

## SCHEDULE 4

### MODIFICATIONS OF THE ACT

#### PART 4

##### SECTIONS 78 AND 79 OF THE ACT AS MODIFIED

**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.

<sup>F1</sup>(3) An applicant who wishes to appeal under subsection (1) or (2) shall give notice of appeal to the Secretary of State by—

(a) serving on the Secretary of State within—

(i) 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

(ii) such longer period as the Secretary of State may, at any time, allow, a completed appeal form, obtained from the Secretary of State; and

(b) serving on the local planning authority a copy of the completed appeal form mentioned in sub-paragraph (a) as soon as reasonably practicable.]

(3A) The <sup>F2</sup>appeal form mentioned in subsection (3)(a)] 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) the notice of the authority's decision (if any); and

(d) any other relevant correspondence with the authority.

<sup>F3</sup>(4) .....

(5) For the purposes of the application of sections 79(1) [<sup>F4</sup>, 288(10)(b) and 319A(7)(b)] in relation to an appeal under subsection (2), it shall be assumed that the authority decided to refuse the application in question.

#### Textual Amendments

**F1** Words in Sch. 4 Pt. 4 substituted (1.10.2013) by [The Town and Country Planning \(Appeals\) \(Written Representations Procedure and Advertisements\) \(England\) \(Amendment\) Regulations 2013 \(S.I. 2013/2114\)](#), regs. 1(1), **3(4)(a) (with reg. 5(4))**

**F2** Words in Sch. 4 Pt. 4 substituted (1.10.2013) by [The Town and Country Planning \(Appeals\) \(Written Representations Procedure and Advertisements\) \(England\) \(Amendment\) Regulations 2013 \(S.I. 2013/2114\)](#), regs. 1(1), **3(4)(b) (with reg. 5(4))**

**F3** Words in Sch. 4 Pt. 4 omitted (1.10.2013) by virtue of [The Town and Country Planning \(Appeals\) \(Written Representations Procedure and Advertisements\) \(England\) \(Amendment\) Regulations 2013 \(S.I. 2013/2114\)](#), regs. 1(1), **3(4)(c) (with reg. 5(4))**

**Changes to legislation:** There are currently no known outstanding effects for the *The Town and Country Planning (Control of Advertisements) (England) Regulations 2007, PART 4.* (See end of Document for details)

**F4** Words in Sch. 4 Pt. 4 substituted (1.10.2013) by [The Town and Country Planning \(Appeals\) \(Written Representations Procedure and Advertisements\) \(England\) \(Amendment\) Regulations 2013 \(S.I. 2013/2114\)](#), regs. 1(1), **3(4)(d) (with reg. 5(4))**

- 79.**—(1) On 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 its term shall run for such longer or shorter period than 5 years as he considers expedient, having regard to the interests of amenity (including aural amenity) and public safety, and taking into account—

- (a) relevant provisions of any applicable development plan;
- (b) the factors referred to in regulation 3 of the *Town and Country Planning (Control of Advertisements) (England) Regulations 2007*; and
- (c) any period specified in the application for consent.

<sup>F5</sup>(2) .....

<sup>F5</sup>(3) .....

...

(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 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.

**Textual Amendments**

**F5** Words in Sch. 4 Pt. 4 omitted (1.10.2013) by virtue of [The Town and Country Planning \(Appeals\) \(Written Representations Procedure and Advertisements\) \(England\) \(Amendment\) Regulations 2013 \(S.I. 2013/2114\)](#), regs. 1(1), **3(5) with reg. 5(4)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Town and Country Planning (Control of Advertisements) (England) Regulations 2007, PART 4.