



Building Act 1984

1984 CHAPTER 55

PART I

BUILDING REGULATIONS

Appeals in certain cases

40 Appeal against section 36 notice

- (1) A person aggrieved by the giving of a section 36 notice may appeal to a magistrates' court acting for the petty sessions area in which is situated land on which there has been carried out any work to which the notice relates.
- (2) Subject to subsection (3) below, on an appeal under this section the court shall—
 - (a) if it determines that the local authority were entitled to give the notice, confirm the notice, and
 - (b) in any other case, give the local authority a direction to withdraw the notice.
- (3) If, in a case where the appeal is against a notice under section 36(2) above, the court is satisfied that—
 - (a) the local authority were entitled to give the notice, but
 - (b) in all the circumstances of the case the purpose for which was enacted the section of this Act by virtue of which the notice was given has been substantially achieved,the court may give a direction under subsection (2)(b) above.
- (4) An appeal under this section shall be brought—
 - (a) within 28 days of the giving of the section 36 notice, or
 - (b) in a case where the person to whom the section 36 notice was given gives notice under section 37(1)(a) above, within 70 days of the giving of the section 36 notice.
- (5) Where an appeal is brought under this section—

Status: This is the original version (as it was originally enacted).

- (a) the section 36 notice is of no effect pending the final determination or withdrawal of the appeal, and
 - (b) section 36(3) above has effect in relation to that notice as if after the words “28 days ” there were inserted the words “(beginning, in a case where an appeal is brought under section 40 below, on the date when the appeal is finally determined or, as the case may be, withdrawn) ” .
- (6) If, on an appeal under this section, there is produced to the court a report that has been submitted to the local authority under section 37(1) above, the court, in making an order as to costs, may treat the expenses incurred in obtaining the report as expenses incurred for the purposes of the appeal.