



Town and Country Planning Act 1990

1990 CHAPTER 8

PART VI

RIGHTS OF OWNERS ETC. TO REQUIRE PURCHASE OF INTERESTS

CHAPTER I

INTERESTS AFFECTED BY PLANNING DECISIONS OR ORDERS

Service of purchase notices

137 Circumstances in which purchase notices may be served

(1) This section applies where—

- (a) on an application for planning permission to develop any land, permission is refused or is granted subject to conditions; or
- (b) by an order under section 97 planning permission in respect of any land is revoked, or is modified by the imposition of conditions; or
- (c) an order is made under section 102 or paragraph 1 of Schedule 9 in respect of any land.

(2) If—

- (a) in the case mentioned in subsection (1)(a) or (b), any owner of the land claims that the conditions mentioned in subsection (3) are satisfied with respect to it, or
- (b) in the case mentioned in subsection (1)(c), any person entitled to an interest in land in respect of which the order is made claims that the conditions mentioned in subsection (4) are satisfied with respect to it,

he may, within the prescribed time and in the prescribed manner, serve on the council of the district or London borough in which the land is situated a notice (in this Act referred to as “a purchase notice”) requiring that council to purchase his interest in the land in accordance with this Chapter.

Status: This is the original version (as it was originally enacted).

- (3) The conditions mentioned in subsection (2)(a) are—
 - (a) that the land has become incapable of reasonably beneficial use in its existing state; and
 - (b) in a case where planning permission was granted subject to conditions or was modified by the imposition of conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions; and
 - (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the local planning authority or the Secretary of State has undertaken to grant planning permission.
- (4) The conditions mentioned in subsection (2)(b) are—
 - (a) that by reason of the order the land is incapable of reasonably beneficial use in its existing state; and
 - (b) that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for which planning permission has been granted, whether by that order or otherwise.
- (5) For the purposes of subsection (1)(a) and any claim arising in the circumstances mentioned in that subsection, the conditions referred to in sections 91 and 92 shall be disregarded.
- (6) A person on whom a repairs notice has been served under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 shall not be entitled to serve a notice under this section in the circumstances mentioned in subsection (1)(a) in respect of the building in question—
 - (a) until the expiration of three months beginning with the date of the service of the repairs notice; and
 - (b) if during that period the compulsory acquisition of the building is begun in the exercise of powers under section 47 of that Act, unless and until the compulsory acquisition is discontinued.
- (7) For the purposes of subsection (6) a compulsory acquisition—
 - (a) is started when the the notice required by section 12 of the Acquisition of Land Act 1981 or, as the case may be, paragraph 3 of Schedule 1 to that Act is served; and
 - (b) is discontinued—
 - (i) in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order; and
 - (ii) in any other case, when the order is withdrawn or the Secretary of State decides not to confirm it.
- (8) No purchase notice shall be served in respect of an interest in land while the land is incapable of reasonably beneficial use by reason only of such an order as is mentioned in subsection (1)(c), except by virtue of a claim under subsection (2)(b).

138 Circumstances in which land incapable of reasonably beneficial use

- (1) Where, for the purpose of determining whether the conditions specified in section 137(3) or (4) are satisfied in relation to any land, any question arises as to what is or would in any particular circumstances be a reasonably beneficial use of that land,

then, in determining that question for that purpose, no account shall be taken of any unauthorised prospective use of that land.

- (2) A prospective use of land shall be regarded as unauthorised for the purposes of subsection (1)—
- (a) if it would involve the carrying out of new development, or
 - (b) in the case of a purchase notice served in consequence of a refusal or conditional grant of planning permission, if it would contravene the condition set out in Schedule 10.