
STATUTORY INSTRUMENTS

1991 No. 1220

The Planning(Northern Ireland) Order 1991

PART VI

ENFORCEMENT

Enforcement notices

Appeal against enforcement notice

69.—(1) A person having an estate in the land to which an enforcement notice relates or a person to whom paragraph (2) applies may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the planning appeals commission against the notice, whether or not a copy of it has been served on him.

(2) This paragraph applies to a person who—

- (a) on the date on which the enforcement notice is issued occupies the land to which it relates by virtue of a licence in writing; and
- (b) continues to occupy the land as aforesaid when the appeal is brought.

(3) An appeal may be brought 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) that the breach of planning control alleged in the notice has not taken place;
- (d) in the case of a notice which, by virtue of Article 68(4), may be issued only within the period of four years specified in that paragraph, that that period had elapsed at the date when the notice was issued;
- (e) in the case of a notice not falling within sub-paragraph (d), that the breach of planning control alleged by the notice occurred before 26th August 1974;
- (f) that copies of the enforcement notice were not served as required by Article 68(5);
- (g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in Article 68(10);
- (h) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.

(4) An appeal under this Article shall be made by notice in writing to the planning appeals commission, and such notice shall indicate the grounds of the appeal and state the facts on which it is based.

(5) Where it receives a notice of appeal under this Article against an enforcement notice relating to any land, the planning appeals commission shall notify the district council for the district within

which the land is situated and in exercising its powers under Article 71 the commission shall take into account any representations received by the commission from the district council.

(6) Before determining an appeal under this Article, the planning appeals commission shall, if either the appellant or the Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(7) Articles 21 and 25(2) shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this Article as they apply to an application for planning permission to the Department.

(8) Where an appeal is brought under this Article, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(9) Subject to paragraph (10), the validity of an enforcement notice shall not, except by way of an appeal under this Article, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

(10) Paragraph (9) shall not apply to proceedings brought under Article 72(5) against a person who—

- (a) has held an estate in the land since before the enforcement notice was issued;
- (b) did not have a copy of the enforcement notice served on him; and
- (c) satisfies the court that—
 - (i) he did not know and could not reasonably have been expected to know that the enforcement notice had been issued; and
 - (ii) his interests have been substantially prejudiced by the failure to serve him with a copy of it.