

Permitted Development and the Habitats Regulations

– last reviewed 25 July 2024

This advice note explains the requirements of Regulations 75 to 77 of the Conservation of Habitats Regulations 2017 ('habitats regulations') which relates to proposals which qualify as permitted development under the Town and Country Planning (General Permitted Development) Order 2015.

Any planning permission granted by general development order which is:

- likely to result in a significant effect upon a European Site (either alone or in-combination with other plans or projects); and
- is not directly connected with or necessary to the management of the site

cannot commence without prior approval from the local planning authority according to Regulation 75 of the habitats regulations.

Regulation 76 of the Habitats regulations states that the applicant may contact Natural England for its opinion as to whether the development is likely to have a significant effect upon a European Site. Once Natural England forms a view, it must notify the applicant and the local planning authority of its opinion in writing. If Natural England's opinion is that the development is not likely to have a significant effect, this opinion is conclusive.

An application to the local planning authority for approval must be made, which includes the following:

- details of the development which is intended to be carried out;
- a copy of any relevant notification by Natural England; and
- a fee of £30.

The local planning authority must send a copy of the application to the appropriate nature conservation body and take into account any representations. If Natural England state in their response that it considers that the development will not have a likely significant effect, then the council must send a copy of this representation to the applicant and conclude that development is not likely to have a significant effect upon a European Site.

Otherwise, the local planning authority must assume that the development is likely to have a significant effect and undertake an Appropriate Assessment of the implications of the development for the European Site.

The local planning authority may approve the development only after having ascertained that it will not adversely affect the integrity of the site following Appropriate Assessment.

These legal requirements are likely to apply to proposals with permitted development rights across extensive areas of Dorset, given the extent of issues relating to European Sites within the county, including:

- Hydrological catchments of the Poole Harbour SPA, River Axe SAC, Chesil and the Fleet SPA and SAC and River Avon SAC;
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- Within 5km of Chesil and the Fleet SAC, SPA and Ramsar; and
- Within 5km of the Dorset Heaths SAC, SPA and Ramsar.

The development types with permitted development rights which are most likely to require approval are those which result in an increase in local population, both on a temporary and permanent basis, such as proposals for additional residential dwellings and temporary pop-up campsites. Proposals for extensions to residential development are unlikely to require approval.

Natural England have recently (16 March 2022) provided additional advice around nutrient neutrality which means that effectively developments in the catchments listed above, will need to demonstrate nutrient neutrality for phosphorus, and in the case of Poole Harbour catchment, nitrogen or await formal clarification on our position in respect to this issue. More detail, [including nutrient calculators, can be found on the Council's website](#): <https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/nutrient-neutrality-1>.

However, please note that there may be other types of development and locations where these requirements apply, depending on factors such as the nature of the proposed development and proximity to a European site, and consideration should be given on a case by case basis.

For further advice, please contact: environmentalassessment@dorsetcouncil.gov.uk.
