



# Levelling-up and Regeneration Act 2023

## 2023 CHAPTER 55

### PART 3

#### PLANNING

### CHAPTER 4

#### GRANT AND IMPLEMENTATION OF PLANNING PERMISSION

#### **113 Power to decline to determine applications in cases of earlier non-implementation etc**

- (1) TCPA 1990 is amended as follows.
- (2) After section 70C insert—

#### **“70D Power to decline to determine applications in cases of earlier non-implementation etc**

- (1) A local planning authority in England may decline to determine an application for planning permission for the development of any land if—
  - (a) the development is development of a prescribed description,
  - (b) the application is made by—
    - (i) a person who has previously made an application for planning permission for development of land all or any part of which is in the local planning authority’s area at the time the current application is made (“the earlier application”), or
    - (ii) a person who has a connection of a prescribed description with the development to which the earlier application related (“the earlier development”),
  - (c) the earlier development was of a description prescribed under paragraph (a), and

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*Changes to legislation: There are currently no known outstanding effects for the Levelling-up and Regeneration Act 2023, Section 113. (See end of Document for details)*

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- (d) subsection (2) or (3) applies to the earlier development.
  - (2) This subsection applies to the earlier development if the earlier development has not begun.
  - (3) This subsection applies to the earlier development if—
    - (a) the earlier development has begun but has not been substantially completed, and
    - (b) the local planning authority is of the opinion that the carrying out of the earlier development has been unreasonably slow.
  - (4) In forming an opinion as to whether the carrying out of the earlier development has been unreasonably slow, the local planning authority must have regard to all the circumstances, including in particular—
    - (a) in a case where a commencement notice under section 93G has been given, whether the development—
      - (i) was begun by the date specified in the notice, and
      - (ii) was carried out in accordance with any timescales specified in it,
    - (b) whether a completion notice was served in respect of the earlier development under section 93H or (before the coming into force of section 93H) section 94 or 96 and, if so, whether the permission granted became invalid under section 93J or (as the case may be) section 95, and
    - (c) any prescribed circumstances.
  - (5) Where a person applies to a local planning authority for planning permission for development of a description prescribed under subsection (1)(a), the authority may by notice require the person to provide such information, being information of a prescribed description, as the authority may specify in the notice for the purpose of its functions under this section.
  - (6) If a person does not comply with a notice under subsection (5) within the period of 21 days beginning with the day on which the notice was served, the local planning authority may decline to determine the application.
  - (7) If a person to whom a notice under subsection (5) is given—
    - (a) makes a statement purporting to comply with the notice which the person knows to be false or misleading in a material particular, or
    - (b) recklessly makes such a statement which is false or misleading in a material particular,
 the person is guilty of an offence.
  - (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine.
  - (9) Subsection (1) does not permit a local planning authority to decline to determine an application for planning permission to which section 73, 73A or 73B applies.”
- (3) In section 56 (time when development begins), in subsection (3), after “61D(5) and (7),” insert “70D,”.

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**Changes to legislation:** There are currently no known outstanding effects for the Levelling-up and Regeneration Act 2023, Section 113. (See end of Document for details)

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- (4) In section 76C (provisions applying to applications under section 62A), in subsection (1), for “70C” substitute “70D”.
- (5) In section 78 (right to appeal), in subsection (2)(aa), after “or 70C” insert “or 70D”.
- (6) In section 174 (appeal against enforcement notice), in subsection (2AA)(b) (as substituted by [section 118](#) of this Act), for “or 70C” substitute “, 70C or 70D”.

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**Commencement Information**

- II** [S. 113](#) in force at 26.12.2023 for specified purposes, see [s. 255\(3\)\(a\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Levelling-up and Regeneration Act 2023, Section 113.