



Town and Country Planning Act 1971

1971 CHAPTER 78

PART VIII

COMPENSATION FOR OTHER PLANNING RESTRICTIONS

Revocation or modification of planning permission

164 Compensation where planning permission revoked or modified

- (1) Where planning permission is revoked or modified by an order under section 45 of this Act, (other than an order which takes effect by virtue of section 46 of this Act 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 land—
 - (a) has incurred expenditure in carrying out work which is 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 local planning 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 work, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.
- (3) Subject to subsection (2) of this section, no compensation shall be paid under this section in respect of any work carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage (not 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 permission.
- (4) In calculating, for the purposes of this section, the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed

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that planning permission would be granted for development of the land of any class specified in Schedule 8 to this Act.

- (5) In this Part of this Act any reference to an order under section 45 of this Act includes a reference to an order under the provisions of that section as applied by section 51(2) of this Act.

165 Application of s.164 to special cases of refusal or conditional grant of planning permission

- (1) The provisions of this section shall have effect where—
- (a) planning permission for the development of land has been granted by a development order; and
 - (b) that permission is withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order; and
 - (c) on an application made in that behalf under Part III of this Act, planning permission for that development is refused, or is granted subject to conditions other than those previously imposed by the development order.
- (2) In any case falling within subsection (1) of this section, the provisions of section 164 of this Act shall apply as if the planning permission granted by the development order—
- (a) had been granted by the local planning authority under Part III of this Act; and
 - (b) had been revoked or modified by an order under section 45 of this Act,
- and the provisions of section 166 (except subsection (5)(b) thereof) and of sections 167 and 168 of this Act shall apply as if references therein to an order under section 45 of this Act were references to the planning decision whereby the planning permission in question is refused, or is granted subject to conditions other than those previously imposed by the development order.
- (3) This section shall not apply in relation to planning permission for the development of operational land of statutory undertakers.
- (4) 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.

166 Registration and apportionment of compensation for depreciation

- (1) Where compensation becomes payable under the preceding provisions of this Part of this Act, and includes compensation for depreciation of an amount exceeding £20, the local planning authority shall (if it appears to them to be practicable to do so) apportion the amount of the compensation for depreciation between different parts of the land to which the claim for that compensation relates, and give particulars of any such apportionment to the claimant and to every other person (if any) entitled to an interest in land which appears to the authority to be substantially affected by the apportionment.
- (2) In carrying out an apportionment under subsection (1) of this section, the local planning authority shall divide the land into parts, and shall distribute the compensation for depreciation between those parts, according to the way in which different parts of the land appear to the authority to be differently affected by the order in consequence of which the compensation is payable.

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- (3) Section 156(2) of this Act, and any regulations made by virtue thereof, shall have effect with respect to any such apportionment (subject to any necessary modifications) as they have effect with respect to an apportionment under section 158(1) of this Act.
- (4) On a reference to the Lands Tribunal by virtue of subsection (3) of this section, subsections (1) and (2) of this section, so far as they relate to the making of an apportionment, shall apply with the substitution, for references to the local planning authority, of references to the Lands Tribunal.
- (5) Where compensation becomes payable under the preceding provisions of this Part of this Act, and includes compensation for depreciation exceeding £20, the local planning authority shall give notice thereof to the Secretary of State, specifying the amount of the compensation for depreciation and any apportionment thereof under this section; and subsections (4) to (6) of section 158 of this Act shall have effect with respect thereto as they have effect with respect to compensation under Part VII of this Act, subject, however, to any necessary modifications, and, in particular, with the substitution—
 - (a) for references to the compensation mentioned in that section, of references to the compensation for depreciation specified in the notice; and
 - (b) for references to the planning decision, of references to the order under section 45 of this Act in consequence of which the compensation is payable.
- (6) In this section and in section 167 of this Act "compensation for depreciation" means so much of any compensation payable under the preceding provisions of this Part of this Act as is payable in respect of loss or damage consisting of depreciation of the value of an interest in land, and "interest" (where the reference is to an interest in land) means the fee simple or a tenancy of the land and does not include any other interest therein.

167 Contribution by Secretary of State towards compensation in certain cases

- (1) Where a notice under section 166 of this Act is given to the Secretary of State in consequence of the making of an order under section 45 of this Act, and the circumstances are such that, if the permission revoked or modified by the order had been refused, or, as the case may be, had been granted as so modified, at the time when it was granted, compensation under Part VII of this Act could have been claimed and would have been payable by the Secretary of State, the Secretary of State may, subject to the provisions of this section, pay to the local planning authority a contribution of the amount appearing to him to be the amount of compensation which would have been so payable by him under Part VII of this Act.
- (2) The amount of any such contribution shall not exceed—
 - (a) the amount of the compensation for depreciation paid by the local planning authority; or
 - (b) the unexpended balance of established development value, at the date of the making of the order, of the land in respect of which that compensation was paid.
- (3) Regulations made under this section shall make provision, in relation to cases where the Secretary of State proposes to pay a contribution under this section—
 - (a) for requiring the Secretary of State to give notice of his proposal to persons entitled to such interests as may be prescribed in the land to which the proposal relates, and to such other persons (if any) as may be determined in accordance with the regulations to be affected by the proposal;

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- (b) for enabling persons to whom notice of the proposal is given to object to the proposal, on the grounds that compensation would not have been payable as mentioned in subsection (1) of this section, or that the amount of the compensation so payable would have been less than the amount of the proposed contribution ;
- (c) for enabling any person making such an objection to require the matter in dispute to be referred to the Lands Tribunal for determination ; and
- (d) where a contribution under this section is paid, for applying (with any necessary modifications) the provisions of Part VII of this Act as to the reduction or extinguishment of the unexpended balance of established development value of land, as if the contribution had been a payment of compensation under that Part of this Act.

168 Recovery, on subsequent development, of compensation under s.164

- (1) In relation to notices registered under the provisions of section 158 of this Act, as applied by the preceding provisions of this Part of this Act, sections 159 and 160 of this Act shall have effect as they have effect in relation to compensation notices registered as therein mentioned:

Provided that, in a case where the compensation under section 164 of this Act specified in such a notice became payable in respect of an order modifying planning permission, the said sections shall not apply to development in accordance with that permission as modified by the order.

- (2) Subject to subsection (3) of this section, any sum recovered by the Secretary of State under section 159 of this Act, as applied by subsection (1) of this section, shall be paid to the local planning authority who paid the compensation to which that sum relates.
- (3) In paying any such sum to the local planning authority, the Secretary of State shall deduct therefrom—
- (a) the amount of any contribution paid by him under section 167 of this Act in respect of the compensation to which the sum relates;
 - (b) the amount of any grant paid by him under Part XIII of this Act in respect of that compensation:

Provided that, if the sum recovered by the Secretary of State is an instalment of the total sum recoverable, or is recovered by reference to development of part of the land in respect of which the compensation was payable, any deduction to be made under paragraph (a) or paragraph (b) of this subsection shall be a deduction of such amount as the Secretary of State may determine to be the proper proportion of the amount referred to in that paragraph.

- (4) For the purposes of sections 159 and 160 of this Act, in their application by virtue of this section to compensation calculated under section 164 of this Act, the expression "new development" shall include—
- (a) any development of a class specified in paragraph 1 or 3 of Schedule 8 to this Act which is carried out otherwise than subject to the condition set out in Schedule 18 to this Act; and
 - (b) any development excluded by subsection (2) of section 278 of this Act from that Schedule in its application to any determination to which subsection (1) of the said section 278 applies.