that Act applies in relation to the plan and the plan is made by the local planning authority,
- (c) [section 38A\(5\)](#) of that Act applies in relation to the plan and the local planning authority decide not to make the plan,
- (d) a single referendum is held on the plan and half or fewer of those voting in the referendum vote in favour of the plan, or
- (e) two referendums are held on the plan and half or fewer of those voting in each of the referendums vote in favour of the plan.

(3E) A draft neighbourhood development plan within subsection (3B)(c) or (d) ceases to be a post-examination draft neighbourhood development plan for the purposes of subsection (2)(a) if—

- (a) the local planning authority make the draft plan (with or without modifications), or
- (b) the local planning authority decide not to make the draft plan.

(3F) The references in subsection (3B) to [Schedule 4B](#) are to that Schedule as applied to neighbourhood development plans by [section 38A\(3\)](#) of the [Planning and Compulsory Purchase Act 2004](#).

] ¹²[

(4) In this section—

“*local finance consideration*” means—

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy;

“*Minister of the Crown*” has the same meaning as in the [Ministers of the Crown Act 1975](#);

“*relevant authority*” means—

- (a) a district council;
- (b) a county council in England;
- (c) the Mayor of London;
- (d) the council of a London borough;
- (e) a Mayoral development corporation;
- (f) an urban development corporation;
- (g) a housing action trust;
- (h) the Council of the Isles of Scilly;
- (i) the Broads Authority;
- (j) a National Park authority in England;
- (k) the Homes and Communities Agency; or

(l) a joint committee established under [section 29](#) of the [Planning and Compulsory Purchase Act 2004](#).

] ¹³

Notes

- 1 Words inserted by [Planning \(Wales\) Act 2015 anaw. 4 Sch.4 para.5](#) (March 1, 2016 in relation to developments of national significance and secondary consents; not yet in force otherwise)
- 2 Added by [Housing and Planning Act 2016 c. 22 Pt 6 s.150\(3\)\(a\)](#) (July 12, 2016)
- 3 Words substituted by [Housing and Planning Act 2016 c. 22 Sch.12 para.11\(2\)](#) (July 13, 2016)
- 4 Word and [s.70\(2\)\(a\)-\(c\)](#) substituted for words by [Localism Act 2011 c. 20 Pt 6 c.7 s.143\(2\)](#) (January 15, 2012)
- 5 Added by [Neighbourhood Planning Act 2017 c. 20 Pt 1 s.1\(2\)](#) (July 19, 2017)
- 6 Added by [Planning \(Wales\) Act 2015 anaw. 4 Pt 6 s.31\(2\)](#) (January 4, 2016 as SI 2015/1987)
- 7 Added by [Housing and Planning Act 2016 c. 22 Pt 6 s.150\(3\)\(b\)](#) (July 12, 2016)
- 8 Added by [Planning \(Wales\) Act 2015 anaw. 4 Pt 6 s.31\(3\)](#) (January 4, 2016 as SI 2015/1987)
- 9 Added by [Localism Act 2011 c. 20 Pt 6 c.7 s.143\(3\)](#) (January 15, 2012)
- 10 Words substituted by [Housing and Planning Act 2016 c. 22 Sch.12 para.11\(3\)](#) (July 13, 2016)
- 11 Substituted by [Planning and Compensation Act 1991 c. 34 Sch.7 para.14](#) (July 17, 1992)
- 12 Added by [Neighbourhood Planning Act 2017 c. 20 Pt 1 s.1\(3\)](#) (July 19, 2017)
- 13 Added by [Localism Act 2011 c. 20 Pt 6 c.7 s.143\(4\)](#) (January 15, 2012)

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