

SCHEDULE 4

MODIFICATIONS OF THE ACT

PART IV

SECTIONS 78 AND 79 OF THE ACT AS MODIFIED (APPLICATIONS FOR EXPRESS CONSENT)

78.—(1) Where a local planning authority refuse an application for express consent or grant it subject to conditions, the applicant may by notice appeal to the Secretary of State.

(2) A person who has made an application for express consent may also appeal to the Secretary of State if within the period of 8 weeks from the date when the application was received by the local planning authority, that authority have neither given him notice of their decision on it nor given him notice that they have exercised their power under section 70A to decline to determine the application.

(3) Any appeal under subsection (1) or (2) shall be made by notice served within 8 weeks from the date of receipt of the local planning authority's decision, or, as the case may be, within 8 weeks from the expiry of the period mentioned in subsection (2), or within such longer period as the Secretary of State may in either case at any time allow.

(3A) The notice mentioned in subsection (3) shall be accompanied by a copy of each of the following documents—

- (a) the application made to the local planning authority;
- (b) all relevant plans and particulars submitted to them;
- (c) any notice of decision; and
- (d) any other relevant correspondence with the authority.

(4) Where an appeal is made to the Secretary of State as mentioned in subsection (3), he may require the appellant or the local planning authority to submit to him, within such period as he may specify, a statement in writing in respect of such matters relating to the application as he may specify, and if, after considering the grounds of appeal and any such statement, the Secretary of State is satisfied that he has sufficient information to enable him to determine the appeal he may, with the agreement in writing of both the appellant and the local planning authority, determine the appeal without complying with section 79(2).

(5) For the purposes of the application of sections 79(1) and 288(10)(b) in relation to an appeal under subsection (2), it shall be assumed that the authority decided to refuse the application in question.

79.—(1) On an appeal under section 78 the Secretary of State may—

- (a) allow or dismiss the appeal, or
- (b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(1A) The Secretary of State may, in granting an express consent, specify that the term thereof shall run for such longer or shorter period than 5 years as he considers expedient, having regard to regulation 4 of the Town and Country Planning (Control of Advertisements) Regulations 1992 and to any period specified in the application for consent.

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

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant 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.

(3) Subsection (2) does not apply to an appeal referred to a Planning Inquiry Commission under section 101.

(5) The decision of the Secretary of State on an appeal under section 78 shall be final, and shall otherwise have effect as if it were a decision of the local planning authority.

(6) If, before or during the determination of such an appeal in respect of an application for express consent, the Secretary of State forms the opinion that, having regard to the Regulations mentioned in subsection (1A) and to any direction given under them, consent—

(a) could not have been granted by the local planning authority; or

(b) could not have been granted otherwise than subject to the conditions imposed,

he may decline to determine the appeal or to proceed with the determination.

(6A) If at any time before or during the determination of such an appeal as is mentioned in subsection (6) it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, he may—

(a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal; and

(b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.

(7) Schedule 6 applies to appeals under section 78, including appeals under that section as applied by or under any other provision of this Act.