



Highways Act 1980

1980 CHAPTER 66

PART X

NEW STREETS

New street byelaws

186 Power of county councils and London boroughs and the Common Council to make new street byelaws

- (1) The council of every county and of every London borough and the Common Council may, and if required by the Secretary of State shall, make byelaws for regulating all or any of the following matters:—
 - (a) the level, width and construction of new streets in their area, and
 - (b) the provision for the sewerage of such streets ;and the power to make byelaws under this subsection extends to the making of byelaws requiring any person constructing a new street to provide separate sewers for foul water drainage and surface water drainage respectively.
- (2) No byelaw under this section shall regulate the level, width or construction of a new street in so far as it is to be carried by a bridge or is to form the approaches to a bridge.
- (3) If a council, when required by the Secretary of State to make byelaws under subsection (1) above, do not within 3 months from the date on which the requirement is made to them make in accordance with the requirement byelaws satisfactory to him, the Secretary of State may himself make the byelaws.
- (4) Byelaws for regulating matters that may be regulated under this section are hereafter in this Part of this Act referred to as " new street byelaws " .
- (5) New street byelaws may include provision as to—
 - (a) the giving of notices and the deposit of plans ;

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- (b) the inspection of work, the testing of sewers, and the taking by the county council or London borough council, or the Common Council, of samples of the materials to be used in the execution of works.
- (6) New street byelaws may require that plans to be deposited in pursuance of the byelaws shall be deposited in duplicate.
- (7) The Secretary of State is the confirming authority as respects new street byelaws and any byelaws made by the Secretary of State under this section have effect as if they had been made by the county council or London borough council, or the Common Council, and confirmed by the Secretary of State.
- (8) A new street byelaw made under this section (or under section 157 of the Highways Act 1959, which this section replaces) shall cease to have effect on the expiration of 10 years from the date on which it was made or on the expiration of such longer period as the Secretary of State may by order allow.

187 Continuation of existing street to be a new street

A continuation of an existing street may be deemed to be a new street for the purpose of the application to it of new street byelaws.

188 Power to declare existing highway to be a new street

- (1) Where it appears to the council of a county or London borough, or the Common Council, that an existing highway in their area will be converted into a new street as a consequence of building operations which have been, or are likely to be, undertaken in the vicinity, the council may by order prescribe the centre line of the new street and outer lines defining the minimum width of the new street, which shall be the minimum width required by the relevant byelaw provisions.

In this subsection " the relevant byelaw provisions " means the provisions of new street byelaws in force in the area of the council regulating the width of a new street intended to be the principal means of access to any building and of a length equal to the length of the highway to which the order relates.

- (2) Not less than one month before making an order under this section, the council shall cause notice of the intended order to be displayed at each end of, or in some conspicuous position in, the highway to which the order relates.
- (3) Every such notice shall contain a statement that the intended order may be made by the council on or at any time after a day named in the notice, and shall state the right of appeal conferred by subsection (4) below.
- (4) A person aggrieved by an order under this section may appeal to the Crown Court.
- (5) Where an order under this section has effect, no person shall erect a new building on the land situated between the outer lines prescribed by the order (" the prescribed land ").
- (6) If, where an order under this section has effect, work for the erection of a new building is commenced on land adjoining the prescribed land, then, on the commencement of that work—
 - (a) the appropriate portion of the prescribed land shall become part of the existing highway, and

- (b) the owner of that portion shall remove any boundary fence or other obstruction situated on it and bring the level of it into conformity with that of the existing highway.

For the purposes of this subsection the appropriate portion of the prescribed land is the portion situated between the centre line prescribed by the order and the land on which the building is to be erected or which is to be occupied with it, other than land so situated which forms part of the existing highway.

- (7) Land which becomes part of the existing highway in accordance with subsection (6) above does not become a highway maintainable at the public expense, even if the existing highway is so maintainable.
- (8) Nothing in this section extends to a building (other than a dwelling-house) erected, in pursuance of their statutory powers, by any of the following undertakers and used or occupied, or intended to be used or occupied, by them for the following purposes respectively:—
 - (a) railway undertakers for purposes of a railway comprised in the railway undertaking ;
 - (b) canal undertakers for purposes of a canal comprised in the canal undertaking;
 - (c) inland navigation undertakers for purposes of a navigation comprised in the inland navigation undertaking;
 - (d) dock undertakers for purposes of a dock comprised in the dock undertaking; or
 - (e) harbour undertakers for purposes of a harbour comprised in the harbour undertaking.
- (9) In this section " building " includes a wall.

189 Revocation and amendment of orders under section 188

- (1) A county council, a London borough council or the Common Council may by an order in writing—
 - (a) revoke an order made by them under section 188 above;
 - (b) amend any such order relating to 2 or more streets so as to reduce the number of streets to which the order relates ;
 - (c) amend any such order so as to exclude from it a part of a street but not so as to make the order relate to parts of the same street which are not continuous.
- (2) A council who propose to make an order under subsection (1) above shall cause notice of the proposal to be displayed, at least one month before they make the order, in a conspicuous position in each street to which the proposal relates and shall include in the notice a statement indicating that the order may be made on or at any time after a date specified in the notice.
- (3) Where a county council make an order under subsection (1) above they shall send a copy of the order as soon as practicable to each registering authority for the purposes of the Local Land Charges Act 1975 within whose area any street or part of a street to which the order relates is situated.

190 Power to relax byelaw requirements

- (1) Where the council of a county or London borough, or the Common Council, consider that the operation of a new street byelaw in force in their area would be unreasonable

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in relation to a particular case they may, with the consent of the Secretary of State, relax the requirements of the byelaw or dispense with compliance with it.

- (2) The council shall give notice on any such proposed relaxation or dispensation in such manner and to such persons, if any, as the Secretary of State may direct, and the Secretary of State shall not give his consent before the expiration of one month from the date of the giving of the notice.
- (3) Before giving his consent the Secretary of State shall take into consideration any objection which may have been received by him.

Passing of plans deposited under byelaws

191 Passing or rejection of plans etc.

- (1) Where plans of any proposed work are, in accordance with new street byelaws, deposited with the council of a county or London borough or the Common Council then, subject to section 190 above and section 193 below, the council—
 - (a) shall pass the plans unless they either are defective or show that the proposed work would contravene any of those byelaws;
 - (b) if the plans are defective or show that the proposed work would contravene any of those byelaws, shall reject the plans.
- (2) The council shall within the appropriate period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether or not they are passed, and—
 - (a) a notice of rejection shall specify the defects on account of which, or the byelaw for non-conformity with which, plans have been rejected, and
 - (b) a notice that plans have been passed shall state that the passing of the plans operates as an approval of them only for the purposes of the requirements of the byelaws.
- (3) Any question arising under this section between the council of a county or London borough or the Common Council and the person by whom or on whose behalf plans are deposited whether the plans are defective, or whether the proposed work would contravene any of the byelaws, may on the application of that person be determined by a magistrates' court; but no such application shall be entertained unless it is made before the proposed work has been substantially begun.

192 Deposit of plans to be of no effect after certain interval

- (1) Where plans of any proposed work have, in accordance with new street byelaws, been deposited with the council of a county or London borough or the Common Council and—
 - (a) either the plans have been passed by the council or notice of rejection of the plans has not been given within the appropriate period from the deposit of them, but
 - (b) the work to which the plans relate has not been begun within 3 years from the date of the deposit of the plans,

the council may, at any time before the work is begun, by notice to the person by whom or on whose behalf the plans were deposited, or other the owner for the time

being of the land to which the plans relate, declare that the deposit of the plans shall be of no effect.

- (2) When such a notice is given this Part of this Act and the byelaws made under it have effect as respects the proposed work as if no plans had been deposited.
- (3) The council of a county or London borough or, as the case may be, the Common Council shall attach a notice of the provisions of subsections (1) and (2) above to every notice of the passing of plans of proposed work deposited in accordance with new street byelaws.

Requirements and prohibitions as to new streets

193 Imposition of requirements as to width of new streets in certain cases,

- (1) Where, in pursuance of a new street byelaw requiring plans to be deposited with them, application is made to the council of a county or London borough or the Common Council to pass plans of a new street and that street will, in the opinion of the council, form—
 - (a) a main thoroughfare or a continuation of a main thoroughfare, or means of communication between main thoroughfares, in their area, or
 - (b) a continuation of a main approach, or means of communication between main approaches, to their area,the council—
 - (i) may, as a condition of passing the plans, require that the new street be formed of such width as they may determine, and
 - (ii) if they make a requirement under paragraph (i) above, shall, as such a condition, determine how much of the width of the street is to be laid out as a carriageway and how much as a footway or footways.
- (2) If the council of a county or London borough or the Common Council under subsection (1) above require a new street to be formed of a width that exceeds the normal maximum width by an amount greater than 20 feet, they shall pay compensation for any loss or injury which may be sustained by reason of the requirement.

In this subsection and subsection (3) below, "the normal maximum width" means the maximum width of which, apart from this section, the street could have been required to be formed under any byelaw or enactment with respect to the width of new streets which is in force in the county or London borough in question or, as the case may be, in the City.

- (3) Nothing in this section empowers a council to require any person to defray any greater expenses in the execution of any street works than would have been payable if the street had been of no greater width than the normal maximum width ; and any additional expense incurred in the execution of the street works by reason of the street being of such greater width shall be certified by the proper officer of the council, or in the case of dispute shall be determined by a magistrates' court, and shall be borne by the council.
- (4) A person aggrieved by a condition imposed under this section may appeal to the Crown Court.

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194 Power to vary position or direction, and to fix beginning and end, of new street

- (1) The council of a county or London borough or the Common Council may on the deposit with them of plans of a new street in pursuance of a new street byelaw, by order vary the intended position, direction, termination or level of the new street so far as is necessary for the purpose of securing—
 - (a) more direct, easier or more convenient means of communication with any other street or intended street; or
 - (b) an adequate opening at one or each of the ends of the new street; or
 - (c) compliance with any byelaw in force within their area for the regulation of streets or buildings.
- (2) The council of a county or London borough or the Common Council may by an order made under subsection (1) above fix the points at which the new street is to be deemed to begin or end, and the limits of the new street as determined by the points so fixed shall be treated as the limits of it for the purposes of this Part of this Act and of any byelaws made under this Part.
- (3) A person aggrieved by an order under this section may appeal to the Crown Court.
- (4) If a person lays out or constructs a new street in contravention of an order under this section he is guilty of an offence and is liable to a fine not exceeding £25; and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding £2 for each day on which the offence is so continued.
- (5) A council shall pay compensation to any person for any loss or injury sustained by him by reason of the exercise by the council of their powers under this section.
- (6) A council shall not make an order under this section in a case in which it is shown to their satisfaction that compliance with the order would entail the purchase of additional land by the owner of the land on which the new street is intended to be laid out, or the execution of works elsewhere than on the last-mentioned land or land held with it on which building operations associated with the new street are intended to be undertaken.

195 Construction of bridge carrying new street

- (1) No person shall, except in the exercise of statutory powers, construct a bridge to carry a new street unless the bridge and the approaches to it are of such width and gradients as are approved—
 - (a) in the case of a new street which is, or is to be, situated in a London borough or the City, by the council of the London borough or the Common Council, as the case may be, and
 - (b) in any other case, by the council of the county in which the new street is, or is to be, situated,and are constructed in accordance with plans so approved.
- (2) A person aggrieved by the refusal of an approval under subsection (1) above may appeal to the Crown Court.
- (3) If a person contravenes this section he is guilty of an offence and liable to a fine not exceeding £50; and the council of the county or London borough, or the Common Council, as the case may be, may remove, alter or pull down any work done in contravention of the section and may recover from him the expenses reasonably incurred by the council in so doing.

196 Power to allow widening of existing street on one side only to less than prescribed width

- (1) Where—
- (a) an owner of land adjoining one side of an existing highway proposes to lay out on that land a new street along the line of the highway, and
 - (b) buildings have been or are intended to be erected on that side only, and
 - (c) the case is one in which the appropriate authority are empowered, by a byelaw with respect to the width of new streets, to require the owner to widen the existing highway to the width prescribed for a new street,
- the appropriate authority may, instead of requiring the owner to widen the existing highway as provided by paragraph (c) above, make an order under this section.
- (2) An order under this section is an order permitting the owner to widen the highway on the side referred to in subsection (1)(a) and (b) above only, to such width as may be specified in the order, being a width—
- (a) less than the width referred to in subsection (1)(c) above, but
 - (b) such that the distance between the centre line of the existing highway and the boundary, after the widening, of the highway on the said side is not less than one half of the width referred to in subsection (1)(c) above.
- (3) Not less than 21 days before making an order under this section the appropriate authority shall send notice of the intended order to such owner as aforesaid and, unless he is the same person, to any owner of land adjoining the highway on the side of it opposite the land to which the order will relate.
- (4) If, where an order under this section has effect, building is begun on the said land on that opposite side, the owner of that land shall widen the existing highway on the opposite side where it adjoins that land so that the distance between—
- (a) the boundary, after widening, of the highway on that opposite side, and
 - (b) the boundary, after widening under the order, of the highway on the side to which the order relates,
- is the width referred to in subsection (1)(c).
- (5) Nothing in subsection (4) above imposes on any person an obligation to pull down a building erected before the date of an order under this section relating to the land in question.
- (6) If a person fails to comply with subsection (4) above he is guilty of an offence and liable to a fine not exceeding £25; and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding £2 for each day on which the offence is so continued.
- (7) A person aggrieved by an order, or by the refusal to make an order, under this section may appeal to the Crown Court.
- (8) For the purposes of this section the appropriate authority is—
- (a) in relation to a highway outside Greater London, the county council;
 - (b) in relation to a highway in Greater London, the local authority for the area in which the highway is situated.

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Enforcement of byelaws and requirements of local authority

197 Power to require removal or alteration of work not in conformity with byelaws

- (1) If any work to which new street byelaws are applicable contravenes any of those byelaws, the county council, the London borough council or, as the case may be, the Common Council, without prejudice to their right, if any, to take proceedings for a fine, may by notice require any person by whom, or on whose behalf, the work was executed either to remove the work or, if he so elects, to effect such alterations in it as may be necessary to make it comply with the byelaws.
- (2) If, in any case in which new street byelaws require plans of a new street to be deposited with the council of a county or London borough, or the Common Council, the council concerned are of opinion that a new street in their area forms or will form such a way as is referred to in section 193(1)(a) or (b) above, and any work to which those byelaws are applicable is executed without plans having been passed, the council may, without prejudice to their right, if any, to take proceedings for a fine, by notice to any person by whom or on whose behalf the work was executed either—
 - (a) require him to remove the work, or
 - (b) require him either to remove the work or, if he so elects, to comply with any condition specified in the notice, being a condition which they could have imposed under section 193 above as a condition of the passing of plans deposited in accordance with the byelaws.

For the purposes of this subsection plans are to be deemed to have been passed if notice of their rejection was not given within the appropriate period from the deposit of them.

- (3) If in a case falling within section 193 above any work to which new street byelaws are applicable is executed otherwise than in accordance with any condition imposed under that section, the council of the county or London borough or, as the case may be, the Common Council may, without prejudice to their right to take proceedings for a fine, by notice to any person by whom or on whose behalf the work was executed either—
 - (a) require him to remove the work, or
 - (b) require him either to remove the work, or if he so elects, to comply with any other condition specified in the notice, being a condition which they could have imposed under section 193 above as a condition of the passing of plans deposited in accordance with the byelaws.
- (4) A person aggrieved by a requirement of a council under the foregoing provisions of this section may appeal to a magistrates' court.
- (5) Subject to any order made on appeal, if a person to whom a notice has been given under the foregoing provisions of this section fails to comply with the notice before the expiration of 28 days from the date of the service of the notice on him, or such longer period as a magistrates' court may on his application allow, the council by whom the notice was given may remove the work in question, or effect such alterations in it as they deem necessary, and may recover from him the expenses reasonably incurred by the council in so doing.
- (6) No notice under subsection (1) or subsection (2) or subsection (3) above shall be given after the expiration of 12 months from the date of the completion of the work in question, and it is not open to a council to give a notice under subsection (1) above in a case where plans have been deposited, if—

- (a) either the plans were passed by the council, or notice of their rejection was not given within the appropriate period from the deposit of them, and
 - (b) the work has been executed in accordance with the plans and with any condition imposed under section 193(1) above.
- (7) Nothing in this section affects the right of a council or of the Attorney-General, or of any other person, to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any byelaws ; but if—
- (a) the work is one in respect of which plans were deposited and either the plans were passed by the council or notice of their rejection was not given within the appropriate period from the deposit of them, and
 - (b) the work has been executed in accordance with the plans,
- the court on granting an injunction may order the council to pay to the owner of the work such compensation as the court thinks just.
- (8) Before making any order for compensation under subsection (7) above the court shall, in accordance with rules of court, cause the council, if not a party to the proceedings, to be joined as a party.

198 Fine for executing work otherwise than in accordance with conditions

Where in a case falling within section 193 above the council of a county or London borough or the Common Council impose a condition on the passing of plans deposited in pursuance of new street byelaws, a person who executes work proposed in the plans otherwise than in accordance with that condition is liable to the like fine as if he had executed the work in contravention of a byelaw.

199 Enforcement of conditions imposed by or under byelaws against owner

Where the council of a county or London borough or the Common Council pass plans for a new street subject to conditions imposed or authorised by new street byelaws in force in the area of that authority, then, those conditions may be enforced at any time by the council against the owner for the time being of the land to which the conditions relate.

In this section "owner" in relation to any land means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple in the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a lease the unexpired term of which exceeds 3 years.

Provisions as to regulation of new streets by enactment

200 Application of certain sections where new streets regulated by enactment

- (1) Section 187 above applies for the purpose of the application to a continuation of an existing street of a provision in a local Act with respect to the width of a new street as it applies for the purpose of the application to such a continuation of new street byelaws.
- (2) Section 193 above applies where application is made to the council of a county or London borough or the Common Council to pass plans of a new street in pursuance

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of an enactment requiring plans to be deposited with them as it applies where such an application is made in pursuance of a byelaw making such a requirement.

- (3) The council of a county or London borough or the Common Council have the like power under section 194 above to vary the position, direction, termination or level of a new street for the purpose of securing compliance with an enactment in force in their area for the regulation of streets or buildings as they have to make such a variation for the purpose of securing compliance with a byelaw for such regulation, and subsections (2) to (6) of section 194 have effect accordingly.
- (4) Section 196 above applies in a case where a council are empowered to require the widening of a highway to the width prescribed by an enactment with respect to the width of new streets as it applies where a council are empowered to require the widening of a highway to a width prescribed by a byelaw.

Supplemental provisions

201 Right of local authority to retain deposited plans

- (1) Where new street byelaws require plans deposited in pursuance of the byelaws to be deposited in duplicate, the council concerned may retain one copy of any plans so deposited, whether the plans are passed or not.
- (2) A council may retain any plans deposited with and passed by them in pursuance of any enactment regulating the construction of new streets for the time being in force in their area.

202 Interpretation of Part X

For the purposes of this Part of this Act—

- (a) "new street byelaws" has the meaning provided by section 186(4) above;
- (b) "the appropriate period", in relation to the passing or rejection of plans, means one month, but new street byelaws for the area of a council whose meetings are normally held not more frequently than once a month may provide that, in the case of plans deposited less than 3 clear days before a meeting of the council, the appropriate period shall be 5 weeks;
- (c) references to plans include references to sections, specifications and written particulars; and
- (d) references to the passing of plans, in relation to any enactment or byelaw (not being an enactment contained in this Act or a byelaw made under it), include references to the approval of plans.