

2002 No. 2682

TOWN AND COUNTRY PLANNING, ENGLAND

**The Town and Country Planning (Enforcement Notices
and Appeals) (England) Regulations 2002**

Made - - - - - 23rd October 2002

Laid before Parliament 1st November 2002

Coming into force - - 23rd December 2002

The First Secretary of State, in exercise of the powers conferred on him by sections 173(10), 174(4) and 175(1) of the Town and Country Planning Act 1990(a) and sections 39(4), 40(1), 42(5) and 91(1)(a) of the Planning (Listed Buildings and Conservation Areas) Act 1990(b) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART 1

CITATION, COMMENCEMENT, INTERPRETATION AND EXTENT

Citation, commencement and extent

1. These Regulations may be cited as the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002, and shall come into force on 23rd December 2002.
2. These Regulations shall extend to England only.

Interpretation

3. In these Regulations—
 - “enforcement notice” means a notice issued under section 172(1)(c) of the Planning Act or section 38(1) of the Listed Buildings Act;
 - “the Hearings Rules” means the Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002(d);
 - “the Inquiries Rules” means the Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002(e);

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- (a) 1990 c. 8; the functions of the Secretary of State under sections 173(10), 174(4) and 175(1) were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; see entry in Schedule 1 to the Town and Country Planning Act 1990 (c. 8). Section 173(10) is substituted by section 5(1) of the Planning and Compensation Act 1991 (c.34); see section 336(1) of the 1990 Act for the definition of “prescribed”.
- (b) 1990 c. 9; the functions of the Secretary of State under sections 39(4), 40(1) and 42(5) were, so far as exercisable in relation to Wales transferred to the National Assembly for Wales by article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; see entry in Schedule 1 to the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9).
- (c) Section 172(1) is substituted by section 5(1) of the Planning and Compensation Act 1991 (c. 34).
- (d) S.I. 2002/2684.
- (e) S.I. 2002/2686.

[ODPM 2384]

“the Inspectors Inquiries Rules” means the Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules^(a);

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990;

“local planning authority” means the body who issue the relevant enforcement notice;

“the Planning Act” means the Town and Country Planning Act 1990.

PART 2

ENFORCEMENT NOTICES UNDER SECTION 172

Additional matters to be specified in enforcement notice

4. An enforcement notice issued under section 172 of the Planning Act shall specify—
 - (a) the reasons why the local planning authority consider it expedient to issue the notice;
 - (b) all policies and proposals in the development plan which are relevant to the decision to issue an enforcement notice; and
 - (c) the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise.

Explanatory note to accompany copy of enforcement notice

5. Every copy of an enforcement notice served by a local planning authority under section 172(2) of the Planning Act shall be accompanied by an explanatory note which shall include the following—

- (a) a copy of sections 171A, 171B and 172 to 177 of the Planning Act, or a summary of those sections including the following information—
 - (i) that there is a right of appeal to the Secretary of State against the enforcement notice;
 - (ii) that an appeal must be made by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect or by sending such notice to him in a properly addressed, pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date;
 - (iii) the grounds on which an appeal may be brought under section 174 of the Planning Act;
 - (iv) the fee payable under regulation 10 of the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989^(b) for the deemed application for planning permission for the development alleged to be in breach of planning control in the enforcement notice;
- (b) notification that an appellant must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends him a notice so requiring him, a statement in writing specifying the grounds on which he is appealing against the enforcement notice and stating briefly the facts on which he proposes to rely in support of each of those grounds.

(a) S.I. 2002/2685.

(b) S.I. 1989/193, as amended by S.I. 1991/2735 and to which there are other amendments not relevant to these Regulations.

- (c) a list of the names and addresses of the persons on whom a copy of the enforcement notice has been served.

PART 3

APPEALS

Statement of appeal

6. A person who makes an appeal to the Secretary of State under section 174(3) of the Planning Act or section 39(2) of the Listed Buildings Act against an enforcement notice shall submit to the Secretary of State, a statement in writing—

- (i) specifying the grounds on which he is appealing against the notice; and
- (ii) setting out briefly the facts on which he proposes to rely in support of each of those grounds,

and if such a statement is not included with the appeal he shall deliver it to the Secretary of State not later than 14 days from the date on which the Secretary of State sends him a notice requiring him to do so.

Notification of appeal to the local planning authority

7. Upon receipt of the statement under regulation 6 the Secretary of State shall notify the local planning authority in writing that an appeal has been made and copy to them the appeal and the statement made under regulation 6.

Local planning authority to send a copy of notice to Secretary of State

8. Where the local planning authority receives notification under regulation 7 that an appeal has been made to the Secretary of State, the local planning authority shall send to the Secretary of State, not later than 14 days from the date of that notification, a certified copy of the enforcement notice and a list of names and addresses of the persons on whom a copy of the notice has been served under section 172(2) of the Planning Act or section 38(4) of the Listed Buildings Act, as the case may be.

Statement by local planning authority

9.—(1) Where an appeal has been made to the Secretary of State against an enforcement notice issued by a local planning authority, the authority shall submit to the Secretary of State and any person on whom a copy of the enforcement notice has been served, a statement indicating the submissions which they propose to put forward on the appeal, including—

- (a) a summary of the authority's response to each of the grounds on which the appeal is brought by the appellant;
- (b) a statement whether the authority would be prepared to grant planning permission for the matters alleged in the enforcement notice to constitute the breach of planning control, or grant listed building consent or conservation area consent for the works to which the listed building enforcement notice or conservation area enforcement notice relates, as the case may be, and, if so, particulars of the conditions, if any, which they would wish to impose on the permission or consent.

(2) Any statement which is required to be submitted under paragraph (1) shall be submitted within 6 weeks of the starting date.

(3) In paragraph (2) "starting date" means the date of—

- (a) the Secretary of State's written notice under regulation 10; or
- (b) the Secretary of State's written notice under rule 4 of the Hearings Rules, rule 4 of the Inspectors Inquiries Rules or rule 4 of the Inquiries Rules, informing the appellant and the local planning authority that an inquiry or hearing, as the case may be, is to be held,

whichever is the later.

Notice of receipt of all required documents

10. When the Secretary of State considers that he has received all the documents required to enable him to entertain the appeal he shall send a notice to this effect to the appellant and the local planning authority.

PART 4

NOTICES ISSUED BY THE SECRETARY OF STATE

Application of Regulations

11. These Regulations, except regulations 7 and 8, apply to enforcement notices issued by the Secretary of State under section 182 of the Planning Act, to appeals made to the Secretary of State against such notices and to appeals against notices issued by him under section 46 of the Listed Buildings Act as they apply to such notices issued by local planning authorities and to appeals made against them as if—

- (a) for references to a local planning authority there were substituted references to the Secretary of State;
- (b) in regulation 4, for “section 172” there were substituted “section 182”;
- (c) in regulation 5—
 - (i) for “section 172(2)” there was substituted “section 182(1)”; and
 - (ii) in paragraph (a), after “sections 171A, 171B and 172 to 177” there were inserted “and section 182”; and
- (d) for regulation 9 the following were substituted—

“9.—(1) Where an appeal has been made to the Secretary of State against an enforcement notice which he has issued, the Secretary of State shall serve on the appellant a statement indicating the submissions which he proposes to put forward on the appeal including a summary of his response to each ground of appeal pleaded by the appellant within 6 weeks of the starting date”.

(2) In paragraph (1) “starting date” means the date of—

- (a) the Secretary of State’s written notice under regulation 10; or
- (b) the Secretary of State’s written notice under rule 4 of the Hearings Rules, rule 4 of the Inspectors Inquiries Rules or rule 4 of the Inquiries Rules, informing the appellant and the local planning authority that a hearing or inquiry, as the case may be, is to be held,

whichever is the later.

PART 5

REVOCATION

Revocation and transitional provisions

12.—(1) Subject to paragraph (3), the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991(a) (“the 1991 Regulations”) are hereby revoked in so far as they extend to England, except regulation 10(2) of those Regulations so far as it amends regulation 11 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990(b).

(2) Subject to paragraph (3), the Town and Country Planning (Enforcement Notices and Appeals)(Amendment) Regulations 1992(c) are hereby revoked in so far as they extend to England.

(a) S.I. 1991/2804, as amended by S.I. 1992/1904 and 1992/1492.

(b) S.I. 1990/1519.

(c) S.I. 1992/1904.

(3) Subject to paragraph (4), any appeal to which the 1991 Regulations applied which has not been determined on the date when these Regulations come into force, shall be continued under the 1991 Regulations.

(4) Where an appeal to which the 1991 Regulations applied is subsequently remitted to the Secretary of State for redetermination in proceedings before any court, the decision shall be redetermined in accordance with these Regulations.

Signed by the authority of the First Secretary of State

23rd October 2002

Jeff Rooker
Minister of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations re-enact with amendments the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991.

They contain provisions relating to—

- (a) the contents of enforcement notices issued under section 172 of the Town and Country Planning Act 1990 and the information to be provided by local planning authorities when serving copies of such notices (Part 2);
- (b) the procedure to be followed in relation to appeals against such notices and against listed building and conservation areas enforcement notices issued under section 38(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (Part 3); and
- (c) the application of the Regulations to such notices issued by the Secretary of State (Part 4).

In addition to minor and drafting amendments, the Regulations make the following changes of substance—

- (a) Regulation 4(b) contains an additional requirement for the local planning authority to specify details of all policies and proposals in the development plan relevant to the decision to issue an enforcement notice;
- (b) Regulation 5 sets out what matters should be dealt with in the explanatory note accompanying the enforcement notice. Additional matters to be included are the fee payable for a deemed application for planning permission and a list of names and addresses on whom a copy of the enforcement notice has been served;
- (c) Regulation 7 contains an additional requirement for the Secretary of State to notify the local planning authority that an appeal has been made against the enforcement notice and to copy the appellants statement of appeal to them;
- (d) Regulation 9 additionally requires the local planning authority to serve a copy of their statement on all persons on whom a copy of the enforcement notice was served;
- (e) The local planning authority statement under regulation 9 must be served within 6 weeks of the Secretary of State's written notice given under regulation 10 or notifying the parties that an inquiry or hearing is to be held, whichever is later; and
- (f) Regulation 10 contains an additional requirement for the Secretary of State to notify the appellant and the local planning authority when he considers that he has received all the documents required to enable him to entertain the appeal.

A Regulatory Impact Assessment has been prepared in relation to the Regulations. It has been placed in the Library of each House of Parliament and copies may be obtained from Development Control Policy Division, Office of the Deputy Prime Minister, Eland House, Bressenden Place, London SW1E 5DU, (Tel 020 7944 3969).

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