



Town and Country Planning Act 1971

1971 CHAPTER 78

PART III

GENERAL PLANNING CONTROL

Secretary of State's powers in relation to planning applications and decisions

38 Review of planning decisions where compensation claimed

- (1) The provisions of this section and of section 39 of this Act shall have effect where, in accordance with the provisions of Part VII of this Act; one or more claims for compensation in respect of a planning decision have been transmitted to the Secretary of State, and the claim, or (if there is more than one) one or more of the claims, has not been withdrawn.
- (2) If, in the case of a planning decision of the local planning authority, it appears to the Secretary of State that, if the application for permission to develop the land in question had been referred to him for determination, he would have made a decision more favourable to the applicant, the Secretary of State may give a direction substituting that decision for the decision of the local planning authority.
- (3) If, in any case, it appears to the Secretary of State that planning permission could properly be granted (either unconditionally or subject to certain conditions) for some development of the land in question other than the development to which the application for planning permission related, the Secretary of State may give a direction that the provisions of this Act shall have effect in relation to that application and to the planning decision—
 - (a) as if the application had included an application for permission for that other development, and the decision had included the grant of planning permission (unconditionally or subject to the said conditions, as the case may be) for that development; or
 - (b) as if the decision had been a decision of the Secretary of State and had included an undertaking to grant planning permission (unconditionally or subject to the said conditions, as the case may be) for that development,

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as may be specified in the direction.

- (4) The reference in subsection (2) of this section to a decision more favourable to the applicant shall be construed—
- (a) in relation to a refusal of permission, as a reference to a decision granting the permission, either unconditionally or subject to conditions, and either in respect of the whole of the land to which the application for permission related or in respect of part of that land; and
 - (b) in relation to a grant of permission subject to conditions, as a reference to a decision granting the permission applied for unconditionally or subject to less stringent conditions.