

**Roads Service Policy & Procedure Guide : RSPPG\_S032**

**Title: PLANNING BLIGHT**

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**Classification**

**Procedure Category :** Finance and Administration  
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**Notes**

This document is a direct replacement for Section 1204 of the Roads Manual; as a consequence this document has not passed through the full document control system.

**Certification**

This document complies with Roads Service Policy and is to be implemented with effect from the date of issue.

(Signed) G Allister

Director of Engineering

Certification Date: 29<sup>th</sup> March 2001

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## 1 Introduction

### 1.1 Purpose

This Roads Service Policy & Procedure Guide (RSPPG):-

- a) Is aimed at all Roads Service staff involved in land acquisition.
- b) This RSPPG replaces section 1204 of the Roads Service Roads Manual.

### 1.2 Definitions

“DARD” - Department of Agriculture and Rural Development.

“DRM” - Divisional Roads Manager.

“DSO” - Departmental Solicitor’s Office.

“DV” - District Valuer

“Planning Blight Order” – Planning Blight Compensation (Northern Ireland) Order 1981.

“Planning Blight Regulations” – Planning Blight Regulations (Northern Ireland) 1989.

“VLA” – Valuation and Lands Agency.

### 1.3 Background

1.3.1 “Planning Blight or “Blight” is the term used to denote the fall in the value of property which can occur when there is a proposal that a public authority, with compulsory purchase powers, will acquire it at some future date. Where an owner-occupier (or the owner of another interest which qualifies for protection) has made “reasonable” attempts to sell his property, but cannot do so except at a substantial reduced price because it is threatened by compulsory acquisition for roads or other specified purposes he may serve a blight notice requiring the authority concerned to buy the property in advance of requirements at an unblighted price.

### 1.4 Implementation

1.4.1 This RSPPG is to be implemented with effect from the date of issue.

## 1.5 Costs and Benefits

1.5.1 As this RSPPC is to replace an existing Roads Manual Section the Costs and benefits are not relevant at this time.

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## **2 Roads Service Policy & Procedure**

### **2.1 RELEVANT STATUTORY PROVISIONS**

2.1.1 The relevant statutory provisions are contained in the Planning Blight Order and the prescribed forms of notice to be used are set out in the Planning Blight Regulations.

### **2.2 DESCRIPTIONS OF LAND AFFECTED**

2.2.1 The Planning Blight Order has effect in relation to land in 12 categories (a) to (l) set out in Article 3 therein

2.2.2 The following 3 categories (d), (e) and (f) relate specifically to land required for roads purposes although some of the other categories may also be applied to road proposals:-

a) is land on which the Department proposes to provide a road and has given to the district council for the area written notice of its intention to provide the road, together with a map or plan sufficient to identify the proposed route of the road; or

b) is land –

i. on which the Department proposes to provide a road; and

ii. in respect of which the Department has exercised its power under the Planning Orders to prevent or restrict development of that land; or

e) is land on or adjacent to the line of a road or special road proposed to be constructed, improved or altered as indicated in a draft order referred to in a notice published in accordance with paragraph 1 of Schedule 8 to the Roads (Northern Ireland) Order 1993 or an order made under Article 14(1) or 15(1) of that Order, being land in relation to which a power of compulsory acquisition conferred by that Order is or may become exercisable, as being land required for purposes of construction, improvement, or alteration as indicated in the draft order or order or for the purposes of the said Article.

### **2.3 INTERESTS QUALIFYING FOR PROTECTION**

2.3.1 Interests which qualify for protection in land within the categories referred to in paragraph 3 are set out in Article 4 of the Planning Blight Order. Briefly the interests are:-

a) that of a resident owner-occupier; or

b) that of an owner-occupier –

- i. in an agricultural unit or part thereof; or
- ii. in a hereditament the annual value of which does not exceed £15,500 or such other amount as the Department may by order substitute for that sum – (Note: The Revaluation (Consequential Provisions) Order (NI) 1997 amended Article 4(1)(b)(ii) to the extent of substituting £15,500 for £2,250).

2.3.2 Section (5) of Article 4 defines an “owner’s interest” as a freehold interest (whether legal or equitable), a long lease or a tenancy granted or extended for a term of years of which, on the date of service, not less than 3 years remain unexpired.

N.B. An owner’s interest does not include an interest under an agreement for a tenancy (or lease).

2.3.3 It should be noted that Articles 12, 13 and 14 of the Planning Blight Order extend the range of interests which qualify for protection and provide that in certain circumstances, mortgagees, partnerships and personal representatives may serve a blight notice.

## 2.4 NOTICE AND COUNTER-NOTICE

2.4.1 A person holding an interest qualifying for protection in land which is in a category to which the Order applies and who claims that he has made reasonable endeavours to sell that interest and that because of the likely acquisition for roads purpose he has been unable to sell that interest except at a price substantially lower than that for which it might otherwise reasonably have been expected to sell may serve a blight notice in the prescribed form requiring the Department to purchase his interest

2.4.2 Where a blight notice has been served the Department may, within 2 months from the date of service of that notice, serve a counter notice in the prescribed form objecting to the notice on one or more of the grounds specified in Article 6 of the Planning Blight Order. (See Appendix 1 for an example of a counter notice).

2.4.3 Where a counter notice has been served objecting to a blight notice the claimant may, within 2 months of the date of service of the counter notice, refer the objection, ie, the counter notice, to the Lands Tribunal.

## 2.5 EFFECT OF VALID BLIGHT NOTICES

2.5.1 Where no counter notice has been served or where after service it has been withdrawn by the Department, or on reference to the Lands Tribunal the counter notice is not upheld by the Tribunal, the Department shall on the date of acceptance be deemed to have entered into a contract to purchase the interest of the person who served the blight notice and that person shall be deemed to have entered into a contract for the sale of his interest to the Department.

2.5.2 In this context the date of acceptance has been defined as:-

- a) in a case where the Lands Tribunal, on a reference to it, does not uphold an objection, ie, a counter notice, the date of the Tribunal's determination.
- b) in any other case, the date on which the period of 2 months beginning with the date of service of a blight notice comes to an end.

2.5.3 The completion date is to be 3 months from –

- a) the date the price is agreed unless a different date is agreed between the parties,  
or
- b) the date on which the Lands Tribunal determines the amount.

2.5.4 On the completion date the owner must give vacant possession. The Department cannot allow the owner to remain in occupation – even if a rent is offered. The Department would be acting ultra vires the Planning Blight Order to purchase the property under that Order and permit the owner to remain on in occupation.

## 2.6 **WITHDRAWAL OF BLIGHT NOTICE**

2.6.1 By virtue of Article 17 of the Planning Amendment Order (Northern Ireland) 1972, Article 8 of the Planning Blight Order has been amended to include provisions to enable a claimant to withdraw a blight notice at any time before the amount to be paid for the interest has been agreed between the parties or determined by the Lands Tribunal or within 6 weeks from the date that the amount is agreed or determined.

## 2.7 **BLIGHT NOTICES IN RESPECT OF WHOLE AGRICULTURAL UNITS**

2.7.1 In certain circumstances a blight notice may be served in respect of the whole or part of an agricultural unit even though that unit or part is not affected in its entirety by the proposed road scheme. The Department may be required to purchase all the land included in the notice where the claimant can show that the remainder (referred to in the Planning Blight Order as “the unaffected area”) is not reasonably capable of being farmed either by itself or in conjunction with other land in which the claimant has an interest.

2.7.2 Article 10 sets out grounds of objection to such notices which are additional to those in Article 6. Article 11 sets out the arrangements for withdrawal or determination of such notices.

## 2.8 HOME LOSS PAYMENTS

2.8.1 The Home Loss Payments (Northern Ireland) Order 1992 was made to mirror changes made by the Planning and Compensation Act 1991. One of the changes made by the Act was to enable home loss payments to be made to those who served blight notices. However, it came to light through legal advice that the Home Loss Payments Order is deficient in that it does not provide, as was intended, for home loss payments to be made where an acquisition is made under blight provisions. Steps are being taken to correct the deficiency. In the interim, if a claim for a home loss payment is received on foot of a valid blight notice, consideration should be given to making an ex-gratia payment to cover the requirement for a home loss payment.

## 2.9 PROCEDURE FOR DEALING WITH BLIGHT NOTICES

### 2.9.1 DIVISIONAL PROCEDURE

2.9.1.1 When a blight notice is received it and any accompanying letter should be stamped with the official date stamp. It is important to record the date of receipt because the statutory time limit for countering commences the day after the date of service of a properly completed notice and not from the date which may have been entered on the notice by the claimant.

2.9.1.2 The notice should be examined to see that it is in the prescribed form and has been signed by the landowner. If it is considered that it is not in the prescribed form it should be sent to Headquarters with a request that a counter notice be prepared. When received at Division the counter notice should be served in accordance with paragraph 2.10.4 with a letter pointing out that the blight notice was incorrectly completed and in the Department's view is invalid.

2.9.1.3 If the blight notice is considered to be valid its receipt should be acknowledged to the person from whom it was received and it should be pointed out that in the event of purchase under the blight provisions there will be no right to be rehoused. The acknowledgement should state the date on which the blight notice was received by the Department. If there appears to have been abnormal delay in delivery of the notice in relation to the date of posting attention should be drawn to this to avoid dispute at a later date.

2.9.1.4 The DRM should decide within 7 days whether or not the blight notice is to be countered. If the DRM decides not to counter a blight notice, it is not necessary to advise Headquarters or to send them a copy of the notice, subject to the financial constraints imposed by RSPPG\_S029 Para 2.1.9 of the Manual. The following action should be taken:-



i. Write to the appropriate DV enclosing a copy of the blight notice and advising him that it has been decided not to counter. Indicate the date on which the blight notice will become effective and request that negotiations to purchase be commenced after that date. The DSD's Lands Service should be notified at this stage using form PM/1. (See RSPPG S031, Appendix 19).

ii. After the time within which it could have been countered has expired, advise the claimant that the blight notice has become effective and that the DV will negotiate for the acquisition of the property. It should be noted that in the event of disagreement over the value of blighted property to be acquired the matter may be determined by the Lands Tribunal.

2.9.1.5 If the DRM decides that the blight notice should be countered a copy should be sent to Lands and Legislation Branch at Headquarters immediately as advance notification. The following enquiries should be made:-

i. Rate Collection Agency – Ascertain who has been paying rates over the last 2 years, and whether the rates have been paid up to date: also the annual value of the property and whether it consists of more than one hereditament or unit. Should there be any doubt about the date premises were vacated check with the local NIE office. (See Appendix 2).

ii. Valuation Office – The valuer should advise if reasonable efforts have been made to sell the property at a reasonable price and confirm that these efforts have not proved successful. (See Appendix 3).

iii. DARD – Where appropriate the local County Agricultural Executive Officer should be asked whether the blight notice is in respect of an agricultural unit. (See Appendix 4).

iv. Planning Service – Ascertain if a planning application has been determined and where appropriate obtain the planning views in general.

The results of these inquiries together with a report from the Grade 7 responsible for the road proposals affecting the property and any additional comments from Division should be forwarded to Headquarters at least one month before the blight notice is due to be countered, ie, within one month of date of receipt of blight notice. The report should contain:-

- a) The title of the scheme affecting the land.
- b) The likely timing of the scheme.
- c) The effect of the road scheme on the subject land (a map showing this should be sent).

2.9.1.6 No further Divisional action is required until the counter notice is received from Headquarters when it should be served in accordance with paragraph 2.10.4. Receipt of the counter notice should be acknowledged immediately in writing to Headquarters. If the date for countering is imminent receipt should be acknowledged by telephone followed by written confirmation.

2.9.1.7 Divisions should not contact the DSO about counter notices. Headquarters will liaise with the DSO in accordance with 2.10.2.

## 2.10 HEADQUARTERS PROCEDURE

2.10.1 Copy blight notice received from Division should be examined and any additional information considered necessary requested from Division. Receipt of the copy blight notice should be acknowledged to Division.

2.10.2 On receipt of the Divisional report including information supplied by Rates Collection Agency, Valuation Office, DARD and the Planning Service and where grounds for countering in accordance with Article 6 of the Order are deemed to exist, then a counter notice should be drafted for further consideration in Headquarters and by the DSO.

2.10.3 If the counter notice is approved it is signed on behalf of the Department by an authorised officer.

2.10.4 The signed counter notice (with 3 copies) should be returned to Division for service by hand or by recorded delivery. The counter notice should be served on the claimant with a copy to the claimant's agent/solicitor.

It is imperative that the counter notice be served within the statutory time limit of 2 months from the date of service of the blight notice.

It must always be borne in mind that where no counter notice is served within 2 calendar months after service of the blight notice the blight notice automatically takes effect. The Department will be deemed to have accepted the blight notice and will have to buy the property. The date of service of a blight notice is excluded in the calculation of the time limit so the counter notice must be served, ie, received by the claimant, on or before the day following 2 calendar months from the date of service of the blight notice. For example if the blight notice were received by the Department on 2 January the counter notice must be received by the claimant on or before 3 March but if 3 March falls on a Sunday or public holiday the time limit shall extend to the first following day that is not a Sunday or public holiday.

If acknowledgement of receipt of counter notice by Division is not received within 5 working days Division should be contacted by telephone immediately.

2.10.5 No other action is required to counter a blight notice unless there are further representations by the claimant or the matter is referred by him to the Lands Tribunal.

2.10.6 If it is decided at Headquarters that it is in the interests of the Department not to counter the blight notice or if, after examination by Headquarters and the DSO, it is considered that there are no grounds on which it can be countered, the Division should be requested to advise the claimant in accordance with paragraph 2.9.1.4(ii) when the blight notice has become effective. The DV should be asked to negotiate in accordance with paragraph 2.9.1.4(i).

## 2.11 POST ACQUISITION

2.11.1 In some instances where property is acquired under 'Blight' it is only the garden or part of the garden that is affected by the road scheme and the actual dwelling is not required. In such circumstances the Divisional Lands Officer should consult with the VLA as to whether it would be more cost-effective to sell the dwelling on the open market rather than maintaining it. If a sale is deemed to be cost effective the dwelling should be declared surplus to requirements and referred to Headquarters for disposal. As part of the sale, the portion of garden retained for the road scheme should be offered under licence to a perspective purchaser.

2.11.2 More often than not, however, the road scheme may only exist as a line on an Area Plan. The detailed design of the scheme has not been worked up and as such it is not known if it will impact on the garden or dwelling or both. In such circumstances, the Department has no alternative to retain the property in its entirety and ask Lands Service to manage it.

<b>3 Appendices</b>
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**3.1 Appendix 1**

**THE PLANNING BLIGHT (COMPENSATION) (NORTHERN IRELAND)  
ORDER 1981  
COUNTER-NOTICE OBJECTING TO BLIGHT NOTICE**

To:

**THE DEPARTMENT FOR REGIONAL DEVELOPMENT HEREBY GIVES YOU NOTICE** under Article 6 of the Planning Blight (Compensation) (Northern Ireland) Order 1981 that it objects to the blight notice served by you on ..... 2000 under Article 5 of that Order in respect of the hereditament described as .....

The grounds on which objection is taken are:-

1. that no part of the hereditament to which the Notice relates is comprised in land specified in Article 3(1)(d) of the Order;
2. that no part of the hereditament to which the notice relates is comprised in land falling within Article 3(1)(f) of the Order;
3. the interest of the claimant does not qualify for protection under Article 4(1)(b) of the Order as it is not that of an “owner-occupier” in a hereditament the annual value of which does not exceed £15,500.
4. the interest of the claimant does not qualify for protection under Article 4(1)(b) of the Order as it is not that of an “owner-occupier” as defined in Article 4(3)(a) or 4(4)(a) of the Order;

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5. that the conditions in Article 5(1)(b) and (c) have not been fulfilled; and
6. that the Department proposes to acquire compulsorily part of the hereditament, but does not proposed to acquire compulsorily any other part of the hereditament.

Dated: On behalf of the Department for Regional Development

Signed: .....  
Authorised Officer

**NOTE:** If you do not accept this objection you may require the objection to be referred to the Lands Tribunal under the provisions of Article 7 of the above-mentioned Order. In that case you should notify the Registrar, the Lands Tribunal, Royal Courts of Justice (Ulster), Chichester Street, Belfast BT1 3JJ, within 2 months of the date of service of this Notice.

3.2 **Appendix 2**

[1]

Our Ref

**THE PLANNING BLIGHT (COMPENSATION) (NORTHERN IRELAND) ORDER 1981**

**LAND AT**

**NAME OF CLAIMANT**

The Department has been served with a blight notice under Article 5 of the above-mentioned Order in respect of the above-mentioned land.

The following information is required by [2] to enable the Department to prepare and serve a counter notice under Article 6 should this be necessary.

1. (a) Is the claimant the rated occupier in occupation of the property? \_\_\_\_\_
- (b) If not please supply the name and address of person liable for rates. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. As far as you are aware has the property been occupied during the whole of the 6-month period ending [3] ie have the rates been paid for that period? \_\_\_\_\_
3. If the answer to 2 is no has the property been occupied by the claimant for the whole of a period of 6 months ending not more than one year before [3]? \_\_\_\_\_
4. If the answers to 2 and 3 are no when did occupation cease according to your records? \_\_\_\_\_
5. Please advise if the property is not in fact a hereditament. \_\_\_\_\_  
\_\_\_\_\_
6. If the property is a hereditament but exempt from payment of rates please give reason for exemption. \_\_\_\_\_  
\_\_\_\_\_

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This minute is issued in duplicate. Please complete and return one copy to this office no later than [2].

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[4]

- [1] Address of relevant Rating Office.
- [2] Three weeks from date of receipt of blight notice.
- [3] Date of receipt of blight notice.
- [4] Name of signatory in block capitals and full postal address together with telephone number and extension where signatory can be reached.

3.3 **Appendix 3**

**Department for Regional Development  
Roads Service .....Division**

District Valuer  
Valuation and Lands Agency  
[1]

Dear Sir

**THE PLANNING BLIGHT (COMPENSATION) (NORTHERN IRELAND) ORDER 1981**

I enclose a copy of a blight notice served on the Department together with a copy of the evidence of the endeavours to sell the land in question.

Please advise if the requirements of Article 5(1)(b) and (c) of the above-mentioned Order have been met and in particular that any offers to purchase the hereditament (or part thereof) received by the landowner were at a price substantially lower than that for which it reasonably would have been expected to sell. If not, the Article 6(2)(f) will be used as a ground for objection in a counter notice should this be necessary.

In the event of a reference to the Lands Tribunal you will be required to provide an expert witness to defend this ground of objection.

Your reply is required by [2] to enable the Department to prepare and serve a counter notice.

Yours faithfully

Enc

- [1] Address of relevant office.
- [2] Three weeks from date of receipt of blight notice.



### 3.4 Appendix 4

County Agricultural Executive Officer  
Department of Agriculture and Rural Development  
[1]

Dear Sir

#### **THE PLANNING BLIGHT (COMPENSATION) (NORTHERN IRELAND) ORDER 1981**

I enclose a copy of a blight notice served on the Department on [2].

Please advise if the land in question is an 'agricultural unit' as defined in Article 2(2) of the above-mentioned Order.

Your reply is required by [3] to enable the Department to prepare a counter notice should this be necessary.

Yours faithfully

Enc

- [1] Address of relevant office.
- [2] Date of receipt of blight notice.
- [3] Three weeks from date of receipt of blight notice.

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**Title: Planning Blight**

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