
STATUTORY INSTRUMENTS

2003 No. 430

The Planning (Amendment) (Northern Ireland) Order 2003

Other changes relating to enforcement

Enforcement notices

7. For Article 68 of the principal Order (enforcement notices) there is substituted—

“Issue of enforcement notice

68.—(1) The Department may issue a notice (in this Order referred to as an “enforcement notice”) where it appears to it—

- (a) that there has been a breach of planning control; and
 - (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
- (2) A copy of an enforcement notice shall be served—
- (a) on the owner and on the occupier of the land to which it relates; and
 - (b) on any other person having an estate in the land, being an estate which, in the opinion of the Department, is materially affected by the notice.
- (3) The service of the notice shall take place—
- (a) not more than 28 days after its date of issue; and
 - (b) not less than 28 days before the date specified in it as the date on which it is to take effect.

Contents and effect of enforcement notice

68A.—(1) An enforcement notice shall state—

- (a) the matters which appear to the Department to constitute the breach of planning control; and
 - (b) the sub-paragraph of Article 67A(1) within which, in the opinion of the Department, the breach falls.
- (2) A notice complies with paragraph (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.
- (3) An enforcement notice shall specify the steps which the Department requires to be taken, or the activities which the Department requires to cease, in order to achieve, wholly or partly, any of the following purposes.
- (4) Those purposes are—
- (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

- (b) remedying any injury to amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require—
 - (a) the alteration or removal of any buildings or works;
 - (b) the carrying out of any building or other operations;
 - (c) any activity on the land not to be carried on except to the extent specified in the notice; or
 - (d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.
- (6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this Article referred to as a “replacement building”) which, subject to paragraph (7), is as similar as possible to the demolished building.
- (7) A replacement building—
 - (a) must comply with any requirement imposed by any statutory provision applicable to the construction of buildings;
 - (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
 - (c) must comply with any regulations made for the purposes of this paragraph (including regulations modifying sub-paragraphs (a) and (b)).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to Article 69(8), shall take effect on that date.
- (9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
- (10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under Article 68 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under Article 69.
- (11) Where—
 - (a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and
 - (b) all the requirements of the notice have been complied with,then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of Article 28A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
- (12) Where—
 - (a) an enforcement notice requires the construction of a replacement building; and
 - (b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of Article 28A in respect of development consisting of that construction.

Variation and withdrawal of enforcement notices

68B.—(1) The Department may—

- (a) withdraw an enforcement notice issued by it; or
- (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with Article 68A(9).

(2) The powers conferred by paragraph (1) may be exercised whether or not the notice has taken effect.

(3) The Department shall, immediately after exercising the powers conferred by paragraph (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the Department to issue a further enforcement notice.”.