



Highways Act 1980

1980 CHAPTER 66

PART XI

MAKING UP OF PRIVATE STREETS

General

232 Power to treat as a private street land designated for purposes of this section by development plan.

- (1) The provisions of this section apply in relation to land defined by a development plan—
- (a) as the site of a proposed road, or
 - (b) as land required for the widening of an existing road which is of less than byelaw width,

and designated by the plan as land to which this section applies.

- (2) Where any land is so defined and designated as aforesaid, the prospective street works authority, subject to subsection (3) below, may at any time by order declare the land (together with any land forming part of any such existing road as aforesaid) to be a private street, and thereupon the land is to be deemed to have been dedicated to the use of the public as a highway and to be a private street for the purposes of this Part of this Act.

The reference in this subsection to the prospective street works authority is a reference to the council who will be the street works authority as respects the private street constituted by the council's declaration.

- (3) No order shall be made by the authority under subsection (2) above in relation to land which has not been acquired by them at the date of the order (other than land forming part of any such existing road as aforesaid) except with the consent of all persons interested in the land.

Status: Point in time view as at 28/09/2004. This version of this provision has been superseded.

Changes to legislation: Highways Act 1980, Section 232 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) In relation to land which is deemed to be a private street by virtue of a declaration under subsection (2) above the provisions of the private street works code apply subject to such exceptions, adaptations and modifications as may be prescribed by regulations made by the Minister of Transport.
- (5) Regulations made for the purposes of subsection (4) above shall make provision for securing—
- (a) that the amount of the expenses incurred in the execution of street works charged under the private street works code on the owners of adjoining land does not exceed the amount which would, at the date of the commencement of the works, have been the cost of the execution of street works in the course of the construction, widening or improvement if it had been carried out—
 - (i) so as to comply with the provisions of any byelaws, regulations or other enactments in force in the area, and
 - (ii) as respects matters for which no such provision is made, so as to comply with such requirements as would have been imposed by the street works authority at the date of the commencement of the works as a condition of declaring the street to be a highway which for the purposes of this Act is a highway maintainable at the public expense;
 - (b) that as soon as the street has been made up or widened by or to the satisfaction of the street works authority it becomes a highway maintainable at the public expense;
 - (c) that no expenses incurred in the execution of street works are recoverable against agricultural land or buildings until the land or buildings cease to be agricultural land or buildings; and
 - (d) that no expenses incurred in the execution of street works for the purpose of making a new street are recoverable in respect of any land (whether the site of a building or not) unless and until access is provided for and used by persons or vehicles from that land to the new street.
- (6) Regulations made for the purposes of subsection (4) above may provide—
- (a) for the inclusion in the expenses recoverable as aforesaid in respect of street works carried out by the street works authority of any expenses incurred by a local authority after the date on which the land is defined and designated as mentioned in subsection (1) above, and before it is declared to be a private street under subsection (2) above, in the construction of sewers in or under the land; and
 - (b) for authorising the street works authority to enter on any land adjoining the street for the purpose of executing street works on land comprised in the street.
- (7) A highway constructed by a local highway authority on land deemed to be a private street by virtue of a declaration under subsection (2) above is not by virtue only of section 36(2)(a) above for the purposes of this Act a highway maintainable at the public expense.
- (8) The provisions of this section, and any restrictions or powers imposed or conferred by it in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made for authorising or regulating any development of the^{M1}land by any enactment in force on 6th August 1947 or by any local Act passed at any time during the Session of Parliament held during the regnal years 10 and 11 Geo. 6 (that date and that Session being, respectively, the date of passing of the Town and Country Planning Act 1947 and the Session during which that Act was passed, and that Act,

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now superseded by [^{F1}the Town and Country Planning Act 1990][^{F2} and Parts 2 and 6 of the Planning and Compulsory Purchase Act 2004], being the Act that first made provision for development plans).

(9) In this section—

“byelaw width”, in relation to a road, means the width required by any ^{F3} . . . , regulations or other enactments relating to the construction of streets in the area in which the road is situated;

“construction” and “improvement”, in relation to a street, include the planting, laying out, maintenance and protection of trees, shrubs and grass verges in and beside the street;

[^{F4}“development plan” must be construed in accordance with section 38 of the Planning and Compulsory Purchase Act 2004;

“local authority” has the same meaning as in the Town and Country Planning Act 1990.]

Textual Amendments

F1 Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 45\(12\)\(a\)](#)

F2 Words in s. 232(8) inserted (28.9.2004 for E. and 15.10.2005 for W.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 118(2), [Sch. 7 para. 11\(2\)](#) (with s. 111); S.I. 2004/2202, [art. 2\(i\)](#) (subject to art. 4); S.I. 2005/2847, [art. 2\(f\)](#) (subject to art. 3)

F3 Words in s. 232(9) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 84(6), Sch. 19 Pt. V (with ss. 81(2), 84(5)); S.I. 1991/2067, [art. 3](#)

F4 In s. 232(9) definitions of "development plan" and "local authority" substituted (28.9.2004 for E. and 15.10.2005 for W.) for definition of "development plan" by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 118(2), [Sch. 7 para. 11\(3\)](#) (with s. 111); S.I. 2004/2202, [art. 2\(i\)](#) (subject to art. 4); S.I. 2005/2847, [art. 2\(f\)](#) (subject to art. 3)

Marginal Citations

M1 1947 c. 51.

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