



Planning and Compensation Act 1991

1991 CHAPTER 34

PART I

TOWN AND COUNTRY PLANNING: ENGLAND AND WALES

Other changes relating to enforcement

6 Appeal against enforcement notice

(1) For section 174(2) and (3) of the principal Act (grounds of appeal and notice) there is substituted—

“(2) An appeal may be brought on any of the following grounds—

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Status: This is the original version (as it was originally enacted).

- (3) An appeal under this section shall be made either—
- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
 - (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date.”
- (2) In section 175(4) of that Act (enforcement notices of no effect pending final determination or withdrawal of appeals) after “shall” there is inserted “subject to any order under section 289(4A)”.
- (3) After section 177(5) of that Act (appellant deemed to have made an application for planning permission for the development to which the enforcement notice relates) there is inserted—
- “(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.”
- (4) In section 289 of that Act (appeals to High Court) after subsection (4) there is inserted—
- “(4A) In proceedings brought by virtue of this section in respect of an enforcement notice, the High Court or, as the case may be, the Court of Appeal may, on such terms if any as the Court thinks fit (which may include terms requiring the local planning authority to give an undertaking as to damages or any other matter), order that the notice shall have effect, or have effect to such extent as may be specified in the order, pending the final determination of those proceedings and any re-hearing and determination by the Secretary of State.
- (4B) Where proceedings are brought by virtue of this section in respect of any notice under section 207, the notice shall be of no effect pending the final determination of those proceedings and any re-hearing and determination by the Secretary of State.”
- (5) For subsection (6) of that section there is substituted—
- “(5A) Rules of court may also provide for the High Court or, as the case may be, the Court of Appeal to give directions as to the exercise, until such proceedings in respect of an enforcement notice are finally concluded and any re-hearing and determination by the Secretary of State has taken place, of any other powers in respect of the matters to which such a notice relates.
- (6) No proceedings in the High Court shall be brought by virtue of this section except with the leave of that Court and no appeal to the Court of Appeal shall

be so brought except with the leave of the Court of Appeal or of the High Court.”

(6) In section 303(3) of that Act (fees payable to Secretary of State in respect of deemed applications for planning permission) for “to him of a fee of the prescribed amount in respect of an” there is substituted—

- “(a) of fees of prescribed amounts to him and to the local planning authority in respect of any application for planning permission deemed to be made under section 177(5); and
- (b) of a fee of the prescribed amount to him in respect of any other”.