



# Wildlife and Countryside Act 1981

## 1981 CHAPTER 69

### PART II

#### NATURE CONSERVATION, COUNTRYSIDE AND NATIONAL PARKS

*<sup>x1</sup>[<sup>F1</sup> Sites of special scientific interest and limestone pavements ]*

#### **[<sup>F1</sup>28F Appeals in connection with consents.**

- (1) The following persons—
- (a) an owner or occupier who has been refused a consent under section 28E(3)(a),
  - (b) an owner or occupier who has been granted such a consent but who is aggrieved by conditions attached to it, or by the fact that it is for a limited period, or by the length of that period,
  - (c) an owner or occupier who is aggrieved by the modification of a consent;
  - (d) an owner or occupier who is aggrieved by the withdrawal of a consent,
- may by notice appeal to the Secretary of State against the relevant decision.
- (2) If [<sup>F2</sup>Natural England] neither give consent nor refuse it within the period of four months beginning with the date on which the notice referred to in section 28E(1)(a) was sent, the person who gave that notice may for the purposes of subsection (1) treat [<sup>F2</sup>Natural England] as having refused consent (and his appeal is to be determined on that basis).
- (3) Notice of an appeal must reach the Secretary of State—
- (a) except in a case falling within subsection (2), within the period of two months beginning with the date of the notice giving consent or the notice under section 28E(5) or (6), or
  - (b) in a case falling within subsection (2), within the period of two months beginning immediately after the expiry of the four-month period referred to there,
- or, in either case, within such longer period as is agreed in writing between [<sup>F2</sup>Natural England] and the appellant.

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*Changes to legislation: Wildlife and Countryside Act 1981, Section 28F is up to date with all changes known to be in force on or before 29 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) Before determining an appeal, the Secretary of State may, if he thinks fit—
- (a) cause the appeal to take, or continue in, the form of a hearing (which may be held wholly or partly in private if the appellant so requests and the person hearing the appeal agrees), or
  - (b) cause a local inquiry to be held,
- and he must act as mentioned in paragraph (a) or (b) if either party to the appeal asks to be heard in connection with the appeal.
- (5) On determining an appeal against a decision, the Secretary of State may—
- (a) affirm the decision,
  - (b) where the decision was a refusal of consent, direct [<sup>F2</sup>Natural England] to give consent,
  - (c) where the decision was as to the terms of a consent (whether the original or a modified one), quash all or any of those terms,
  - (d) where the decision was a withdrawal or modification of consent, quash the decision,
- and where he exercises any of the powers in paragraphs (b), (c) or (d) he may give directions to [<sup>F2</sup>Natural England] as to the terms on which they are to give consent.
- (6) The Secretary of State may by regulations made by statutory instrument make provision about appeals under this section, and in particular about—
- (a) notices of appeal and supporting documentation required, and
  - (b) how appeals are to be brought and considered,
- and any such regulations may make different provision for different cases and circumstances.
- (7) A statutory instrument containing regulations under subsection (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) The Secretary of State may appoint any person to exercise on his behalf, with or without payment, his function of determining an appeal under this section or any matter involved in such an appeal.
- (9) Schedule 10A shall have effect with respect to appointments under subsection (8).
- (10) Subsections (2) to (5) of section 250 of the <sup>M1</sup> Local Government Act 1972 (local inquiries: evidence and costs) apply in relation to hearings or local inquiries under this section as they apply in relation to local inquiries under that section, but as if the reference there—
- (a) to the person appointed to hold the inquiry were a reference to the Secretary of State or to the person appointed to conduct the hearing or hold the inquiry under this section; and
  - (b) to the Minister causing an inquiry to be held were to the Secretary of State.
- (11) Section 322A of the <sup>M2</sup> Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under this section as it applies in relation to a hearing or local inquiry referred to in that section.

<sup>F3</sup> [ In relation to Wales this section has effect as if for subsections (10) and (11) there were substituted—

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“(10) Section 322C of the Town and Country Planning Act 1990 (costs: Wales) applies in relation to a hearing or inquiry under this section in Wales as it applies in relation to a hearing or inquiry mentioned in that section.”]]

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#### Textual Amendments

- F1** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\), Sch. 9 para. 1](#) (with [Sch. 11 paras. 1-17, 20](#))
- F2** Words in s. 28F substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2](#)
- F3** S. 28F(12) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\), s. 58\(2\)\(b\)\(4\)\(b\), Sch. 5 para. 5; S.I. 2016/52, art. 4\(a\)](#) (with art. 17)

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#### Marginal Citations

- M1** [1972 c. 70.](#)
- M2** [1990 c. 8.](#)

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

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

- s. 2(1A)-(1D) substituted for s. 2(1A) by 2024 asp 4 s. 9(2)(a)
- s. 2(3A)(a)(ii) word repealed by 2024 asp 4 s. 9(2)(b)(i)
- s. 2(3C)(c) and word inserted by 2024 asp 4 s. 9(2)(b)(ii)
- s. 11(1)(ab)-(ad) substituted for s. 11(1)(a)(aa) by 2024 asp 4 s. 6(2)(a)
- s. 11(2)(aa)(ab) inserted by 2024 asp 4 s. 6(2)(c)(ii)
- s. 11(2A) inserted by 2024 asp 4 s. 1(6)(b)
- s. 11(3CA) inserted by 2024 asp 4 s. 6(2)(e)
- s. 12A-12G and cross-heading inserted by 2024 asp 4 s. 7(2)
- s. 16(1A)(c)(d) inserted by 2024 asp 4 s. 6(4)(a)(ii)
- s. 16A(ab) inserted by 2024 asp 4 s. 7(4)(b)
- s. 16A(1A) inserted by 2024 asp 4 s. 7(4)(a)
- s. 16A(1B) inserted by 2024 asp 4 s. 10(3)(a)
- s. 16A(5)(aa) inserted by 2024 asp 4 s. 10(3)(c)
- s. 16A(5A) inserted by 2024 asp 4 s. 10(3)(d)
- s. 16A(5B) inserted by 2024 asp 4 s. 7(4)(c)
- s. 16AA-16AF inserted by 2024 asp 4 s. 10(2)
- s. 21(ga)(gb) inserted by 2024 asp 4 s. 7(6)
- s. 26(2)(c) inserted by 2024 asp 4 s. 7(7)(a)(ii)
- s. 26(2)(d) inserted by 2024 asp 4 s. 9(3)(a)
- s. 26(2)(d)(e) inserted by 2024 asp 4 s. 10(5)(a)
- s. 26(2)(f) and word inserted by 2024 asp 4 s. 6(7)(a)
- s. 26(3)(c) inserted by 2024 asp 4 s. 7(7)(b)(ii)
- s. 26(3)(d) inserted by 2024 asp 4 s. 9(3)(b)
- s. 26(3)(d)(e) inserted by 2024 asp 4 s. 10(5)(b)
- s. 26(3)(f) and word inserted by 2024 asp 4 s. 6(7)(b)
- s. 53(3)(c)(ia) inserted by 2015 c. 20 Sch. 7 para. 2(b)
- s. 53B(4A)(4B) inserted by 2015 c. 20 Sch. 7 para. 4
- s. 53ZA inserted by 2015 c. 20 Sch. 7 para. 3
- s. 54B54C inserted by 2015 c. 20 Sch. 7 para. 5
- Sch. 2 Pt. 1B inserted by 2024 asp 4 s. 9(5)
- Sch. 13A inserted by 2015 c. 20 Sch. 7 para. 6
- Sch. 14A inserted by 2015 c. 20 Sch. 7 para. 7