



Town and Country Planning Act 1962

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PART IV

ENFORCEMENT OF PLANNING CONTROL

Enforcement where planning permission required

45 Power to serve enforcement notices

- (1) Where it appears to the local planning authority—
- (a) that any development of land has been carried out with out the grant of planning permission required in that behalf in accordance with Part III of this Act, or
 - (b) that any conditions or limitations subject to which planning permission was granted have not been complied with,
- then, subject to any directions given by the Minister, and to the following provisions of this section, the local planning authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may, within the period specified in the next following subsection, serve a notice under this section (in this Act referred to as an “enforcement notice”).
- (2) The period for the service of an enforcement notice—
- (a) where the notice relates to the carrying out of development, is the period of four years from the carrying out of that development, and
 - (b) where the notice relates to non-compliance with a condition or limitation, is the period of four years from the date of the alleged failure to comply with it.
- (3) Where the local planning authority serve an enforcement notice, the notice—
- (a) shall be served on the owner and occupier of the land to which it relates, and
 - (b) may, if the authority think fit, also be served on any other person having an interest in that land, being an interest which in their opinion is materially affected by the notice.

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- (4) An enforcement notice—
- (a) shall specify the development which is alleged to have been carried out without the grant of planning permission as mentioned in paragraph (a) of subsection (1) of this section or, as the case may be, the matters in respect of which it is alleged that any such conditions or limitations as are mentioned in paragraph (b) of that subsection have not been complied with, and
 - (b) may require such steps as may be specified in the notice to be taken, within such period as may be so specified, for the purpose of restoring the land to its condition before the development took place, or of securing compliance with the conditions or limitations, as the case may be, and in particular may, for that purpose, require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.
- (5) Subject to the following provisions of this Part of this Act, an enforcement notice shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

46 Appeal to Minister against enforcement notice

- (1) A person on whom an enforcement notice is served, or any other person having an interest in the land, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on any of the following grounds, that is to say—
- (a) that planning permission ought to be granted for the development to which the enforcement notice relates;
 - (b) that planning permission has been granted for that development;
 - (c) that no planning permission was required in respect of that development, or, as the case may be, that the conditions or limitations subject to which planning permission for that development was granted have been complied with;
 - (d) that what is assumed in the enforcement notice to be development did not constitute or involve development;
 - (e) that the enforcement notice was not served on the owner or occupier of the land within the relevant period of four years specified in subsection (2) of the last preceding section;
 - (f) that the requirements of the enforcement notice exceed what is necessary for restoring the land to its condition before the development in question took place, or, as the case may be, for securing compliance with the conditions or limitations to which the enforcement notice relates ;
 - (g) that the period specified in the enforcement notice as the period within which any steps required by that notice are to be taken falls short of what should reasonably be allowed.
- (2) Any appeal under this section shall be made by notice in writing to the Minister, which shall indicate the grounds of the appeal; and on any such appeal the Minister shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.
- (3) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or withdrawal of the appeal.

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- (4) On an appeal under this section the Minister may correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not a material one.
- (5) On the determination of an appeal under this section the Minister shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the enforcement notice or for varying the terms of the enforcement notice in favour of the appellant.

47 Penalties for non-compliance with enforcement notices

- (1) Subject to the provisions of this section, where an enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the land to which it relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person shall be liable on summary conviction to a fine not exceeding one hundred pounds.
- (2) If a person against whom proceedings are brought under the preceding subsection has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent owner.—
 - (a) the subsequent owner may be convicted of the offence, and
 - (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of a use of land) remain unfulfilled.
- (5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and if the use is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued.
- (6) Any reference in this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith or

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such extended period as the local planning authority may allow for compliance with the notice.

- (7) In this section “owner”, in relation to any land, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let.

48 Execution by local planning authority of work required by enforcement notice

If, within the period specified in an enforcement notice for compliance therewith, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken, the local planning authority may enter upon the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in that behalf.

49 Supplementary provisions as to enforcement notices

- (1) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice served in respect of any development, and any sums paid by the owner of any land under the last preceding section in respect of expenses incurred by the local planning authority in taking steps required to be taken by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person by whom the development was carried out.
- (2) Regulations made under this Act may provide that, in relation to any steps required to be taken by an enforcement notice, all or any of the enactments specified in the next following subsection shall apply, subject to such adaptations and modifications as may be specified in the regulations, including, in the case of the enactment specified in paragraph (b) of that subsection, adaptations and modifications for the purpose of affording to the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.
- (3) The said enactments are the following provisions of the Public Health Act, 1936, that is to say—
- (a) section two hundred and seventy-six (which empowers local authorities to sell materials removed in executing works under that Act, subject to accounting for the proceeds of sale);
 - (b) section two hundred and eighty-nine (which confers power to require the occupier of any premises to permit works to be executed by the owner of the premises);
 - (c) section two hundred and ninety-two (which confers power on local authorities to include a sum in respect of establishment charges in their expenses in executing works); and
 - (d) section two hundred and ninety-four (which limits the liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act).
- (4) Any regulations made in accordance with subsection (2) of this section may provide for the charging on the land of any expenses recoverable by a local authority under the last preceding section.

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50 Effect of planning permission on enforcement notice

- (1) If, after the service of an enforcement notice, planning permission is granted for the retention on land of buildings or works, or for the continuance of a use of land, to which the enforcement notice relates, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for the demolition or alteration of those buildings or works, or the discontinuance of that use, as the case may be.
- (2) If the planning permission granted as mentioned in the preceding subsection is granted so as to permit the retention of buildings or works, or the continuance of a use of land, without complying with some condition subject to which a previous planning permission was granted, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.
- (3) The preceding provisions of this section shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the enforcement notice before the relevant provision of the enforcement notice ceased to have effect.

51 Enforcement notice to have effect against subsequent development

- (1) Compliance with an enforcement notice, whether in respect of—
 - (a) the demolition or alteration of any buildings or works, or
 - (b) the discontinuance of any use of land,or in respect of any other requirements contained in the enforcement notice, shall not discharge the enforcement notice.
- (2) Without prejudice to the preceding subsection, any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III of this Act; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.
- (3) Without prejudice to subsection (1) of this section, if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered; and, subject to the next following subsection, the provisions of section forty-eight of this Act, and of subsection (1) of section forty-nine of this Act, shall apply accordingly.
- (4) Where, at any time after an enforcement notice takes effect.—
 - (a) any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the notice, and
 - (b) the local planning authority propose, under section forty-eight of this Act, to take any steps required by the enforcement notice for the demolition or alteration of the buildings or works in consequence of the reinstatement or restoration,the local planning authority shall, not less than twenty-eight days before taking any such steps, serve on the owner and occupier of the land a notice of their intention to do so.

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- (5) A person who, without the grant of planning permission in that behalf, carries out any development on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and no person shall be liable under any of the provisions of subsections (1) to (4) of section forty-seven of this Act for failure to take any steps required to be taken by an enforcement notice by way of demolition or alteration of what has been so reinstated or restored.

Enforcement of control in respect of listed buildings

52 Notice to enforce control under s.33

- (1) Where any works have been carried out in contravention of the provisions of subsection (1) of section thirty-three of this Act, the local planning authority may serve on the owner and occupier of the building in question a notice under this section requiring such steps for restoring the building to its former state as may be specified in the notice to be taken within such period as may be so specified.
- (2) Subject to the next following section, a notice under this section shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.
- (3) Without prejudice to the preceding provisions of this section, if any person contravenes the provisions of subsection (1) of section thirty-three of this Act, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

53 Appeal to Minister against notice under s.52

- (1) A person on whom a notice under the last preceding section is served, or any other person having an interest in the building to which such a notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on any of the following grounds, that is to say—
- (a) that the works to which the notice relates were not, or were not wholly, works in contravention of subsection (1) of section thirty-three of this Act;
 - (b) that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works to which the notice relates were carried out;
 - (c) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed ;
 - (d) that any of the steps required by the notice to be taken would not serve the purpose of restoring the character of the building to what it was before the works to which the notice relates were carried out, and that, if and so far as those works constituted the carrying out of development in contravention of Part III of this Act, planning permission ought to be granted for the retention of those works.
- (2) Any appeal under this section shall be made by notice in writing to the Minister, which shall indicate the grounds of the appeal; and on any such appeal the Minister shall, if

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either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

- (3) Where an appeal is brought under this section, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.
- (4) On an appeal under this section the Minister may correct any informality, defect or error in the notice to which the appeal relates if he is satisfied that the informality, defect or error is not a material one.
- (5) On the determination of an appeal under this section the Minister shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.

54 Execution by local planning authority of work required by notice under s.52

If, within the period specified in a notice under section fifty-two of this Act in accordance with subsection (1) of that section, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken have not been taken, the local planning authority may enter upon the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in that behalf.

55 Supplementary provisions as to notices under s.52

- (1) Any expenses incurred by the owner or occupier of a building for the purpose of complying with a notice under section fifty-two of this Act, and any sums paid by the owner of a building under the last preceding section in respect of expenses incurred by the local planning authority in taking steps required to be taken by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (2) Subsections (2) and (3) of section forty-nine of this Act shall have effect in relation to notices under section fifty-two thereof, as if any reference therein to an enforcement notice were a reference to a notice under the said section fifty-two.
- (3) Any regulations made by virtue of the last preceding subsection may provide for the charging on the land of any expenses recoverable by a local authority under the last preceding section.

Enforcement of control under section 36

56 Penalty for non-compliance with notice under s.36

- (1) The provisions of this section shall have effect where a notice has been served under section thirty-six of this Act, and the period within which the steps required by the notice are to be taken has expired.
- (2) If at any time after the end of that period any of those steps have not been taken, and any person does anything which has the effect of continuing or aggravating the injury caused by the condition of the land to which the notice relates, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding twenty pounds.

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57 Appeal to magistrates' court against notice under s.36

- (1) A person on whom a notice under section thirty-six of this Act is served, or any other person having an interest in the land to which the notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal against the notice on any of the following grounds, that is to say—
 - (a) that the condition of the land to which the notice relates does not seriously injure the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area ;
 - (b) that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part III of this Act;
 - (c) that the land to which the notice relates does not constitute a garden, vacant site or other open land in the area of the local planning authority who served the notice;
 - (d) that the requirements of the notice exceed what is necessary for preventing the condition of the land from seriously injuring the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area ;
 - (e) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.
- (2) Any appeal under this section shall be made to a magistrates' court acting for the petty sessions area in which the land in question is situated.
- (3) Where an appeal is brought under this section, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.
- (4) On an appeal under this section the magistrates' court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not a material one.
- (5) On the determination of an appeal under this section the magistrates' court shall give directions for giving effect to their determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.

58 Further appeal to quarter sessions

Where an appeal has been brought under the last preceding section, an appeal against the decision of the magistrates' court thereon may be brought to a court of quarter sessions by the appellant or by the local planning authority.

59 Execution by local planning authority of work required by notice under s.36

If, within the period specified in a notice under section thirty-six of this Act in accordance with subsection (1) of that section, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken have not been taken, the local planning authority may enter upon the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in that behalf.

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60 Supplementary provisions as to notices under s.36

- (1) Any expenses incurred by the owner or occupier of any land for the purpose of complying with a notice under section thirty-six of this Act, and any sums paid by the owner of any land under the last preceding section in respect of expenses incurred by the local planning authority in taking steps required to be taken by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the land to come to be in the condition in which it was when the notice was served.
- (2) Subsections (2) and (3) of section forty-nine of this Act shall have effect in relation to notices under section thirty-six thereof, as if any reference therein to an enforcement notice were a reference to a notice under the said section thirty-six.
- (3) Any regulations made by virtue of the last preceding subsection may provide for the charging on the land of any expenses recoverable by a local authority under the last preceding section.

Enforcement in other cases

61 Enforcement of orders under s.28

- (1) Where, by virtue of an order under section twenty-eight of this Act, the use of land for any purpose is required to be discontinued, or any conditions are imposed on the continuance thereof, then if any person, without the grant of planning permission in that behalf, uses the land for that purpose, or, as the case may be, uses the land for that purpose in contravention of those conditions, or causes or permits the land to be so used, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and if the use is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued.
- (2) If, within the period specified in that behalf in an order under section twenty-eight of this Act, any steps required by that order to be taken for the alteration or removal of any buildings or works have not been taken, the local planning authority may, and shall if so required by directions of the Minister, enter upon the land and take those steps; and section two hundred and seventy-six of the Public Health Act, 1936, shall apply in relation to any works executed by a local planning authority under this subsection as it applies in relation to works executed by a local authority under that Act.

62 Enforcement of tree and building preservation orders

- (1) If any person contravenes the provisions of a tree preservation order, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding fifty pounds; and if, in the case of a continuing offence, the contravention is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued.
- (2) The matters for which provision may be made by a building preservation order shall include provision for enabling the local planning authority, where any works of a description specified in the order have been executed in contravention of the order, to require the restoration of the building to its former state, and for that purpose for

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applying any of the provisions of this Part of this Act with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the order.

- (3) Without prejudice to any provisions included in a building preservation order by virtue of the last preceding subsection, if any person, being the owner of a building in relation to which a building preservation order is in force, or a person on whom notice of such an order has been served by the authority by whom the order was made, executes, or causes or permits to be executed, any works in contravention of the order, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds.
- (4) Nothing in subsection (2) or subsection (3) of this section shall render unlawful the execution of any works which are urgently necessary in the interests of safety or health or for the preservation of the building in question or of neighbouring property, so long as notice in writing of the proposed execution of the works is given, as soon as may be after the necessity for the works arises, to the authority by whom the order was made.

63 Enforcement of control of advertisements

- (1) The matters for which provision may be made by regulations under section thirty-four of this Act shall include provision for enabling the local planning authority to require the removal of any advertisement which is being displayed in contravention of the regulations, or the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations, and for that purpose for applying any of the provisions of this Part of this Act with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the regulations.
- (2) Without prejudice to any provisions included in regulations made under section thirty-four of this Act by virtue of the preceding subsection, if any person displays an advertisement in contravention of the provisions of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed by the regulations, not exceeding fifty pounds and, in the case of a continuing offence, forty shillings for each day during which the offence continues after conviction.
- (3) For the purposes of the last preceding subsection, and without prejudice to the generality thereof, a person shall be deemed to display an advertisement if—
 - (a) the advertisement is displayed on land of which he is the owner or occupier, or
 - (b) the advertisement gives publicity to his goods, trade, business or other concerns:

Provided that a person shall not be guilty of an offence under the last preceding subsection by reason only that an advertisement is displayed on land of which he is the owner or occupier, or that his goods, trade, business or other concerns are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent.

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Supplementary provisions

64 Supplementary provisions as to appeals to Minister under Part IV

- (1) Subsection (5) of section two hundred and ninety of the Local Government Act, 1933 (which authorises a government department holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Minister on an appeal under this Part of this Act as if those proceedings were an inquiry held by the Minister under the said section two hundred and ninety.
- (2) Where an appeal to the Minister against an enforcement notice, or against a notice under section fifty-two of this Act, is brought under this Part of this Act, the appellant shall be deemed to have made an application—
 - (a) in the case of an enforcement notice, for planning permission to retain on the land the buildings or works, or, as the case may be, to continue the use of the land, to which the notice relates, or
 - (b) in the case of a notice under section fifty-two of this Act, for planning permission for the development (if any) involved in the works to which the notice relates.
- (3) Any application for planning permission deemed to have been made by virtue of the last preceding subsection shall be treated as having been referred to the Minister under section twenty-two of this Act, and the provisions of that section shall apply accordingly:

Provided that subsection (4) of that section shall apply as if the reference therein to sections fifteen and sixteen of this Act were omitted and the reference to subsections (1) to (3) of section seventeen of this Act were a reference only to subsection (1) of the said section seventeen.
- (3) Where under this Part of this Act any person has appealed to the Minister or (in accordance with section fifty-seven of this Act) to a magistrates' court against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

65 Recovery of expenses of local planning authorities under Part IV

Where by virtue of any of the preceding provisions of this Part of this Act any expenses are recoverable by a local planning authority, those expenses shall be recoverable as a simple contract debt in any court of competent jurisdiction.

66 Enforcement in relation to local planning authorities

- (1) In relation to land of local planning authorities, and to the development by local authorities of land in respect of which they are the local planning authorities, the provisions of this Part of this Act shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.
- (2) Any such regulations may in particular provide that any notice authorised to be served under this Part of this Act in relation to such land shall be served by the Minister and not by the local planning authority.