

Status: This version of this provision is prospective.

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Levelling-up and Regeneration Act 2023

2023 CHAPTER 55

PART 9

COMPULSORY PURCHASE

Compensation

PROSPECTIVE

189 Prospects of planning permission for alternative development

- (1) The Land Compensation Act 1961 is amended as follows.
- (2) In section 14 (taking account of actual or prospective planning permission in valuing land)—
 - (a) in subsection (2), for paragraph (b) substitute—
 - “(b) of the prospect of planning permission being granted on or after that date for development, whether on the relevant land or other land, other than development for which planning permission is in force at the relevant valuation date.”;
 - (b) for subsections (3) and (4) substitute—
 - “(2A) If a description of development is certified under section 17 as appropriate alternative development in relation to the relevant land (or any part of it), it is to be taken as certain for the purposes of subsection (2)(b) that—
 - (a) planning permission for development of that description would be (or would have been) granted on the relevant valuation date, and
 - (b) the permission would be (or would have been) granted in accordance with any indication given under section 17(5B).

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- (2B) In relation to any other development, the prospects of planning permission are to be assessed for the purposes of subsection (2)(b)—
- (a) on the assumptions set out in subsection (5), and
 - (b) otherwise, in the circumstances known to the market at the relevant valuation date.”;
- (c) in subsection (5), in the words before paragraph (a), for “subsections (2)(b) and (4)(b)” substitute “subsection (2B)(a) (and in section 17(1B)(a))”;
 - (d) in subsection (9), in the words before paragraph (a), for the words from “to” to “15(1)(b)” substitute “in subsection (2) to planning permission that is in force”.
- (3) In section 17 (certification of appropriate alternative development)—
- (a) in subsection (1), for the words from “containing” to the end substitute “stating that a certain description of development is appropriate alternative development in relation to the acquisition”;
 - (b) after subsection (1) insert—

“(1A) Development is “appropriate alternative development” for this purpose if it is development—

 - (a) on the land in which the interest referred to in subsection (1) subsists (whether alone or together with other land),
 - (b) for which planning permission is not in force at the relevant planning date, and
 - (c) in respect of which the following test is met.

(1B) The test is whether, had an application for planning permission for the development been determined on the relevant planning date, the local planning authority would have been more likely than not to grant the permission—

 - (a) on the assumptions set out in section 14(5),
 - (b) on the assumption that it would act lawfully, and
 - (c) otherwise, in the circumstances known to the market at the relevant planning date.

(1C) For the purposes of subsections (1A) and (1B), the “relevant planning date” is—

 - (a) the relevant valuation date, or
 - (b) if earlier, the date on which the application under this section is determined.”;
 - (c) in subsection (3), for paragraphs (a) and (b) substitute—

“(ba) must set out the applicant’s reasons for considering that the description of development given in the application is appropriate alternative development, and”;
 - (d) for subsections (5) to (8) substitute—

“(5A) The local planning authority may issue a certificate under this section in respect of—

 - (a) the description of development given in the application for the certificate, or

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- (b) a description of development less extensive than, but otherwise falling within, the description given in the application.
- (5B) A certificate under this section must give a general indication of—
 - (a) any conditions to which planning permission for the development would have been subject, and
 - (b) any pre-condition for granting the permission (for example, entry into an obligation) that would have had to be met.
- (5C) The test to be applied for the purposes of subsection (5B) is whether the local planning authority would have been more likely than not to impose such conditions, or insist on such a pre-condition, on the assumptions, and otherwise in the circumstances, referred to in subsection (1B).”;
- (e) in subsection (10)—
 - (i) for “there must be taken into account any expenses reasonably” substitute “no account is to be taken of any expenses”;
 - (ii) omit the words from “where” to “favour”.
- (4) In section 18 (appeals to Upper Tribunal)—
 - (a) in subsection (2)—
 - (i) after paragraph (a) (but before the “and” at the end) insert—
 - “(aa) must consider those matters as if, in subsections (1B) and (5C), the references to the local planning authority were references to a reasonable planning authority.”;
 - (ii) in paragraph (b), after sub-paragraph (ii) insert—
 - “(iia) cancel it, or”;
 - (b) after subsection (2) insert—
 - “(2A) Where the local planning authority have rejected an application for a certificate under section 17, the person who applied for the certificate may appeal to the Upper Tribunal against the rejection.
 - (2B) On an appeal under subsection (2A)—
 - (a) paragraphs (a) and (aa) of subsection (2) apply as on an appeal under subsection (1), and,
 - (b) the Upper Tribunal must—
 - (i) confirm the rejection, or
 - (ii) issue a certificate,as the Upper Tribunal may consider appropriate.”;
 - (c) in subsection (3), for the words from “the preceding” to the end substitute “subsection (2A) applies as if the local planning authority have rejected the application”;
 - (d) after subsection (3) insert—
 - “(4) The references in sections 14(2A) and 17(5A) and (5B) to a certificate under section 17 include a certificate issued, or as varied, by the Upper Tribunal under this section.”
 - (5) In section 19 (applications by surveyors)—

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- (a) in subsection (3), for “paragraphs (a) and (b)” substitute “paragraph (ba)”;
- (b) after that subsection insert—

“(4) In the application of section 18 by virtue of subsection (1)—

- (a) subsection (1)(a) of that section is to be read as if it included the surveyor, and
- (b) subsection (2A) of that section is to be read as if the reference to the person who applied for the certificate included the person entitled to the interest.”

- (6) In section 20(a) (power to prescribe time limit for issuing certificate under section 17), for the words from “time” to the end substitute “period within which an application under that section is to be determined”.

- (7) In section 22 (interpretation of Part 3), after subsection (2) insert—

“(2A) The completion of the acquisition or purchase referred to in the applicable paragraph of subsection (2) does not affect the continued application of that subsection.”

Commencement Information

- II** S. 189 not in force at Royal Assent, see [s. 255\(7\)](#)

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Changes and effects yet to be applied to :

- s. 189 coming into force by [S.I. 2024/92 reg. 5](#)