



Localism Act 2011

2011 CHAPTER 20

PART 6

PLANNING

CHAPTER 5

ENFORCEMENT

123 Retrospective planning permission

- (1) The Town and Country Planning Act 1990 is amended as follows.
- (2) After section 70B insert—

“70C Power to decline to determine retrospective application

- (1) A local planning authority in England may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.
- (2) For the purposes of the operation of this section in relation to any particular application for planning permission, a “pre-existing enforcement notice” is an enforcement notice issued before the application was received by the local planning authority.”
- (3) In section 78(2)(aa) (which refers to an authority not having given notice that it has exercised its power under section 70A or 70B to decline to determine an application) after “or 70B” insert “ or 70C ”.

Status: Point in time view as at 22/11/2012.

Changes to legislation: Localism Act 2011, Section 123 is up to date with all changes known to be in force on or before 15 June 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)

- (4) In section 174 (appeal against enforcement notice) after subsection (2) insert—
- “(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—
- (a) the land to which the enforcement notice relates is in England, and
 - (b) the enforcement notice was issued at a time—
 - (i) after the making of a related application for planning permission, but
 - (ii) before the end of the period applicable under section 78(2) in the case of that application.
- (2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.”
- (5) In section 177 (grant or modification of planning permission on appeals against enforcement notice) after subsection (1B) insert—
- “(1C) If the land to which the enforcement notice relates is in England, subsection (1)
- (a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).”
- (6) In section 177(5) (deemed application for planning permission where appeal brought against enforcement notice) for the words from the beginning to “the appellant” substitute—
- “Where an appeal against an enforcement notice is brought under section 174 and—
- (a) the land to which the enforcement notice relates is in Wales, or
 - (b) that land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),
- the appellant”.

Commencement Information

- II** S. 123 in force at 6.4.2012 by S.I. 2012/628, art. 8(b) (with arts. 9, 12, 13, 16, arts. 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)

Status:

Point in time view as at 22/11/2012.

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