



# Planning (Listed Buildings and Conservation Areas) Act 1990

## 1990 CHAPTER 9

### PART I

#### LISTED BUILDINGS

#### CHAPTER II

##### AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

##### *Appeals*

### **20 Right to appeal against decision or failure to take decision.**

- (1) Where a local planning authority—
- (a) refuse an application for listed building consent or grant it subject to conditions;
  - (b) refuse an application for the variation or discharge of conditions subject to which such consent has been granted or grant it and add new conditions; or
  - (c) refuse an application for approval required by a condition imposed on the granting of listed building consent with respect to details of works or grant it subject to conditions,
- the applicant, if aggrieved by the decision, may appeal to the Secretary of State.
- (2) A person who has made such an application may also appeal to the Secretary of State if the local planning authority have [<sup>F1</sup>done none of the following]—
- (a) given notice to the applicant of their decision on the application;
  - [<sup>F2</sup>(aa) given notice to the applicant that they have exercised their power under section 81A or 81B to decline to determine the application;]

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- (b) in the case of such an application as is mentioned in paragraph (a) or (b) of subsection (1), given notice to the applicant that the application has been referred to the Secretary of State in accordance with directions given under section 12,

within the relevant period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.

- (3) In this section “the relevant period” means—

- (a) in the case of such an application as is mentioned in paragraph (a) or (b) of subsection (1), such period as may be prescribed; and
- (b) in the case of such an application for approval as is mentioned in paragraph (c) of subsection (1), the period of eight weeks from the date of the receipt of the application.

- (4) For the purposes of the application [<sup>F3</sup>in relation to England] of sections 22(1) and 63(7)(b) in relation to an appeal under subsection (2) it shall be assumed that the authority decided to refuse the application in question.

- [<sup>F4</sup>(5) For the purposes of the application in relation to Wales of sections 22(1), 63(7)(b) and 88E(7)(b) in relation to an appeal under subsection (2) it shall be assumed that the authority decided to refuse the application in question.]

#### Textual Amendments

- F1** Words in s. 20(2) substituted (24.8.2005 for E., otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), ss. 43\(4\)\(a\), 121\(1\)](#) (with [ss. 43\(5\), 111](#)); S.I. 2005/2081, [art. 2\(a\)](#)
- F2** S. 20(2)(aa) substituted for word in s. 20(2) (24.8.2005 for E. for specified purposes, 6.4.2009 for E. for remaining purposes., otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), ss. 43\(4\)\(b\), 121\(1\)](#) (with [ss. 43\(5\), 111](#)); S.I. 2005/2081, [art. 2\(a\)\(iv\)](#); S.I. 2009/384, [art. 2\(c\)](#)
- F3** Words in s. 20(4) inserted (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014 \(S.I. 2014/2773\)](#), [art. 1\(2\)](#), [Sch. 1 para. 16](#)
- F4** S. 20(5) inserted (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014 \(S.I. 2014/2773\)](#), [art. 1\(2\)](#), [Sch. 1 para. 16](#)

#### Modifications etc. (not altering text)

- C1** Ss. 17–20 modified by [S.I. 1990/1519, reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519, reg. 12, Sch. 3](#)
- C2** S. 20 applied (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), ss. 89, 121\(1\), Sch. 4 para. 11\(3\)](#) (with [s. 111](#)); S.I. 2006/1281, [art. 2\(d\)](#)
- C3** Ss. 17-20 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), [regs. 1, 16, Sch. 3](#)
- C4** Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), [arts. 1\(1\), 3, Sch. 1](#) (with [art. 1\(2\)](#))

#### [<sup>F5</sup>20A Appeal made: functions of local planning authorities

- (1) This section applies if a person who has made an application mentioned in section 20(1)(a) appeals to the Secretary of State under section 20(2).
- (2) At any time before the end of the additional period the local planning authority may give the notice referred to in section 20(2).

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- (3) If the local planning authority give notice as mentioned in subsection (2) that their decision is to refuse the application—
- (a) the appeal must be treated as an appeal under section 20(1) against the refusal;
  - (b) the Secretary of State must give the person making the appeal an opportunity to revise the grounds of the appeal;
  - (c) the Secretary of State must give such a person an opportunity to change any option the person has chosen relating to the procedure for the appeal.
- (4) If the local planning authority give notice as mentioned in subsection (2) that their decision is to grant the application subject to conditions the Secretary of State must give the person making the appeal the opportunity—
- (a) to proceed with the appeal as an appeal under section 20(1) against the grant of the application subject to conditions;
  - (b) to revise the grounds of the appeal;
  - (c) to change any option the person has chosen relating to the procedure for the appeal.
- (5) The Secretary of State must not issue his decision on the appeal before the end of the additional period.
- (6) The additional period is the period prescribed for the purposes of this section and which starts on the day on which the person appeals under section 20(2).]

#### Textual Amendments

- F5** S. 20A inserted (6.8.2004 for specified purposes, 22.6.2015 for W. so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 50(2), 121(1) (with ss. 50(3)(4), 111); [S.I. 2004/2097](#), art. 2; [S.I. 2015/340](#), art. 2(b)

#### Modifications etc. (not altering text)

- C4** Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, [Sch. 1](#) (with art. 1(2))

## 21 Appeals: supplementary provisions.

- (1) An appeal under section 20 must be made by notice served in the prescribed manner within such period as may be prescribed.
- (2) The period which may be prescribed under subsection (1) must not be less than—
- (a) in the case of an appeal under subsection (1) of section 20, 28 days from the receipt by the applicant of notification of the decision; or
  - (b) in the case of an appeal under subsection (2) of that section, 28 days from the end of the relevant period (within the meaning of that section) or, as the case may be, the extended period there mentioned.
- (3) The notice of appeal may include as the ground or one of the grounds of the appeal a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 1.
- (4) In the case of a building with respect to which [<sup>F6</sup>interim protection has effect or] a listed building preservation notice is in force, the notice may include a claim that the building should not be included in such a list.

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[<sup>F7</sup>(4A) Once notice of an appeal under section 20 to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed.

(4B) Regulations which make provision under subsection (4A) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.]

(5) Regulations under this Act may provide that an appeal in respect of an application for listed building consent or for the variation or discharge of conditions subject to which such consent has been granted shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one of those described in subsection (1) of section 11.

(6) Any such regulations may also include provisions corresponding to those which may be included in the regulations which may be made by virtue of section 11.

(7) If any person—

- (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of subsection (5) or (6) and contains a statement which he knows to be false or misleading in a material particular; or
- (b) recklessly issues a certificate which purports to comply with those requirements and contains a statement which is false or misleading in a material particular,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[<sup>F8</sup>(8) Regulations under this Act may provide for an appeal under section 20 to be accompanied by such other information as may be prescribed.

(9) The power to make regulations under subsection (8) is exercisable by—

- (a) the Secretary of State, in relation to England;
- (b) the Welsh Ministers, in relation to Wales.

<sup>F9</sup>(10) .....

<sup>F9</sup>(11) .....]

#### Textual Amendments

- F6** Words in s. 21(4) inserted (31.5.2017) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 26(7), 41(3)**; S.I. 2017/633, art. 4(c) (with art. 6(2))
- F7** S. 21(4A)(4B) inserted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 47(3), 58(2)(b)(4)(b)**; S.I. 2017/546, art. 3(b) (with art. 4)
- F8** S. 21(8)-(11) inserted (26.11.2008 for specified purposes, 6.4.2009 for E. in so far as not already in force, 30.4.2012 for W.) by [Planning Act 2008 \(c. 29\)](#), **ss. 197, 241(1)(a)(3)(4), Sch. 11 para. 5** (with s. 226); S.I. 2009/400, **art. 5(d)**; S.I. 2012/802, art. 2(b)
- F9** S. 21(10)(11) omitted (21.3.2016) by virtue of [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 40(9), 41(1)(f)**

#### Modifications etc. (not altering text)

- C4** Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, **Sch. 1** (with art. 1(2))

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- C5** Ss. 21, 22 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**
- C6** S. 21 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), **regs. 1, 16, Sch. 3**

## 22 Determination of appeals.

- (1) The Secretary of State may allow or dismiss an appeal under section 20 or may reverse or vary any part of the authority's decision (whether or not the appeal relates to that part), and—
- (a) may deal with the application as if it had been made to him in the first instance; and
  - (b) may exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.
- (2) Before determining the appeal, the Secretary of State shall, if either the applicant or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

[<sup>F10</sup>(2B) Subsection (2) does not apply to an appeal to the Welsh Ministers.]

- (3) The decision of the Secretary of State on [<sup>F11</sup>an appeal under section 20] shall be final.
- (4) Schedule 3 applies to appeals under section 20.

### Textual Amendments

- F10** S. 22(2B) inserted (11.11.2014) by The Town and Country Planning (Determination of Procedure) (Wales) Order 2014 (S.I. 2014/2773), art. 1(2), **Sch. 1 para. 17(2)**
- F11** Words in s. 22(3) substituted (11.11.2014) by The Town and Country Planning (Determination of Procedure) (Wales) Order 2014 (S.I. 2014/2773), art. 1(2), **Sch. 1 para. 17(3)**

### Modifications etc. (not altering text)

- C4** Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by The Town and Country Planning (Isles of Scilly) Order 2013 (S.I. 2013/2148), arts. 1(1), 3, **Sch. 1** (with art. 1(2))
- C7** Ss. 21, 22 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**
- C8** S. 22 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), **regs. 1, 16, Sch. 3**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(1A)(1B) inserted by 2023 c. 55 s. 105(2)
- s. 12(4A) inserted by 2008 c. 29 Sch. 10 para. 16
- s. 16(2A) inserted by 2023 c. 55 s. 102(3)
- s. 17(4) inserted by 2023 c. 55 s. 124(4)
- s. 22(2A) inserted by 2008 c. 29 Sch. 10 para. 18(2)
- s. 40(2A) inserted by 2008 c. 29 Sch. 10 para. 19
- s. 44AA-44AC inserted by 2023 c. 55 s. 103(2)
- s. 46(1A) inserted by 2023 c. 55 s. 103(8)(a)
- s. 46(3A) inserted by 2023 c. 55 s. 103(8)(c)
- s. 49(1) s. 49 renumbered as s. 49(1) by 2023 asc 3 Sch. 13 para. 127(b)
- s. 49(2) inserted by 2023 asc 3 Sch. 13 para. 127(c)
- s. 54(8) inserted by 2023 c. 55 s. 104(2)(c)
- s. 55(2A) inserted by 2023 c. 55 s. 104(3)(a)
- s. 55(5H)(5I) inserted by 2023 c. 55 s. 104(3)(f)
- s. 55(5BA) inserted by 2023 c. 55 s. 104(3)(d)
- s. 56A and cross-heading inserted by 2016 anaw 4 s. 31(1)
- s. 66(1A) inserted by 2023 c. 55 s. 102(4)(a)
- s. 66(2A) inserted by 2023 c. 55 s. 102(4)(b)
- s. 66(5) inserted by 2023 asc 3 Sch. 13 para. 136
- s. 82A(2)(fza) inserted by 2023 c. 55 s. 103(9)
- s. 82A(2)(ha) inserted by 2016 anaw 4 s. 31(2)
- s. 88(3ZA) inserted by 2023 c. 55 s. 103(10)(a)
- s. 88B(1ZA) inserted by 2023 c. 55 s. 103(11)
- s. 89(1ZA) inserted by 2008 c. 29 Sch. 10 para. 22
- s. 89(1ZC) inserted by 2023 c. 55 s. 124(5)(b)
- s. 93(5A) inserted by 2008 c. 29 Sch. 10 para. 23(3)
- s. 93(5A) words inserted by 2013 c. 24 Sch. 17 para. 18(3)
- Sch. 2 para. 4A inserted by 2023 c. 55 s. 103(12)(b)
- Sch. 3 para. 2(4A) inserted by 2008 c. 29 Sch. 10 para. 24(2)
- Sch. 3 para. 2(9) inserted by 2008 c. 29 Sch. 10 para. 24(3)
- Sch. 3 para. 3(4A)(4B) inserted by 2008 c. 29 Sch. 10 para. 24(4)
- Sch. 3 para. 6(1A) inserted by 2008 c. 29 Sch. 10 para. 24(6)