



# Town and Country Planning Act 1968

## 1968 CHAPTER 72

### PART VI

#### MISCELLANEOUS CHANGES IN PLANNING LAW

##### *General planning control*

#### **74 Expansion of building below ground to constitute development.**

Notwithstanding anything in section 12 (2) (a) of the principal Act (carrying out of works for the maintenance, improvement or other alteration of a building not to constitute development if it is wholly internal or does not materially affect the building's external appearance) the carrying out of works for the alteration of any building by providing additional space therein below ground shall, if begun after the commencement of this section, be treated for the purposes of the principal Act as involving development.

#### **75 Modification of transitory exemptions based on pre-1948 use.**

- (1) Section 13(2) of the principal Act (exemption from requirement of planning permission for resumption of normal use before the original appointed day) and section 13(4) of that Act (the same as to resumption of use of land which on that day was unoccupied) shall not have effect as respects any use of land begun or resumed after the commencement of this section.
- (2) In the case of land which on the original appointed day was normally used for one purpose and was also used on occasions for another purpose, section 13(3) of the principal Act (exemption from requirement of planning permission for resumption of previous occasional use) shall, as respects any use of the land for the other purpose after the commencement of this section, apply only if the land has, since the original appointed day, been used for the other purpose on at least one similar occasion before the beginning of 1968.

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- (3) In applying section 13(5), (6) and (8) of the principal Act (factors relevant for determining whether planning permission is required for resumption of use following the expiration of a limited planning permission), no account shall be taken of any contravention of previous planning control other than contravention of the provisions of Part III of the Town and Country Planning Act 1947 ; and accordingly—
  - (a) in both section 13(6) and 13(8), for the words " or in contravention of previous planning control " there shall be substituted the words " or in contravention of the provisions of Part III of the Act of 1947 "; and
  - (b) section 13(10) shall cease to have effect.
- (4) Section 13(9) of the principal Act (planning permission not required, where land has been developed without such permission, for a use of the land which would have been lawful apart from the development) shall not apply to any use of land which, by the operation of this section, has become unlawful without planning permission.
- (5) In this section " the original appointed day " means the appointed day for the purposes of the Town and Country Planning Act 1947, that is to say 1st July 1948.

## **76 Posting of site notice prior to planning application.**

- (1) An application for planning permission for development of any class to which section 15 of the principal Act (certain classes of planning application, prescribed by development order, to be supported by evidence of prior publicity) applies shall not be entertained by the local planning authority unless it is accompanied by one or other of the following certificates, signed by or on behalf of the applicant, that is to say—
  - (a) a certificate stating that he has complied with subsection (2) of this section and when he did so; or
  - (b) a certificate stating that he has been unable to comply with it because he has not such rights of access or other rights in respect of the land as would enable him to do so, but that he has taken such reasonable steps as are open to him (specifying them) to acquire those rights and has been unable to acquire them.
- (2) In order to comply with this subsection a person must—
  - (a) post on the land a notice, in such form as may be prescribed by a development order, stating that the application for planning permission is to be made; and
  - (b) leave the notice in position for not less than seven days; in a period of not more than one month immediately preceding the making of the application to the local planning authority.
- (3) The said notice must be posted by affixing it firmly to some object on the land, and must be sited and displayed in such a way as to be easily visible and legible by members of the public without going on the land.
- (4) The applicant shall not be treated as unable to comply with subsection (2) of this section if the notice is, without any fault or intention of his, removed, obscured or defaced before the seven days referred to in subsection (2) (b) above have elapsed, so long as he has taken reasonable steps for its protection and, if need be, replacement; and, if he has cause to rely on this subsection, his certificate under subsection (1) above shall state the relevant circumstances.
- (5) The notice required by subsection (2) of this section shall (in addition to any other matters required to be contained therein) name a place within the locality where a copy of the application for planning permission, and of all plans and other documents

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submitted therewith, will be open to inspection by the public at all reasonable hours during such period as may be specified in the notice, not being a period of less than twenty-one days beginning with the date on which the notice is first posted.

- (6) If any person issues a certificate which purports to comply with the requirements of this section and which contains a statement which he knows to be false and misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- (7) Any certificate issued for the purpose of this section shall be in such form as may be prescribed by a development order.

## **77 Extension of s.19 of principal Act with respect to development affecting trunk and special roads.**

In section 19(2) of the principal Act (power to provide by a development order for regulating the manner in which applications for planning permission are to be dealt with by local planning authorities and, in particular, for enabling the Minister of Transport to restrict the grant of planning permission for development affecting roads) the reference in paragraph (a) to development falling within subsection (3) of the section shall include, and be deemed always to have included, a reference to development of or affecting land on which the Minister of Transport or, in relation to Wales, the Secretary of State proposes to provide a trunk road or a special road, being a road the route of which is shown as such in the development plan or in the case of which the Minister or Secretary of State (as the case may be) has given to the local planning authority written notice of his intention to provide the road, together with maps or plans sufficient to identify the proposed route of the road.

## **78 Local register of planning applications.**

A development order may make provision for the register of planning applications kept by a local planning authority under section 19(4) of the principal Act to be kept in two or more parts, each part containing such information relating to applications for planning permission made to the authority as may be prescribed by the order, and may also make provision—

- (a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted therewith; and
- (b) for the entry relating to any application, and everything relating thereto, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of, without prejudice to the inclusion of any different entry relating thereto in another part of the register.

## **79 Reference to Minister of application for approval under outline planning permission.**

The power of the Minister to give directions under section 22 of the principal Act, requiring applications for planning permission to be referred to him instead of being dealt with by the local planning authority, shall be exercisable also in relation to applications for any approval of an authority required under a development order, and references to applications in subsections (2), (3), (5) and (6) of that section shall be construed accordingly.

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## **80 Unopposed revocation or modification of planning permission.**

- (1) The following provisions shall have effect where the local planning authority have made an order under section 27 of the principal Act (revocation or modification of planning permission) but have not submitted the order to the Minister for confirmation by him, and—
  - (a) the owner and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order ; and
  - (b) it appears to the authority that no claim for compensation is likely to arise under section 118 of the principal Act on account of the order.
- (2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—
  - (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Minister that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose ; and
  - (b) the period (not less than fourteen days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Minister, the order may take effect by virtue of this section and without being confirmed by the Minister.
- (3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(a) above, and the notice shall include a statement of the effect of subsection (7) of this section.
- (4) The authority shall send a copy of any advertisement published under subsection (2) above to the Minister, not more than three days after the publication.
- (5) If within the period referred to in subsection (2)(a) above no person claiming to be affected by the order has given notice to the Minister as aforesaid, and the Minister has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in subsection (2) (b) of this section, take effect by virtue of this section and without being confirmed by the Minister as required by section 27(2) of the principal Act.
- (6) This section does not apply to an order revoking or modifying a planning permission granted or deemed to have been granted by the Minister under Part III or Part IV of the principal Act or under Part II or Part V of this Act; nor does it apply to an order modifying any conditions to which a planning permission is subject by virtue of section 65 or 66 of this Act.
- (7) No compensation shall be payable under section 118 of the principal Act in respect of an order under section 27 of that Act which takes effect by virtue of this section and without being confirmed by the Minister.

## **81 Procedure in connection with making and confirmation of tree preservation orders.**

- (1) The provisions which may by virtue of subsection (1)(c) of section 29 of the principal Act (tree preservation orders) be applied by such an order in relation to any consent thereunder shall include section 80 of this Act.

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- (2) Regulations made by virtue of section 29(5) of the principal Act may (without prejudice to the generality of that subsection) make provision as follows :—
- (a) that, before a tree preservation order is submitted to the Minister for confirmation, notice of the making of the order shall be given to the owners and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations ;
  - (b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the Minister;
  - (c) that, if no objections or representations are so made, or if any so made are withdrawn, the order, instead of requiring the confirmation of the Minister in accordance with section 29(4) of the principal Act, may be confirmed (but without any modification), as an unopposed order, by the authority who made it; and
  - (d) that copies of the order, when confirmed by the Minister or the authority, shall be served on such persons as may be specified in the regulations.

## **82 Notice by Minister to planning authority when exercising default powers.**

- (1) The Minister, where he proposes under section 207 of the principal Act (default powers) to make an order—
- (a) under section 27 of that Act (revocation or modification of planning permission), or under the provisions of that section as applied by any order or regulations made under Part III of that Act; or
  - (b) under section 28 of that Act (discontinuance of specified use of land or alteration or removal of buildings or works),
- shall serve a notice of the proposal on the local planning authority; and if within such period as may be specified in the notice (not less than twenty-eight days from the date of service) the authority so require, the Minister before making the order shall afford to the authority an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.
- (2) The obligation of the Minister to serve a notice under this section shall be without prejudice to any requirements of Part III of the principal Act, or' regulations made thereunder, having effect by virtue of section 207(3) of that Act (requirements as to notice etc., where Minister acts in place of local planning authority).