

Purchases Notices - Wales

Served under

The Town and Country Planning Act 1990

Purpose of Purchase Notices

1. Planning control is intended to regulate the development of land in the public interest. For this reason, planning decisions may conflict with the private interests of land owners. There is no entitlement to compensation for adverse planning decisions (except in limited circumstances where "permitted development" rights under a Development Order are withdrawn by direction or planning permission is revoked etc). This is because owners usually have some continuing benefit from current uses. But occasionally there may be no reasonably beneficial use for the land. To remedy this situation, an owner has the right, in certain circumstances, to serve a "purchase notice" requiring a local authority to purchase his/her interest in the land.

How the system works

2. The purchase notice system, as referred to at sections 137 to 148 of the 1990 Act is often referred to as "reverse compulsory purchase". These are its main features.

3. A notice may only be served within 12 months of the one of the following kinds of decision: -

- refusal of planning permission by a Local Planning Authority (LPA);
- conditional grant of planning permission;
- revocation of planning permission-by a "revocation order" made under section 97 of the 1990 Act;
- modification of planning permission by the imposition of conditions-through a "modification order" made under section 97;
- requirement to discontinue a use of land, or remove buildings or works from it, or imposition of conditions on its future use-by a "discontinuance order" made under section 102 (or under paragraph 1 of Schedule 9 for mineral workings).

4. Generally, only the land owner may serve a notice. But if the notice is based on a discontinuance order, any person entitled to an interest in the land may serve.

5. The owner must claim that the land in question is incapable of reasonably beneficial use before he/she can serve a notice.

6. The notice must be served on the relevant local planning authority (LPA) or statutory undertakers.

7. If the LPA or statutory undertakers are not prepared to accept a valid purchase notice, they should issue a timely counter-notice and refer the matter to the Welsh Ministers (see contact details below).

8. The law requires the Welsh Ministers to weigh up the conflicting claims of the server and LPA. The Welsh Ministers must refuse to confirm the notice if it is considered the server's case is unfounded. But otherwise one

of the following courses of action must be taken: -

- confirm the notice on the most appropriate body (usually the LPA);
- grant planning permission for the development originally proposed;
- revoke or amend the conditions of a planning permission, including conditions imposed by a "modification order"¹;
- cancel a "revocation order"¹;
- revoke or amend a "discontinuance order"²;
- direct that planning permission be granted for some other specified development, if an application for permission is subsequently made.

9. Before the Welsh Ministers make the final decision, they must first give the server and the LPA written notice of the proposed decision. Both parties have the right to be heard if they wish to contest its proposal. If they exercise this right, a local inquiry is held by a Planning Inspector. He / She will make a written report to the Welsh Ministers. When the Welsh Ministers have reached their final decision, the parties will be notified in writing. The formal decision letter will give the reasons for their decision and enclose a copy of the Inspector's report.

10. If the notice is accepted or confirmed, the relevant authority usually the LPA) or statutory undertakers are deemed to be authorised to acquire the land compulsorily and to have served "notice to treat"³. Compensation is then assessed under the normal compulsory purchase rules.

The Crown

11. A purchase notice may not be served or confirmed on the Crown.

Listed buildings and conservation areas

12. There are similar provisions for the service of "listed building purchase notices" and "conservation area purchase notices"- in sections 32 to 37 and 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulation 12 of the Planning (Listed Building and Conservation Areas) Regulations 1990. These may be served where listed building consent or conservation area consent is refused, granted subject to conditions, revoked or modified.

13. Only owners may serve listed building or conservation area purchase notices.

Further information

14. Further information on purchase notices is in Welsh Office Circular 22/83, which can be found at:

<https://gov.wales/topics/planning/policy/circulars/welshofficecirculars/circular2283/?lang=en>

¹ Sections 97 - 100 - Town and Country Planning Act 1990

² Sections 102 – 104 – Town and Country Planning Act 1990

³ Invitation to negotiate

15. Anyone considering service of a purchase notice should first contact the LPA if they need further advice.

16. Referred purchase notices are dealt with by the Planning Inspectorate at:-

The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Tel: 0303 444 5940

E-mail: wales@planninginspectorate.gsi.gov.uk