



Town and Country Planning Act 1990

1990 CHAPTER 8

PART VII

ENFORCEMENT

Established use certificates

191 Meaning of “established use”

For the purposes of this Part a use of land is established if—

- (a) it was begun before the beginning of 1964 without planning permission and has continued since the end of 1963;
- (b) it was begun before the beginning of 1964 under a planning permission granted subject to conditions or limitations, which either have never been complied with or have not been complied with since the end of 1963; or
- (c) it was begun after the end of 1963 as the result of a change of use not requiring planning permission and there has been, since the end of 1963, no change of use requiring planning permission.

192 Applications for established use certificates

- (1) Subject to subsection (3), where a person having an interest in land claims that a particular use of it has become established, he may apply to the local planning authority for a certificate to that effect.
- (2) Such a certificate is in this Act referred to as an “established use certificate”.
- (3) No application may be made under subsection (1)—
 - (a) in respect of the use of land as a single dwellinghouse, or
 - (b) in respect of any use not subsisting at the time of the application.
- (4) An established use certificate shall, as respects any matters stated in it, be conclusive for the purposes of an appeal to the Secretary of State against an enforcement notice a copy of which has been served in respect of any land to which the certificate relates, if

the copy of the notice is served after the date of the application on which the certificate was granted.

- (5) The Secretary of State may give directions requiring applications for established use certificates to be referred to him instead of being dealt with by local planning authorities.
- (6) In section 69 references to applications for planning permission shall include references to applications for established use certificates.

193 Supplementary provisions as to applications

- (1) An application for an established use certificate shall be made in such manner as may be prescribed by a development order and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any directions given under such an order, or by the local planning authority or, in the case of an application referred to the Secretary of State, by him.
- (2) A development order may provide that an application for an established use certificate shall not be entertained unless it is accompanied by a certificate in such form as may be prescribed by the order and corresponding to one of those described in section 66(1) or section 67(3).
- (3) Any such order may also—
 - (a) include requirements corresponding to section 66(2) to (6) (or, as the case may be, section 67(5), (6) and (11)) and section 71(2); and
 - (b) make provision as to who, in the case of any land, is to be treated as the owner for the purposes of any provision of the order made by virtue of subsection (2) or this subsection.
- (4) If any person—
 - (a) issues a certificate which purports to comply with any provision of a development order made by virtue of subsection (2) or (3) and contains a statement which he knows to be false or misleading in a material particular, or
 - (b) recklessly issues a certificate which purports to comply with any such provision and contains a statement which is false or misleading in a material particular,
 he shall be guilty of an offence.
- (5) A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for an established use certificate—
 - (a) knowingly or recklessly makes a statement which is false in a material particular; or
 - (b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any document which is false in a material particular; or
 - (c) with intent to deceive, withholds any material information,
 he shall be guilty of an offence.
- (7) A person guilty of such an offence shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, or

- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

194 Determination of applications

- (1) On an application to the local planning authority under section 192, or on a reference to the Secretary of State under subsection (5) of that section, the authority or, as the case may be, the Secretary of State shall—
 - (a) if and so far as they are or he is satisfied that the applicant's claim is made out, grant him an established use certificate accordingly; and
 - (b) if and so far as they are or he is not so satisfied, refuse the application.
- (2) An established use certificate may be granted—
 - (a) either for the whole of the land specified in the application, or for a part of it;
 - (b) in the case of an application specifying two or more uses, either for all those uses or for some one or more of them.
- (3) An established use certificate shall be in such form as may be prescribed by a development order and shall specify—
 - (a) the land to which the certificate relates and any use of it which is certified by the certificate as established;
 - (b) by reference to the paragraphs of section 191, the grounds on which that use is so certified; and
 - (c) the date on which the application for the certificate was made.
- (4) The date mentioned in subsection (3)(c) shall be the date at which the use is certified as established.
- (5) Provision may be made by a development order for regulating the manner in which applications for established use certificates are to be dealt with by local planning authorities.
- (6) Such an order may in particular provide for requiring the authority—
 - (a) to give to any applicant within such time as may be prescribed by the order such notice as may be so prescribed as to the manner in which his application has been dealt with;
 - (b) to give to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to such applications made to the authority, including information as to the manner in which any application has been dealt with.

195 Appeals against refusal or failure to give decision on application

- (1) Where an application is made to a local planning authority for an established use certificate and—
 - (a) the application is refused or is refused in part, or
 - (b) the authority do not give notice to the applicant of their decision on the application within such period as may be prescribed by a development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority,the applicant may by notice appeal to the Secretary of State.

- (2) On any such appeal, if and so far as the Secretary of State is satisfied—
 - (a) in the case of an appeal under subsection (1)(a), that the authority's refusal is not well-founded, or
 - (b) in the case of an appeal under subsection (1)(b), that if the authority had refused the application their refusal would not have been well-founded,he shall grant the appellant an established use certificate accordingly or, in the case of a refusal in part, modify the certificate granted by the authority on the application.
- (3) If and so far as the Secretary of State is satisfied that the authority's refusal is or, as the case may be, would have been well-founded, he shall dismiss the appeal.
- (4) In section 193(2) and (6) references to applications for established use certificates include references to appeals arising out of such applications.
- (5) For the purposes of the application of section 288(10)(b) in relation to an appeal in a case within subsection (1)(b) it shall be assumed that the authority decided to refuse the application in question.
- (6) Schedule 6 applies to appeals under this section.

196 Further provisions as to references and appeals to the Secretary of State

- (1) Before determining an application referred to him under section 192(5) or an appeal to him under section 195(1), the Secretary of State shall, if either the applicant or appellant (as the case may be) or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (2) Where the Secretary of State grants an established use certificate on such a reference or such an appeal, he shall give notice to the local planning authority of that fact.
- (3) The decision of the Secretary of State on such an application or appeal shall be final.
- (4) The information which may be prescribed as being required to be contained in a register kept under section 69 shall include information with respect to established use certificates granted by the Secretary of State.
- (5) On such an application or appeal the Secretary of State may, in respect of any use of land for which an established use certificate is not granted (either by him or by the local planning authority), grant planning permission for that use or, as the case may be, for the continuance of that use without complying with some condition subject to which a previous planning permission was granted.
- (6) In the case of any use of land for which the Secretary of State has power to grant planning permission under this section, the applicant or appellant shall be deemed to have made an application for such planning permission.
- (7) Any planning permission so granted shall be treated as granted on that application.