



# Town and Country Planning Act 1968

## 1968 CHAPTER 72

### PART II

#### ENFORCEMENT OF PLANNING CONTROL

##### *Enforcement notices*

#### **15 New provision as to enforcement notices.**

- (1) Where it appears to the local planning authority that there has been a breach of planning control after the end of 1963, then, subject to any directions given by the Minister and to the following provisions of this section, the authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may serve a notice under this section (in this Act and the principal Act referred to as an "enforcement notice") requiring the breach to be remedied.
- (2) There is a breach of planning control if development has been carried out, whether before or after the commencement of this Part of this Act, without the grant of planning permission required in that behalf in accordance with Part III of the principal Act, or if any conditions or limitations subject to which planning permission was granted have not been complied with.
- (3) Where an enforcement notice relates to a breach of planning control consisting in—
  - (a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land ; or
  - (b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land ; or
  - (c) the making without planning permission of a change of use of any building to use as a single dwelling-house,

it may be served only within the period of four years from the date of the breach.

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- (4) An enforcement notice shall be served on the owner and on the occupier of the land to which it relates and on any other person having an interest in that land, being an interest which in the opinion of the authority is materially affected by the notice.
- (5) An enforcement notice shall specify—
  - (a) the matters alleged to constitute a breach of planning control;
  - (b) the steps required by the authority to be taken in order to remedy the breach, that is to say steps for the purpose of restoring the land to its condition before the development took place or (according to the particular circumstances of the breach) of securing compliance with the conditions or limitations subject to which planning permission was granted ; and
  - (c) the period for compliance with the notice, that is to say the period (beginning with the date when the notice takes effect) within which those steps are required to be taken.
- (6) The steps which may be required by an enforcement notice to be taken include the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.
- (7) Subject to section 16 below, an enforcement notice shall take effect at the end of such period, not less than twenty-eight days after the service of the notice, as may be specified in the notice.
- (8) The local planning authority may withdraw an enforcement notice (without prejudice to their power to serve another) at any time before it takes effect; and, if they do so, they shall forthwith give notice of the withdrawal to every person who was served with the notice.

## **16 Appeal against enforcement notice.**

- (1) A person on whom an enforcement notice is served or any other person having an interest in the land may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on any of the following grounds:—
  - (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged ;
  - (b) that the matters alleged in the notice do not constitute a breach of planning control;
  - (c) in the case of a notice which, by virtue of section 15(3) above, may be served only within the period of four years from the date of the breach of planning control to which the notice relates, that that period has elapsed at the date of service ;
  - (d) in the case of a notice not falling within paragraph (c) above, that the breach of planning control alleged by the notice occurred before the beginning of 1964 ;
  - (e) that the enforcement notice was not served as required by section 15(4) of this Act;
  - (f) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control;
  - (g) that the specified period for compliance with the notice falls short of what should reasonably be allowed.

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- (2) An appeal under this section shall be made by notice in writing to the Minister, which shall indicate the grounds of the appeal and state the facts on which it is based; and on any such appeal the Minister shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.
- (3) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (4) On an appeal under this section—
  - (a) the Minister may correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not material;
  - (b) in a case where it would otherwise be a ground for determining the appeal in favour of the appellant that a person required by section 15(4) of this Act to be served with the notice was not served, the Minister may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- (5) On the determination of an appeal under this section, the Minister shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the enforcement notice or for varying the terms of the notice in favour of the appellant; and the Minister may—
  - (a) grant planning permission for the development to which the enforcement notice relates or, as the case may be, discharge any condition or limitation subject to which planning permission for that development was granted;
  - (b) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use thereof and to any planning permission relating to the land.
- (6) In considering whether to grant planning permission under subsection (5) above, the Minister shall have regard to the provisions of the development plan, so far as material to the subject-matter of the enforcement notice, and to any other material considerations ; and any planning permission granted by him under that subsection may—
  - (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
  - (b) be granted subject to such conditions as the Minister thinks fit;and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.
- (7) Where an appeal against an enforcement notice is brought under this section, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Minister of his powers under subsection (5) above, the following provisions shall have effect:—
  - (a) any planning permission granted thereunder shall be treated as granted on the said application ;
  - (b) in relation to a grant of planning permission or a determination under that subsection, the Minister's decision shall be final; and
  - (c) for the purposes of section 19(4) of the principal Act (local planning authority's register of planning applications), the decision shall be treated as

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having been given by the Minister in dealing with an application for planning permission made to the local planning authority.