



Planning (Listed Buildings and Conservation Areas) Act 1990

1990 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER III

RIGHTS OF OWNERS ETC.

Compensation

^{F1}27 **Compensation for refusal of consent to alteration, etc. of listed building.**

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Textual Amendments

F1 S. 27 repealed(*for application for listed building consent made on or after 16.11.1990*) by [Planning and Compensation Act 1991](#) (c. 34, SIF 123:1), ss. 31(3)(8), 84(6), **Sch. 19 Pt.II**

Modifications etc. (not altering text)

C1 S. 27 modified by [S.I. 1990/1519](#), **reg. 13(1)**

C2 Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013](#) (S.I. 2013/2148), arts. 1(1), 3, **Sch. 1** (with art. 1(2))

Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Chapter III is up to date with all changes known to be in force on or before 14 October 2021. 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) View outstanding changes

28 Compensation where listed building consent revoked or modified.

- (1) This section shall have effect where listed building consent is revoked or modified by an order under section 23 (other than an order which takes effect by virtue of section 25).
- (2) If on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the building—
 - (a) has incurred expenditure in carrying out works which are 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 authority shall pay that person compensation in respect of that expenditure, loss or damage.
- (3) Subject to subsection (4), no compensation shall be paid under this section in respect of—
 - (a) any works carried out before the grant of the listed building consent which is revoked or modified; or
 - (b) 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 consent.
- (4) For the purposes of this section, expenditure incurred in the preparation of plans for the purposes of any works, or upon other similar matters preparatory to any works, shall be taken to be included in the expenditure incurred in carrying out those works.

Modifications etc. (not altering text)

- C2** Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, [Sch. 1](#) (with art. 1(2))
- C3** S. 28 modified by [S.I. 1990/1519](#), [reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519](#), [reg. 12](#), [Sch. 3](#)
- C4** S. 28 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, [Sch. 3](#)
- C5** S. 28 applied (with modifications) (E.) (6.4.2014) by [The Planning \(Listed Buildings and Conservation Areas\) \(Heritage Partnership Agreements\) Regulations 2014 \(S.I. 2014/550\)](#), regs. 1(1), 7

[^{F2} 28A Compensation where consent formerly granted by order is granted conditionally or refused

- (1) Section 28 also has effect (subject to subsections (2) and (3)) where—
 - (a) listed building consent granted by a listed building consent order or a local listed building consent order is withdrawn (whether by the revocation or amendment of the order or by the issue of a direction), and
 - (b) on an application for listed building consent made within the prescribed period after the withdrawal, consent for works formerly authorised by the order is refused or is granted subject to conditions other than those imposed by the order.
- (2) Section 28 does not have effect by virtue of subsection (1) if—
 - (a) the works authorised by the order were started before the withdrawal, and

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- (b) the order included provision in pursuance of section 26G permitting the works to be completed after the withdrawal.
- (3) Section 28 does not have effect by virtue of subsection (1) if—
 - (a) notice of the withdrawal was published in the prescribed manner and within the prescribed period before the withdrawal, and
 - (b) the works authorised by the order were not started before the notice was published.
- (4) Where section 28 has effect by virtue of subsection (1), references in section 28(2) and (3) to the revocation or modification of listed building consent are references to the withdrawal of the listed building consent by revocation or amendment of the order or by issue of the direction.]

Textual Amendments

F2 S. 28A inserted (25.4.2013 for specified purposes, 6.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 60(4), 103(1)(i)(3)**; S.I. 2014/416, art. 3(a)

Modifications etc. (not altering text)

C2 Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, **Sch. 1** (with art. 1(2))

[^{F3}28B Compensation for loss or damage caused by interim protection

- (1) This section applies where interim protection in respect of a building ceases to have effect as a result of the issue of a notice by the Welsh Ministers under section 2B(4)(b).
- (2) Any person who, at the time when the interim protection took effect, had an interest in the building is, on making a claim to the Welsh Ministers within the prescribed time and in the prescribed manner, entitled to be paid compensation by the Welsh Ministers in respect of any loss or damage directly attributable to the effect of the protection.
- (3) The loss or damage in respect of which compensation is payable under subsection (2) includes a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the interim protection having effect.

[Subsection (5) applies where—

- ^{F4}(4) (a) a building preservation notice was in force in respect of the building before interim protection took effect; and
- (b) the notice ceased to be in force by virtue of section 3A(4)(a).
- (5) In such a case—
 - (a) the reference in subsection (2) to the time when the interim protection took effect is to be treated as a reference to the time when the building preservation notice came into force;
 - (b) the reference in that subsection to loss or damage directly attributable to the effect of the interim protection is to be treated as including a reference to loss or damage directly attributable to the effect of the building preservation notice being in force; and

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- (c) the reference in subsection (3) to the necessity of discontinuing or countermanding works on account of the interim protection having effect is to be treated as including a reference to the necessity of discontinuing or countermanding works on account of the building preservation notice being in force.]]

Textual Amendments

- F3** S. 28B inserted (21.3.2016 for specified purposes, 31.5.2017 in so far as not already in force) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 24(3)**, 41(1)(c)(3); S.I. 2017/633, art. 5(c) (with art. 6(2))
- F4** S. 28B(4)(5) inserted (31.5.2017) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 25(4)**, 41(3); S.I. 2017/633, art. 4(b) (with art. 6(3))

29 Compensation for loss or damage caused by service of building preservation notice.

- (1) This section applies where a building preservation notice [^{F5}in respect of a building situated in England] ceases to have effect without the building having been included in a list compiled or approved by the Secretary of State under section 1.
- [^{F6}(1A) This section also applies where a building preservation notice in respect of a building situated in Wales ceases to have effect by virtue of section 3A(3)(b) or (4)(b).]
- (2) Any person who at the time when the notice was served had an interest in the building shall, on making a claim to the authority within the prescribed time and in the prescribed manner, be entitled to be paid compensation by the local planning authority in respect of any loss or damage directly attributable to the effect of the notice.
- (3) The loss or damage in respect of which compensation is payable under subsection (2) shall include a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect to it.

Textual Amendments

- F5** Words in s. 29(1) inserted (31.5.2017) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 25(5)(a)**, 41(3); S.I. 2017/633, art. 4(b) (with art. 6(3))
- F6** S. 29(1A) inserted (31.5.2017) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 25(5)(b)**, 41(3); S.I. 2017/633, art. 4(b) (with art. 6(3))

Modifications etc. (not altering text)

- C2** Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, **Sch. 1** (with art. 1(2))
- C6** S. 29 modified by S.I. 1990/1519, **reg. 13(1)**

30 Local planning authorities for compensation purposes.

- (1) Subject to subsection (2)—
^{F7}(a)

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- (b) claims under section 28 shall be made to and paid by the local planning authority who made the order in question or, where it was made by the Secretary of State under section 26, the local planning authority who are treated as having made it under that section;
 - (c) claims under section 29 shall be made to and paid by the local planning authority who served the building preservation notice,
- and references in those sections to a local planning authority shall be construed accordingly.
- (2) The Secretary of State may after consultation with all the authorities concerned direct that where a local planning authority is liable to pay compensation under section ^{F8} . . . 28 or 29 in any particular case or class of case they shall be entitled to be reimbursed the whole of the compensation or such proportion of it as he may direct from one or more authorities specified in the direction.
- (3) This section does not apply in Greater London.

Textual Amendments

F7 S. 30(1)(a) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31(4), 84(6), Schs. 6 para. 42(1), [19 Pt.II](#); [S.I. 1991/2067](#), [art.3](#)

F8 Words in s. 30(2) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31(4), 84(6), Schs. 6 para. 42(2), [19 Pt.II](#); [S.I. 1991/2067](#), [art.3](#)

Modifications etc. (not altering text)

C7 S. 30 applied (with modifications) (E.) (6.4.2014) by [The Planning \(Listed Buildings and Conservation Areas\) \(Heritage Partnership Agreements\) Regulations 2014 \(S.I. 2014/550\)](#), regs. 1(1), 7

31 General provisions as to compensation for depreciation under this Part.

- (1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 5 of the ^{M1}Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (2) This section applies to any compensation which is payable under sections [^{F9}28][^{F10}, 28B][^{F11}, 29 and 44D] in respect of depreciation of the value of an interest in land.
- (3) Where an interest in land is subject to a mortgage—
 - (a) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the mortgage;
 - (b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
 - (c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
 - (d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

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- (4) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under sections [F⁹28 and] 29 shall be referred to and determined by the [F¹²Upper Tribunal].
- (5) In relation to the determination of any such question, the provisions of [F¹³section] 4 of the ^{M²}Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Textual Amendments

- F9** Words in s. 31(2)(4) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31(4), **Sch. 6 para.43**, S.I. 1991/2067, art.3
- F10** Word in s. 31(2) inserted (31.5.2017) by Historic Environment (Wales) Act 2016 (anaw 4), **ss. 26(8), 41(3)**; S.I. 2017/633, art. 4(c) (with art. 6(2)(3))
- F11** Words in s. 31(2) substituted (21.5.2016) by Historic Environment (Wales) Act 2016 (anaw 4), **ss. 29(2), 41(2)**
- F12** Words in s. 31(4) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), **Sch. 1 para. 212(a)** (with Sch. 5)
- F13** Words in s. 31(5) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), **Sch. 1 para. 212(b)** (with Sch. 5)

Modifications etc. (not altering text)

- C8** S. 31 applied (with modifications) (E.) (6.4.2014) by The Planning (Listed Buildings and Conservation Areas) (Heritage Partnership Agreements) Regulations 2014 (S.I. 2014/550), regs. 1(1), 7

Marginal Citations

- M1** 1961 c.33.
- M2** 1961 c.33.

Listed building purchase notices

32 Purchase notice on refusal or conditional grant of listed building consent.

- (1) Where—
- (a) [F¹⁴on an application for listed building consent in respect of a building, consent] is refused, or granted subject to conditions, or [F¹⁵such consent granted on an application] is revoked or modified by an order under section 23 or 26; and
 - (b) any owner of the building claims—
 - (i) that the conditions mentioned in subsection (2) are satisfied with respect to it and any land comprising the building, or contiguous or adjacent to it, and owned with it; and
 - (ii) that the conditions mentioned in subsection (3) are satisfied with respect to that land,

he may, within the prescribed time and in the prescribed manner, serve on the council of the district [F¹⁶, Welsh county, county borough,] or London borough in which the building and land are situated a notice (in this Act referred to as a “listed building purchase notice”) requiring that council to purchase his interest in the building and land in accordance with sections 33 to 37.

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- (2) The conditions mentioned in subsection (1)(b)(i) are—
- (a) that the building and land in respect of which the notice is served have become incapable of reasonably beneficial use in their existing state;
 - (b) in a case where listed building consent has been granted subject to conditions with respect to the execution of the works or has been modified by the imposition of such conditions, that the land cannot be rendered capable of such use by the carrying out of the works in accordance with those conditions; and
 - (c) in any case, that the land cannot be rendered capable of such use by the carrying out of any other works for which listed building consent has been granted or for which the local planning authority or the Secretary of State has undertaken to grant such consent.
- (3) The conditions mentioned in subsection (1)(b)(ii) are that the use of the land is substantially inseparable from that of the building and that it ought to be treated, together with the building, as a single holding.
- (4) In determining for the purpose of subsection (2) what is or would in any particular circumstances be a reasonably beneficial use of land, no account shall be taken of any prospective use which would involve the carrying out of [^{F17}development (other than any development specified in paragraph 1 or 2 of Schedule 3 to the principal Act)] or any works requiring listed building consent which might be executed to the building, other than works for which the local planning authority or the Secretary of State have undertaken to grant such consent.
- [^{F18}(4A) This section and sections 33 to 37 shall have effect as if—
- (a) the bodies on whom a listed building purchase notice may be served under this section included any National Park authority which is the local planning authority for the area in which the building and land in question are situated; and
 - (b) a National Park authority were a local authority for the purposes of this Act and the Park for which it is the local planning authority were its area;
- and the references in those sections and in section 63(7)(a) to a council and to a local authority shall be construed accordingly.]
- (5) References in sections 33 to 37 to the land are to the building and the land in respect of which the notice under subsection (1) is served.

Textual Amendments

- F14** Words in s. 32(1)(a) substituted (1.10.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 17 para. 10\(a\)](#); S.I. 2013/2227, art. 2(m)
- F15** Words in s. 32(1)(a) inserted (1.10.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 17 para. 10\(b\)](#); S.I. 2013/2227, art. 2(m)
- F16** Words in s. 32(1) inserted (1.4.1996) by [1994 c. 19](#), s. 20(4), [Sch. 6 Pt. II para. 25\(3\)](#) (with ss. 54(5)(7), 55(5), 66(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#); S.I. 1996/396, art. 3, [Sch. 1](#)
- F17** Words in s. 32(4) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 31(4), [Sch. 6 para. 44](#); S.I. 1991/2067, art. 3
- F18** S. 32(4A) inserted (23.11.1995) by [1995 c. 25](#), s. 78, [Sch. 10 para. 33\(2\)](#)(with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); S.I. 1995/2950, art. 2

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Modifications etc. (not altering text)

- C9** S. 32 modified by [S.I. 1990/1519, reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519, reg. 12, Sch. 3](#)
- S. 32: power to modify conferred (10.11.1993) by [1993 c. 28, s. 171\(3\)\(b\)](#); [S.I. 1993/2762, art. 3](#).
- C10** Ss. 32-33 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, [Sch. 3](#)
- C11** Ss. 32-50 applied in part (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, [Sch. 1](#) (with art. 1(2))

[^{F19} 32A Purchase notices: Crown land

- (1) A listed building purchase notice may be served in respect of Crown land only as mentioned in this section.
- (2) The owner of a private interest in Crown land must not serve a listed building purchase notice unless—
 - (a) he first offers to dispose of his interest to the appropriate authority on equivalent terms, and
 - (b) the offer is refused by the appropriate authority.
- (3) The appropriate authority may serve a listed building purchase notice in relation to the following land—
 - (a) land belonging to Her Majesty in right of Her private estates;
 - (b) land belonging to Her Majesty in right of the Duchy of Lancaster;
 - (c) land belonging to the Duchy of Cornwall;
 - (d) land which forms part of the Crown Estate.
- (4) An offer is made on equivalent terms if the price payable for the interest is equal to (and, in default of agreement, determined in the same manner as) the compensation which would be payable in respect of it if it were acquired in pursuance of a listed building purchase notice.]

Textual Amendments

- F19** S. 32A inserted (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 79(4), 121(1), [Sch. 3 para. 2](#) (with s. 111); [S.I. 2006/1281, art. 2\(c\)](#)

Modifications etc. (not altering text)

- C10** Ss. 32-33 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, [Sch. 3](#)
- C11** Ss. 32-50 applied in part (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, [Sch. 1](#) (with art. 1(2))

33 Action by council on whom listed building purchase notice served.

- (1) The council on whom a listed building purchase notice is served by an owner shall serve on him a notice stating either—
 - (a) that the council are willing to comply with the purchase notice; or
 - (b) that another local authority or statutory undertakers specified in the notice under this subsection have agreed to comply with it in their place; or

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- (c) that for reasons so specified the council are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place and that they have transmitted to the Secretary of State a copy of the purchase notice and of the notice under this subsection.
- (2) A notice under subsection (1) must be served before the end of the period of three months beginning with the date of service of the listed building purchase notice.
- (3) Where such a notice as is mentioned in paragraph (a) or (b) of subsection (1) has been duly served, the council or, as the case may be, the other local authority or statutory undertakers specified in the notice shall be deemed—
- (a) to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of section 47; and
 - (b) to have served a notice to treat in respect of it on the date of service of the notice under that subsection.
- (4) Where the council propose to serve such a notice as is mentioned in subsection (1)(c), they shall first send to the Secretary of State a copy of—
- (a) the proposed notice; and
 - (b) the listed building purchase notice which was served on them.

Modifications etc. (not altering text)

- C10** Ss. 32-33 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**
- C11** Ss. 32-50 applied in part (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, **Sch. 1** (with art. 1(2))
- C12** S. 33: power to apply (with modifications) conferred by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 123:1\)](#), s. 149(3)(b), **Sch. 29 Pt. II para. 10** as inserted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 44(13)**
S. 33: power to modify conferred (10.11.1993) by 1993 c. 28, s. 171(3)(b); S.I. 1993/2762, **art.3**.
- C13** S. 33 modified by [S.I. 1990/1519](#), **reg. 13(1)**; applied (with modifications) by [S.I. 1990/1519](#), reg. 12, **Sch. 3**
S. 33 applied (with modifications) by [S.I. 1993/1075](#), **art.4**.
- C14** S. 33 applied (with modifications) (7.6.2004) by [The Milton Keynes \(Urban Area and Planning Functions\) Order 2004 \(S.I. 2004/932\)](#), art. 5, **Sch. para. 10**
- C15** S. 33 applied (with modifications) (12.10.2005) by [The Thurrock Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2572\)](#), **art. 5**
- C16** S. 33 applied (with modifications) (31.10.2005) by [The London Thames Gateway Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2721\)](#), **art. 6**
- C17** S. 33 applied (with modifications) (7.9.2006) by [The Olympic Delivery Authority \(Planning Functions\) Order 2006 \(S.I. 2006/2185\)](#), **art. 6**
- C18** S. 33(1): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), reg. 2(1), **Sch. 1** Table A20

34 Procedure on reference of listed building purchase notice to Secretary of State.

- (1) Where a copy of a listed building purchase notice is sent to the Secretary of State under section 33(4), he shall consider whether to confirm the notice or to take other action under section 35 in respect of it.

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- (2) Before confirming such a notice or taking such other action, the Secretary of State shall give notice of his proposed action—
- (a) to the person who served the notice;
 - (b) to the council on whom it was served;
 - (c) [^{F20}in England] outside Greater London—
 - (i) to the county planning authority and also, where that authority is a joint planning board, to the county council; and
 - (ii) if the district council on whom the purchase notice in question was served is a constituent member of a joint planning board, to that board;
 - [^{F21}(cc) in Wales, to the local planning authority, where it is a joint planning board;] and
 - (d) if the Secretary of State proposes to substitute any other local authority or statutory undertakers for the council on whom the notice was served, to them.
- (3) A notice under subsection (2) shall specify the period (which must not be less than 28 days from its service) within which any of the persons on whom it is served may require the Secretary of State to give him an opportunity of appearing before and being heard by a person appointed by him for the purpose.
- (4) If any of those persons so require, before the Secretary of State confirms the listed building purchase notice or takes any other action under section 35 in respect of it, he shall give such an opportunity to each of them.
- (5) If after any of those persons have appeared before and been heard by the appointed person, it appears to the Secretary of State to be expedient to take action under section 35 otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.

Textual Amendments

- F20** Words in s. 34(2)(c) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(4)(a)** (with ss. 54(5)(7), 55(5), 66(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F21** S. 34(2)(cc) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(4)(b)** (with ss. 54(5)(7), 55(5), 66(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Modifications etc. (not altering text)

- C11** Ss. 32-50 applied in part (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, **Sch. 1** (with art. 1(2))
- C19** S. 34 modified by [S.I. 1990/1519, reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519, reg. 12, Sch. 3](#)
- C20** S. 34: power to modify conferred (10.11.1993) by 1993 c. 28, s. 171(3)(b); [S.I. 1993/2762, art. 3](#).
- C21** S. 34 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**
- C22** S. 34(2)(d): power to apply (with modifications) conferred by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 123:1\)](#), s. 149(3)(b), **Sch. 29 Pt. II para. 11** as inserted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 44(13)**
S. 34(2)(d) applied (with modifications) by [S.I. 1993/1075, art. 4](#).
- C23** S. 34(2)(d) applied (with modifications) (7.6.2004) by [The Milton Keynes \(Urban Area and Planning Functions\) Order 2004 \(S.I. 2004/932\)](#), art. 5, **Sch. para. 11**
- C24** S. 34(2)(d) applied (with modifications) (12.10.2005) by [The Thurrock Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2572\)](#), **art. 5**

Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Chapter III is up to date with all changes known to be in force on or before 14 October 2021. 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) View outstanding changes

- C25** S. 34(2)(d) applied (with modifications) (31.10.2005) by [The London Thames Gateway Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2721\), art. 6](#)
- C26** S. 34(2)(d) applied (with modifications) (7.9.2006) by [The Olympic Delivery Authority \(Planning Functions\) Order 2006 \(S.I. 2006/2185\), art. 6](#)

35 Action by Secretary of State in relation to listed building purchase notice.

- (1) Subject to the following provisions of this section, if the Secretary of State is satisfied that the conditions specified in section 32(2)(a) to (c) are satisfied in the case of any listed building purchase notice, he shall confirm the notice.
- (2) If the Secretary of State is satisfied that those conditions are fulfilled only in respect of part of the land, he shall confirm the notice only in respect of that part and the notice shall have effect accordingly.
- (3) The Secretary of State shall not confirm the notice unless he is satisfied that the land comprises such land contiguous or adjacent to the building as is in his opinion required—
 - (a) for preserving the building or its amenities, or
 - (b) for affording access to it, or
 - (c) for its proper control or management.
- (4) If it appears to the Secretary of State to be expedient to do so he may, instead of confirming the notice—
 - (a) in the case of a notice served on account of the refusal of listed building consent for any works, grant such consent for those works;
 - (b) in the case of a notice served on account of such consent being granted subject to conditions, revoke or amend those conditions so far as it appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of those works;
 - (c) in the case of a notice served on account of such consent being revoked by an order under section 23 or 26, cancel the order revoking the consent; or
 - (d) in the case of a notice served on account of such consent being modified by such an order by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the works in respect of which the consent was granted.
- (5) If it appears to the Secretary of State that the land (or any part of it) could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out—
 - (a) of any other works for which listed building consent ought to be granted, or
 - (b) of any development for which planning permission ought to be granted,
 he may, instead of confirming the listed building purchase notice (or confirming it so far as it relates to that part), direct that if an application is made for such consent for those works or, as the case may be, for planning permission for that development, it shall be granted.
- (6) If it appears to the Secretary of State, having regard to the probable ultimate use of the building or its site, that it is expedient to do so, he may, if he confirms the notice, modify it either in relation to the whole or any part of the land, by substituting another local authority or statutory undertakers for the council on whom the notice was served.

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- (7) Any reference in section 34 to the taking of action by the Secretary of State under this section includes a reference to the taking by him of a decision not to confirm the notice on the grounds that any of the conditions referred to in subsection (1) are not satisfied.

Modifications etc. (not altering text)

- C11** Ss. 32-50 applied in part (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, **Sch. 1** (with art. 1(2))
- C27** S. 35 modified by [S.I. 1990/1519](#), **reg. 13(1)**; applied (with modifications) by [S.I. 1990/1519](#), **reg. 12, Sch. 3**
- C28** S. 35: power to modify conferred (10.11.1993) by [1993 c. 28, s. 171\(3\)\(b\)](#); [S.I. 1993/2762](#), **art.3.**
- C29** Ss. 35-37 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**
- C30** S. 35(6): power to apply (with modifications) conferred by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 123:1\)](#), s. 149(3)(b), **Sch. 29 Pt. II para. 12** as inserted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 44(13)**
S. 35(6) applied (with modifications) by [S.I. 1993/1075](#), **art.4.**
- C31** S. 35(6) applied (with modifications) (7.6.2004) by [The Milton Keynes \(Urban Area and Planning Functions\) Order 2004 \(S.I. 2004/932\)](#), art. 5, **Sch. para. 12**
- C32** S. 35(6) applied (with modifications) (12.10.2005) by [The Thurrock Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2572\)](#), **art. 5**
- C33** S. 35(6) applied (with modifications) (31.10.2005) by [The London Thames Gateway Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2721\)](#), **art. 6**
- C34** S. 35(6) applied (with modifications) (7.9.2006) by [The Olympic Delivery Authority \(Planning Functions\) Order 2006 \(S.I. 2006/2185\)](#), **art. 6**

36 Effect of Secretary of State's action in relation to listed building purchase notice.

- (1) Where the Secretary of State confirms a listed building purchase notice, the council on whom the notice was served shall be deemed—
- (a) to be authorised to acquire the owner's interest in the land compulsorily in accordance with the provisions of section 47; and
 - (b) to have served a notice to treat in respect of it on such date as the Secretary of State may direct.
- (2) If before the end of the relevant period the Secretary of State has neither—
- (a) confirmed the listed building purchase notice; nor
 - (b) notified the owner by whom it was served that he does not propose to confirm it; nor
 - (c) taken any such action in respect of it as is mentioned in subsection (4) or (5) of section 35,
- the notice shall be deemed to be confirmed at the end of that period and the council on whom it was served shall be deemed to have been authorised as mentioned in subsection (1)(a) and to have served a notice to treat in respect of the owner's interest at the end of that period.
- (3) Where a listed building purchase notice is confirmed in respect of only part of the land, references in this section to the owner's interest in the land are references to the owner's interest in that part.

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- (4) Where a listed building purchase notice is modified under section 35(6) by the substitution of another local authority or statutory undertakers for the council on whom the notice was served, the reference in subsection (1) to that council is to that other local authority or those statutory undertakers.
- (5) In this section “the relevant period” means, subject to subsection (6) below—
- (a) the period of nine months beginning with the date of the service of the listed building purchase notice; or
 - (b) if it ends earlier, the period of six months beginning with the date on which a copy of the notice was sent to the Secretary of State.
- (6) The relevant period does not run if the Secretary of State has before him at the same time both—
- (a) a copy of the listed building purchase notice sent to him under section 33(4); and
 - (b) a notice of appeal under section 20 or section 39 relating to any of the land to which the listed building purchase notice relates.
- (7) Where any decision by the Secretary of State to confirm or not to confirm a listed building purchase notice (including any decision to confirm the notice only in respect of part of the land, or to give any direction as to the granting of listed building consent or planning permission) is quashed under section 63, the notice shall be treated as cancelled but the owner may serve a further notice in its place.
- (8) For the purposes of determining whether such a further notice has been served within the period prescribed for the service of listed building purchase notices, the decision concerning listed building consent on account of which the notice has been served shall be treated as having been made on the date on which the Secretary of State’s decision was quashed.

Modifications etc. (not altering text)

- C11** Ss. 32-50 applied in part (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, **Sch. 1** (with art. 1(2))
- C29** Ss. 35-37 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**
- C35** S. 36 modified by [S.I. 1990/1519](#), **reg. 13(1)**; applied (with modifications) by [S.I. 1990/1519](#), reg. 12, **Sch. 3**
- C36** S. 36: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; [S.I. 1993/2762](#), **art.3**.
- C37** S. 36(4): power to apply (with modifications) conferred by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 123:1\)](#), s. 149(3)(b), **Sch. 29 Pt. II para. 13** as inserted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 44(13)**
S. 36(4) applied (with modifications) by [S.I. 1993/1075](#), **art.4**.
- C38** S. 36(4) applied (with modifications) (7.6.2004) by [The Milton Keynes \(Urban Area and Planning Functions\) Order 2004 \(S.I. 2004/932\)](#), art. 5, **Sch. para. 13**
- C39** S. 36(4) applied (with modifications) (12.10.2005) by [The Thurrock Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2572\)](#), **art. 5**
- C40** S. 36(4) applied (with modifications) (31.10.2005) by [The London Thames Gateway Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2721\)](#), **art. 6**
- C41** S. 36(4) applied (with modifications) (7.9.2006) by [The Olympic Delivery Authority \(Planning Functions\) Order 2006 \(S.I. 2006/2185\)](#), **art. 6**

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37 Reduction of compensation on acquisition where s. 28 compensation payable.

Where compensation is payable under section 28 in respect of expenditure incurred in carrying out any works to a building, any compensation which then becomes payable in respect of the acquisition of an interest in the land in pursuance of a listed building purchase notice shall be reduced by an amount equal to the value of those works.

Modifications etc. (not altering text)

- C11** Ss. 32-50 applied in part (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, [Sch. 1](#) (with art. 1(2))
- C29** Ss. 35-37 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, [Sch. 3](#)
- C42** S. 37 modified by [S.I. 1990/1519](#), [reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519](#), reg. 12, [Sch. 3](#)
- C43** S. 37: power to modify conferred (10.11.1993) by [1993 c. 28](#), [s. 171\(3\)\(b\)](#); [S.I. 1993/2762](#), [art.3](#).

Changes to legislation:

Planning (Listed Buildings and Conservation Areas) Act 1990, Chapter III is up to date with all changes known to be in force on or before 14 October 2021. 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.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12(4A) inserted by [2008 c. 29 Sch. 10 para. 16](#)
- s. 22(2A) inserted by [2008 c. 29 Sch. 10 para. 18\(2\)](#)
- s. 40(2A) inserted by [2008 c. 29 Sch. 10 para. 19](#)
- s. 56A and cross-heading inserted by [2016 anaw 4 s. 31\(1\)](#)
- s. 82A(2)(ha) inserted by [2016 anaw 4 s. 31\(2\)](#)
- s. 89(1ZA) inserted by [2008 c. 29 Sch. 10 para. 22](#)
- s. 93(5A) inserted by [2008 c. 29 Sch. 10 para. 23\(3\)](#)
- s. 93(5A) words inserted by [2013 c. 24 Sch. 17 para. 18\(3\)](#)
- Sch. 3 para. 2(4A) inserted by [2008 c. 29 Sch. 10 para. 24\(2\)](#)
- Sch. 3 para. 2(9) inserted by [2008 c. 29 Sch. 10 para. 24\(3\)](#)
- Sch. 3 para. 3(4A)(4B) inserted by [2008 c. 29 Sch. 10 para. 24\(4\)](#)
- Sch. 3 para. 6(1A) inserted by [2008 c. 29 Sch. 10 para. 24\(6\)](#)