



Levelling-up and Regeneration Act 2023

2023 CHAPTER 55

PART 3

PLANNING

CHAPTER 5

ENFORCEMENT OF PLANNING CONTROLS

115 Time limits for enforcement

(1) In section 171B of TCPA 1990 (time limits), in subsection (1), for the words from “four years” to the end substitute—

- “(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed, and
- (b) in the case of a breach of planning control in Wales, four years beginning with the date on which the operations were substantially completed.”

(2) In that section, in subsection (2), for the words from “four years” to the end substitute—

- “(a) in the case of a breach of planning control in England, ten years beginning with the date of the breach, and
- (b) in the case of a breach of planning control in Wales, four years beginning with the date of the breach.”

116 Duration of temporary stop notices

(1) Section 171E of TCPA 1990 (temporary stop notices) is amended as follows.

(2) In subsection (7)(a), for “period of 28 days” substitute “relevant period”.

(3) After subsection (7) insert—

“(8) In subsection (7)(a), “relevant period” means—

- (a) in the case of a notice issued by a local planning authority in England, 56 days;
- (b) in the case of a notice issued by a local planning authority in Wales, 28 days.”

117 Enforcement warning notices

(1) TCPA 1990 is amended as follows.

(2) In section 171A (expressions used in connection with enforcement), in subsection (2)

(a) before paragraph (a) insert—

“(za) the issue of an enforcement warning notice in relation to land in England under section 172ZA;”;

(b) in paragraph (aa), for “(defined in section 173ZA)” substitute “in relation to land in Wales under section 173ZA”.

(3) Before section 172A insert—

“172ZA Enforcement warning notice: England

(1) The local planning authority may issue a notice (an “enforcement warning notice”) where it appears to them that—

- (a) there has been a breach of planning control in respect of any land in England, and
- (b) there is a reasonable prospect that, if an application for planning permission in respect of the development concerned were made, planning permission would be granted.

(2) The notice must—

- (a) state the matters that appear to the authority to constitute the breach of planning control, and
- (b) state that, unless an application for planning permission is made within a period specified in the notice, further enforcement action may be taken.

(3) A copy of the notice must be served—

- (a) on the owner and the occupier of the land to which it relates, and
- (b) on any other person having an interest in the land, being an interest that, in the opinion of the authority, would be materially affected by the taking of any further enforcement action.

(4) The issue of an enforcement warning notice does not affect any other power exercisable in respect of any breach of planning control.”

(4) In section 188 (register of enforcement and stop notices and other enforcement action) in subsection (1)—

(a) after paragraph (za) insert—

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

- “(zb) to enforcement warning notices under section 172ZA (enforcement warning notice: England),”;
 - (b) in paragraph (aa), at the end insert “under section 173ZA (enforcement warning notice: Wales)”.
- (5) In that section, in subsection (2)—
- (a) in paragraph (a), for “enforcement warning notice” substitute “enforcement warning notice under section 172ZA or 173ZA”;
 - (b) in paragraph (b), after “enforcement notices” insert “and enforcement warning notices under section 172ZA”.

118 Restriction on appeals against enforcement notices

In section 174 of TCPA 1990 (appeal against enforcement notice), for subsections (2A) and (2B) substitute —

- “(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 after the making of an application for planning permission that was related to the enforcement notice.
- (2AA) For the purposes of [subsection \(2A\)](#)—
- (a) an application for planning permission for the development of any land is 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;
 - (b) an application for planning permission that the local planning authority or the Secretary of State declined to determine under section 70A, 70B or 70C is to be ignored.
- (2AB) But [subsection \(2A\)](#) does not apply if—
- (a) the application for planning permission has ceased to be under consideration, and
 - (b) the enforcement notice was issued after the end of the period of two years beginning with the day on which the application ceased to be under consideration.
- (2AC) For the purposes of [subsection \(2AB\)](#), an application for planning permission has ceased to be under consideration if—
- (a) the application was refused, or granted subject to conditions, and, in the case of an application determined by the local planning authority, the applicant did not appeal under section 78(1)(a);
 - (b) the applicant did not appeal in the circumstances mentioned in section 78(2) and the application was not subsequently refused;
 - (c) the applicant appealed under section 78(1)(a) or section 78(2) and—
 - (i) the appeal was dismissed,
 - (ii) the application was on appeal granted subject to conditions, or subject to different conditions, or
 - (iii) the Secretary of State declined under section 79(6) to determine the appeal.

- (2B) For the purposes of [subsection \(2AB\)](#), the day on which the application ceased to be under consideration is—
- (a) in a case within [subsection \(2AC\)\(a\)](#), the day on which the right to appeal arose;
 - (b) in a case within [subsection \(2AC\)\(b\)](#), the day after the end of the prescribed period referred to in [section 78\(2\)](#);
 - (c) in a case within [subsection \(2AC\)\(c\)\(i\)](#), the day on which the appeal was dismissed;
 - (d) in a case within [subsection \(2AC\)\(c\)\(ii\)](#), the day on which the appeal was determined;
 - (e) in a case within [subsection \(2AC\)\(c\)\(iii\)](#) relating to an appeal under [section 78\(1\)\(a\)](#), the day on which the right to appeal arose;
 - (f) in a case within [subsection \(2AC\)\(c\)\(iii\)](#) relating to an appeal under [section 78\(2\)](#), the day after the end of the prescribed period referred to in [section 78\(2\)](#).”

119 Undue delays in appeals

- (1) TCPA 1990 is amended as follows.
- (2) In [section 176](#) (determination of appeals relating to enforcement notices), at the end insert—

“(6) If at any time before or during the determination of an appeal against an enforcement notice issued by a local planning authority in England it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, the Secretary of State may—

 - (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are so specified for the expedition of the appeal, and
 - (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.”
- (3) In [section 195](#) (appeals relating to certificates of lawfulness), after [subsection \(3\)](#) insert—

“(3A) Where the local planning authority referred to in [subsection \(1\)](#) is in England, if at any time before or during the determination of an appeal under [subsection \(1\)\(a\)](#) or [subsection \(1\)\(b\)](#) it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, the Secretary of State may—

 - (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are so specified for the expedition of the appeal, and
 - (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.”
- (4) In [Schedule 6](#) (determination of certain appeals by person appointed by Secretary of State), in [paragraph 2](#) (powers and duties of appointed person)—
 - (a) in sub-paragraph [\(1\)\(b\)](#) for “and [\(5\)](#)” substitute “, [\(5\)](#) and [\(6\)](#)”;
 - (b) in sub-paragraph [\(1\)\(c\)](#), for “and [\(3\)](#)” substitute “, [\(3\)](#) and [\(3A\)](#)”.

120 Penalties for non-compliance

- (1) In section 187A of TCPA 1990 (enforcement of conditions), in subsection (12), for the words from “to a fine” to the end substitute—
 - “(a) to a fine, if the land is in England, or
 - (b) to a fine not exceeding level 3 on the standard scale, if the land is in Wales.”
- (2) In section 216 of TCPA 1990 (penalty for non-compliance with section 215 notice)—
 - (a) in subsection (2), for the words from “to a fine” to the end substitute—
 - “(a) to a fine, if the land is in England, or
 - (b) to a fine not exceeding level 3 on the standard scale, if the land is in Wales.”;
 - (b) in subsection (6), for “one-tenth of level 3 on the standard scale” substitute “the relevant amount”;
 - (c) after subsection (6) insert—
 - “(6A) In subsection (6) “the relevant amount” means—
 - (a) if the land is in England, one-tenth of the greater of—
 - (i) £5000, or
 - (ii) level 4 on the standard scale;
 - (b) if the land is in Wales, one-tenth of level 3 on the standard scale.”

121 Power to provide relief from enforcement of planning conditions

After section 196D of TCPA 1990 insert—

“Relief from enforcement

196E Power to provide relief from enforcement of planning conditions

- (1) The Secretary of State may by regulations provide that a local planning authority in England may not take, or is subject to specified restrictions in how it may take, relevant enforcement measures in relation to any actual or apparent failure to comply with a relevant planning condition.
- (2) The Secretary of State may make regulations under subsection (1) only if the Secretary of State considers that it is appropriate to make the regulations for the purposes of national defence or preventing or responding to civil emergency or significant disruption to the economy of the United Kingdom or any part of the United Kingdom.
- (3) The power in subsection (1) may only be exercised in respect of an actual or apparent failure which occurs during a specified period of not more than one year (the “relief period”) or which is apprehended during the relief period to so occur (but see subsections (7) and (8)).
- (4) A “relevant enforcement measure” is anything which may be done by a local planning authority in England for the purposes of investigating, preventing, remedying or penalising an actual or apparent failure to comply with a relevant planning condition.

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

- (5) A relevant enforcement measure includes, in particular—
- (a) the exercise of a power under—
 - (i) section 171BA (power to apply for planning enforcement order);
 - (ii) section 187B (power to apply to court for injunction);
 - (iii) section 196A (power to enter without a warrant);
 - (iv) section 196B (power to apply for, and enter under, warrant);
 - (b) the issue of—
 - (i) a planning contravention notice under section 171C,
 - (ii) a temporary stop notice under section 171E,
 - (iii) an enforcement notice under section 172,
 - (iv) an enforcement warning notice under section 172ZA,
 - (v) a stop notice under section 183, or
 - (vi) a breach of condition notice under section 187A.
- (6) A “relevant planning condition” is a condition or limitation subject to which planning permission for development of land in England is granted, but does not include a condition under—
- (a) section 90A and Schedule 7A (condition relating to biodiversity gain);
 - (b) section 90B (condition relating to development progress reports);
 - (c) section 91 (condition limiting duration of planning permission);
 - (d) section 92 (conditions for outline planning permission).
- (7) Regulations under [subsection \(1\)](#) may make provision as to the treatment of an actual or apparent failure to comply with a relevant planning condition, which—
- (a) starts before, but continues after, the start of the relief period, or
 - (b) starts during, but continues after, that period.
- (8) Regulations under [subsection \(1\)](#) may provide that an actual or apparent failure to comply with a relevant planning condition is not to be treated as occurring during the relief period, if the failure—
- (a) occurs wholly during the period, and
 - (b) is not remedied by a specified time after the period.
- (9) Regulations under [subsection \(1\)](#) may make provision that, where anything relating to the taking of a relevant enforcement measure is to be or may be done by a time during the relief period, it is to be or may be instead done by a specified time after that period.
- (10) Regulations under [subsection \(1\)](#) may—
- (a) apply in relation to all, or only specified, local planning authorities in England;
 - (b) apply in relation to all, or only specified, relevant planning conditions;
 - (c) apply in relation to all, or only specified, relevant enforcement measures;
 - (d) prevent the taking of relevant enforcement measures indefinitely or only for a specified period of time.

- (11) In this section, “specified” means specified or described in regulations under [subsection \(1\)](#).”