

SCHEDULE 4

MODIFICATIONS OF THE ACT

PART 3

MODIFICATIONS OF SECTIONS 78 AND 79 OF THE ACT(APPLICATIONS FOR EXPRESS CONSENT)

1. In section 78 of the Act—

(a) in subsection (1), for paragraphs (a) to (c) substitute “refuse an application for express consent or grant it subject to conditions.”;

(b) for subsection (2) substitute—

“(2) A person who has made an application for express consent may also appeal to the Secretary of State if within the period of 8 weeks from the date when the application was received by the local planning authority, that authority have neither given him notice of their decision on it nor given him notice that they have exercised their power under section 70A to decline to determine the application.”;

(c) for subsection (3) substitute the following subsections—

“(3) Any appeal under subsection (1) or (2) shall be made by notice served within 8 weeks from the date of receipt of the local planning authority’s decision, or, as the case may be, within 8 weeks from the expiry of the period mentioned in subsection (2), or within such longer period as the Secretary of State may in either case at any time allow.

(3A) The notice mentioned in subsection (3) shall be accompanied by a copy of each of the following documents—

- (a) the application made to the local planning authority;
- (b) all relevant plans and particulars submitted to them;
- (c) the notice of the authority’s decision (if any); and
- (d) any other relevant correspondence with the authority.”;

(d) for subsection (4) substitute—

“(4) Where an appeal is made to the Secretary of State as mentioned in subsection (3), he may require the appellant or the local authority to submit to him, within such period as he may specify, a statement in writing in respect of such matters relating to the application as he may specify, and if, after considering the grounds of appeal and any such statement, the Secretary of State is satisfied that he has sufficient information to enable him to determine the appeal he may, with the agreement in writing of both the appellant and the local planning authority, determine the appeal without complying with section 79(2).”;

(e) in subsection (5), omit the references to sections 253(2)(c) and 266(1)(b).

2. In section 79 of the Act—

(a) after subsection (1) insert—

“(1A) The Secretary of State may, in granting an express consent, specify that its term shall run for such longer or shorter period than 5 years as he considers expedient, having regard to the interests of amenity (including aural amenity) and public safety, and taking into account—

- (a) relevant provisions of any applicable development plan;

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

- (b) the factors referred to in regulation 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007; and
 - (c) any period specified in the application for consent.”;
- (b) omit subsection (4);
- (c) in subsection (5), for “such an appeal shall be final”, substitute “an appeal under section 78 shall be final, and shall otherwise have effect as if it were a decision of the local planning authority”;
- (d) in subsection (6)—
- (i) omit “such”; and
 - (ii) for the words from “an application for planning permission” to “planning permission for that development”, substitute “in respect of an application for express consent, the Secretary of State forms the opinion that, having regard to the Regulations mentioned in subsection (1A) and to any direction given under them, consent”;
- (e) in subsection (6A), after the word “appeal”, the first time it appears, insert “as is mentioned in subsection (6)”.