



# Town and Country Planning Act 1971

## 1971 CHAPTER 78

### PART VIII

#### COMPENSATION FOR OTHER PLANNING RESTRICTIONS

##### *Other restrictions*

#### **169 Compensation for planning decisions restricting development other than new development**

- (1) The provisions of this section shall have effect where, on an application for planning permission to carry out development of any class specified in Part II of Schedule 8 to this Act, the Secretary of State, either on appeal or on the reference of the application to him for determination, refuses the permission or grants it subject to conditions.
- (2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that the value of the interest of any person in the land is less than it would have been if the permission had been granted, or had been granted unconditionally, as the case may be, the local planning authority shall pay to that person compensation of an amount equal to the difference.
- (3) In determining, for the purposes of subsection (2)"of this section, whether or to what extent the value of an interest in land is less than it would have been if the permission had been granted, or had been granted unconditionally—
  - (a) it shall be assumed that any subsequent application for the like planning permission would be determined in the same way; but
  - (b) if, in the case of a refusal of planning permission, the Secretary of State, on refusing that permission, undertook to grant planning permission for some other development of the land in the event of an application being made in that behalf, regard shall be had to that undertaking; and
  - (c) no account shall be taken of any prospective use which would contravene the condition set out in Schedule 18 to this Act.

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- (4) Where, on such an application as is mentioned in subsection (1) of this section, planning permission is granted by the Secretary of State subject to conditions for regulating the design or external appearance of buildings, or the size or height of buildings, the Secretary of State, if it appears to him to be reasonable to do so having regard to the local circumstances, may direct that those conditions shall be disregarded, either altogether or to such extent as may be specified in the direction, in assessing the compensation (if any) payable under this section.
- (5) Where, in the case of an application for planning permission to carry out any such development as is mentioned in subsection (1) of this section, a notice under section 72(1) of this Act is served in respect of the whole or part of the land to which the application relates, the preceding provisions of this section shall have effect as if the application had been an effective application for planning permission, and as if that permission had been refused, as mentioned in subsection (1) of this section, in respect of that land or that part thereof, as the case may be.
- (6) For the purposes of subsection (1) of this section—
  - (a) paragraph 3 of Schedule 8 to this Act shall be construed as not extending to works involving any increase in the cubic content of a building erected after the appointed day (including any building resulting from the carrying out of such works as are described in paragraph 1 of that Schedule); and
  - (b) paragraph 7 of that Schedule shall not apply to any such building.
- (7) For the purposes of this section the conditions referred to in sections 41 and 42 of this Act shall be disregarded and no compensation shall be payable under this section in respect of the imposition of any condition to which section 71 or 82 of this Act applies.
- (8) No compensation shall be payable under this section in respect of an interest in land in respect of which a purchase notice is served.

## **170 Compensation in respect of orders under s.51**

- (1) The provisions of this section shall have effect where an order is made under section 51 of this Act, requiring a use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed.
- (2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person has suffered damage in consequence of the order by depreciation of the value of an interest in the land to which he is entitled, or by being disturbed in his enjoyment of the land, that authority shall pay to that person compensation in respect of that damage.
- (3) Without prejudice to subsection (2) of this section, any person who carries out any works in compliance with the order shall be entitled, on a claim made as mentioned in that subsection, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.
- (4) Any compensation payable to a person under this section by virtue of such an order as is mentioned in subsection (1) of this section shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

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### **171 Compensation for refusal of consent to alteration, etc. of listed building**

- (1) The provisions of this section shall have effect where an application is made for listed building consent for the alteration or extension of a listed building and—
  - (a) either the works do not constitute development or they do so but the development is such that planning permission therefor is granted by a development order, and
  - (b) the Secretary of State, either on appeal or on the reference of the application to him, refuses such consent or grants it subject to conditions.
- (2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that the value of the interest of any person in the land is less than it would have been if listed building consent had been granted, or had been granted unconditionally, as the case may be, the local planning authority shall pay to that person compensation of an amount equal to the difference.
- (3) In determining, for the purposes of subsection (2) of this section, whether or to what extent the value of an interest in land is less than it would have been if the permission had been granted, or had been granted unconditionally—
  - (a) it shall be assumed that any subsequent application for the like consent would be determined in the same way ; but
  - (b) if, in the case of a refusal of listed building consent, the Secretary of State, on refusing that consent, undertook to grant such consent for some other works to the building in the event of an application being made in that behalf, regard shall be had to that undertaking.
- (4) No compensation shall be payable under this section in respect of an interest in land in respect of which a purchase notice is served, whether under section 180, 188 or 190 of this Act, being a purchase notice which takes effect.

### **172 Compensation where listed building consent revoked or modified**

- (1) Where listed building consent is revoked or modified by an order under paragraph 10 of Schedule 11 to this Act (other than an order which takes effect by virtue of paragraph 12 of that Schedule and without being confirmed by the Secretary of State), then if on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that a person interested in the building—
  - (a) has incurred expenditure in carrying out works which are rendered abortive by the revocation or modification ; or
  - (b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,the authority shall pay to that person compensation in respect of that expenditure, loss or damage.
- (2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any works, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out those works.
- (3) Subject to subsection (2) of this section, no compensation shall be paid under this section in respect of any works carried out before the grant of the listed building consent which is revoked or modified, or in respect of any other loss or damage (not

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being loss or damage consisting of depreciation of the value of an interest in land arising out of anything done or omitted to be done before the grant of that consent.

**173 Compensation for loss or damage caused by service of building preservation notice**

- (1) The provisions of this section shall have effect as respects compensation where a building preservation notice is served.
- (2) The local planning authority shall not be under any obligation to pay compensation under section 171 of this Act, in respect of any refusal of listed building consent or its grant subject to conditions, unless and until the building is included in a list compiled or approved by the Secretary of State under section 54 of this Act; but this subsection shall not prevent a claim for such compensation being made before the building is so included.
- (3) If the building preservation notice ceases to have effect without the building having been included in a list so compiled or approved, then, subject to a claim in that behalf being made to the local planning authority within the time and in the manner prescribed by regulations under this Act, any person who at the time when the notice was served had an interest in the building shall be entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.
- (4) The loss or damage in respect of which compensation is payable under subsection (3) of this section shall include a sum payable in respect of a breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect thereto.

**174 Compensation in respect of tree preservation orders**

The matters for which provision may under section 60 of this Act be made by a tree preservation order include the payment by the local planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of loss or damage caused or incurred in consequence of the refusal of any consent required under the order, or of the grant of any such consent subject to conditions.

**175 Compensation in respect of requirement as to replanting of trees**

- (1) The provisions of this section shall have effect where, in pursuance of provision made by a tree preservation order, a direction is given, by the local planning authority or the Secretary of State, for securing the replanting of all or any part of a woodland area which is felled in the course of forestry operations permitted by or under the order.
- (2) If the Forestry Commissioners decide not to make any advance under section 4 of the Forestry Act 1967 in respect of the replanting and come to that decision on the ground that the direction frustrates the use of the woodland area for the growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry, the local planning authority exercising functions under the tree preservation order shall be liable, on the making of a claim in accordance with this section, to pay compensation in respect of such loss or damage, if any, as is caused or incurred in consequence of compliance with the direction.

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- (3) The Forestry Commissioners shall, at the request of the person under a duty to comply with the direction, give a certificate stating whether they have decided not to make any such advance and, if so, the grounds of their decision.
- (4) A claim for compensation under this section must be served on the local planning authority within twelve months from the date on which the direction was given, or where an appeal has been made to the Secretary of State against the decision of the local planning authority, from the date of the decision of the Secretary of State on the appeal, but subject in either case to such extension of that period as the local planning authority may allow.

#### **176 Compensation for restrictions on advertising**

Where, for the purpose of complying with any regulations made under section 63 of this Act, works are carried out by any person—

- (a) for removing an advertisement which was being displayed on 1st August 1948; or
- (b) for discontinuing the use for the display of advertisements of a site used for that purpose on that date,

that person shall, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, be entitled to recover from that authority compensation in respect of any expenses reasonably incurred by him in that behalf.

#### **177 Compensation for loss due to stop notice**

- (1) Where a stop notice under section 90 of this Act ceases to have effect, a person who, at the time when it was first served, had an interest in the land to which it relates shall, in any of the circumstances mentioned in subsection (2) of this section, be entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice.
- (2) A person shall be entitled to compensation under subsection (1) of this section in respect of a prohibition contained in a stop notice in any of the following circumstances:—
  - (a) the enforcement notice is quashed on any of the grounds mentioned in section 88(1)(b), (c), (d) or (e) of this Act;
  - (b) the allegation in the enforcement notice on which the prohibition in the stop notice is dependent is not upheld by reason that the enforcement notice is varied on one of those grounds;
  - (c) the enforcement notice is withdrawn by the local planning authority otherwise than in consequence of the grant by them of planning permission for the development to which the notice relates or for its retention or continuance without compliance with a condition or limitation subject to which a previous planning permission was granted;
  - (d) the stop notice is withdrawn.
- (3) A prohibition in a stop notice shall be treated for the purposes of subsection (2) of this section as dependent on an allegation in an enforcement notice if and to the extent that the operations to which the prohibition in the stop notice relates are the same as those alleged in the enforcement notice to constitute a breach of planning control or are so closely associated therewith as to constitute substantially the same operations.

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- (4) A claim for compensation under this section shall be made to the local planning authority within the time and in the manner prescribed by regulations under this Act.
- (5) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition or of any liability arising by virtue of section 90(8) of this Act.