



Town and Country Planning Act 1990

1990 CHAPTER 8

PART VII

ENFORCEMENT

Enforcement notices

177 Grant or modification of planning permission on appeals against enforcement notices.

- (1) On the determination of an appeal under section 174, the Secretary of State may—
- ^{F1}(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;
 - (b) discharge any condition or limitation subject to which planning permission was granted;
 - ^{F2}(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.
- (1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—
- (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
 - (b) references to the local planning authority were references to the Secretary of State.
- (1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194]

Status: Point in time view as at 09/05/2024.

Changes to legislation: Town and Country Planning Act 1990, Section 177 is up to date with all changes known to be in force on or before 15 July 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)

[^{F3}(1C) [^{F4}Subsection] (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).]

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State 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.

^{F5}[(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.]

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

[^{F6}(4A) Section 100ZA (which makes provision about restrictions on the power to impose conditions or limitations on a grant of planning permission in relation to land in England) applies in relation to conditions substituted under subsection (4) as it applies in relation to conditions imposed on a grant of planning permission to develop land which is granted on an application made under Part 3.]

(5) [^{F7}Where—

- (a) an appeal against an enforcement notice is brought under section 174, and
- (b) the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant shall be deemed to have made an application for planning permission [^{F8}in respect of the matters stated in the enforcement notice as constituting a breach of planning control].

^{F9}[(5A) Where—

- (a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;
- (b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and
- (c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.]

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Textual Amendments

- F1** S. 177(1)(a) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 24\(1\)\(a\)](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch. 1](#) (subject to art. 5)

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- F2** S. 177(1)(c)(1A)(1B) substituted (27.7.1992) for s. 177(1)(c) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24(1)(b)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))
- F3** S. 177(1C) inserted (6.4.2012) by Localism Act 2011 (c. 20), **ss. 123(5), 240(2)** (with s. 144); S.I. 2012/628, art. 8(b) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)
- F4** Word in s. 177(1C) substituted (6.9.2015 for specified purposes, 16.3.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), **ss. 44(2), 58(2)(b)(4)(b)**; S.I. 2016/52, art. 5(c) (with art. 14)
- F5** S. 177(3) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24(2)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)
- F6** S. 177(4A) inserted (1.10.2018) by Neighbourhood Planning Act 2017 (c. 20), s. 46(1), **Sch. 3 para. 8**; S.I. 2018/567, reg. 3(b)
- F7** S. 177(5)(a)(b) and word substituted for words (6.9.2015 for specified purposes, 16.3.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), **ss. 44(3), 58(2)(b)(4)(b)**; S.I. 2016/52, art. 5(c) (with art. 14)
- F8** Words in s. 177(5) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 24 (3)** (with s. 84(5)); S.I. 1991/2905, art. 3, **Sch. 1** (subject to art. 5)
- F9** S. 177(5A) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 6(3), (with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to art. 5)

Modifications etc. (not altering text)

- C1** Ss. 176, 177: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), s. 25(1)(b); S.I. 1992/725, **arts. 2, 3**
- C2** S. 177 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 18(1), **Sch. 4 Pt. 1**
S. 177: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, **art. 3**
- C3** S. 177 applied (with modifications) (E.) (1.6.2015) by The Planning (Hazardous Substances) Regulations 2015 (S.I. 2015/627), regs. 1(1), 15, **Sch. 4 Pt. 1** (with reg. 34)
- C4** S. 177 applied (with modifications) (W.) (4.9.2015) by The Planning (Hazardous Substances) (Wales) Regulations 2015 (S.I. 2015/1597), regs. 1(1), 16, **Sch. 4 Pt. 1** (with reg. 36)
- C5** S. 177(1) excluded (W.) (16.5.2017) by The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (S.I. 2017/567), regs. 1(2), **44** (with regs. 1(4), 55(2)(3), 63, 65)
- C6** S. 177(1) excluded (E.) (16.5.2017) by The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (S.I. 2017/571), regs. 1(1), **36** (with regs. 47, 70)

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