

**DEVELOPMENT AND PLANNING (GENERAL DEVELOPMENT)
ORDER 1999**

BR 83 / 1999

DEVELOPMENT AND PLANNING ACT 1974

1974 : 51

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The Minister in exercise of the power conferred upon him by section 15 of the Development and Planning Act 1974 makes the following Order:—

Citation

1 This Order may be cited as the Development and Planning (General Development) Order 1999.

Interpretation

2 In this Order, unless the context otherwise requires —

"the Act" means the Development And Planning Act 1974;

"building" means any structure or erection of a permanent or semi-permanent nature and any part of a building as so defined, but does not include plant or machinery comprised in a building;

"building line" means a line parallel to the facade of an existing structure drawn from the outermost wall or surface of that structure;

"building official" has the meaning assigned to that expression by section 2(1) of the Building Act 1988;

"Certificate of use and occupancy" means the certificate issued by the building official which permits the use of a building in

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accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the building permit;

"Director" means Director of Planning;

"detached residential building" means a free-standing residential building on its own lot and containing not more than two dwelling units;

"existing" in relation to any building or any plant or machinery or any use, means existing immediately before the carrying out, in relation to that building, plant, machinery or use, of any development described in this Order;

"existing lot" means a lot existing prior to 26 June 1974 which can lawfully be alienated separately from any abutting lot in the absence of authority to subdivide under the Act;

"grade level" means, with reference to a structure, the average elevation of the ground adjoining the structure on all sides; and, with reference to an excavation, the elevation of the ground at any point along the sides of the excavation;

"gross floor area" means the floor area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features;

"height" means the vertical distance as measured from the grade to the highest point of a coping on a flat roof or wall or to the eaves of any other type of roof;

"listed building" has the meaning assigned to that expression by section 1 of the Act;

"noxious" means detrimental to the amenity of the area by reason of smell, fumes, smoke, ash, dust, noise or other nuisance;

"ruinous structure" has the meaning assigned to that expression by section 1(1) of the Amenities (Control of Ruinous Structures) Act 1950;

"site coverage" means the area of a lot covered by all buildings and other roofed structures including appurtenances at grade level which have solid and permanent roofs notwithstanding that one or more sides of the appurtenance is not enclosed;

"storey" means the portion of a building between two floors or between a floor and a roof with one or more windows which

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provide a sufficient amount of natural light to a space to render it capable of being a habitable room, notwithstanding that the room may not be used for habitable purposes.

Restrictions on application of order

3 This Order does not apply—

- (a) to listed buildings;
- (b) to historic areas referred to in section 31 of the Act;
- (c) to a development in respect of which—
 - (i) planning permission has been granted;
 - (ii) building permit approval has been granted; and
 - (iii) development has commenced, but is not yet completed;
- (d) if, in connection with—
 - (i) an existing building, the building operations involved in the construction of that building are unlawful; or
 - (ii) an existing use, that use is unlawful;
- (e) to any land which is the subject of an agreement under section 34 of the Act;
- (f) to areas of Bermuda which are designated areas for the purposes of section 28 of the Act; and
- (g) to ruinous structures.

Permitted development

4 (1) Subject to subparagraphs (2) to (4) and to the subsequent provisions of this Order, development of any class specified in the First Schedule to this Order is permitted by this Order and may be undertaken upon land to which this Order applies, without the grant of planning permission by the Development Applications Board.

(2) The permission granted by this paragraph in respect of any class of development specified in the First Schedule shall be defined by any limitation and be subject to any condition imposed in the First or Second Schedules in relation to that class.

(3) Nothing in this paragraph or in the First or Second Schedules shall operate so as to permit any development contrary to a condition imposed on the grant of any planning permission under the Act.

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(4) The permission granted by this paragraph as read with the First and Second Schedules shall not authorise any development which requires or involves the formation, laying out or material widening of a means of access to an existing public or estate road or which creates an obstruction to the view of persons using any such road at or near any bend, corner, junction or intersection so as to be likely to cause danger to such persons.

Directions restricting development

5 (1) If the Minister is satisfied that it is expedient that any particular development of any of the classes specified in the First Schedule should not be carried out unless planning permission is granted on an application in that behalf to the Development Applications Board, he may direct that permission granted by paragraph 4 shall not apply to that development.

(2) Notice of any direction made under subparagraph (1) shall, as soon as may be after it has been made, be served by the Minister on the owner and occupier of every part of the land affected, and such direction shall come into force in respect of any part of the land on notice thereof being served on the occupier of that part, or if there is no occupier, on the owner thereof.

Development to comply with other statutory provisions

6 Nothing in this Order shall derogate from the Building Act 1988 or any regulations made thereunder, or any regulation under Part VIII of the Development and Planning Act 1974 or any zoning order.

Revokes SR&O No 41 of 1975

7 The Development and Planning (General Development) Order 1975 is revoked.

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FIRST SCHEDULE (paragraph 4)

Subject to the limitations and conditions set out in this Schedule the following developments are permitted under paragraph 4.

CLASS I

Development within the curtilage of a residential building.

1 Subject to paragraph 2 and the standard conditions specified in the Second Schedule (hereinafter referred to as "the standard conditions"), the enlargement of a residential building if—

- (a) in the case of a detached residential building—
 - (i) the site coverage of the original residential building (measured externally) is not exceeded by more than 250 square feet; and
 - (ii) the gross floor area of the original residential building is not exceeded by more than 400 square feet;
- (b) in the case of any other residential building—
 - (i) the site coverage of the original residential building (measured externally) is not exceeded by more than 150 square feet; and
 - (ii) the gross floor area of the original residential building is not exceeded by more than 250 square feet;
- (c) the maximum site coverage of the enlarged building (measured externally) does not exceed the maximum specified in a development plan for the area in which the building is located;
- (d) in the case of an enlargement which is attached to an existing building, the height of the enlargement exceeds neither the height of that part of the original building to which it is attached nor the height of a two-storey building; and
- (e) in the case of an enlargement which is not attached to an existing building the height of the enlargement does exceed twelve feet above grade level.

2 For the purposes of paragraph 1, the erection of a garage, carport or garden shed or similar ancillary building shall be treated as the enlargement of a residential building.

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3 Nothing in paragraph 1 or 2 authorises the construction of a swimming pool or the alteration of a building so that it may be used as a stable or for the keeping of livestock.

CLASS II

Sundry minor operations

1 Subject to the standard conditions, the erection or construction of gates, fences, walls or other means of enclosure not exceeding four feet in height when measured from the lowest adjacent grade level.

2 Subject to the standard conditions, the erection or construction of pergolas, walkways or barbecues.

3 Subject to the standard conditions—

(a) the carrying out of any excavation works where the resulting rock cut is no deeper than its distance from the lot line and, in any event, does not exceed four feet in depth; and

(b) the deposit of fill on any land where the height of the fill is no higher than its distance from the lot line and, in any event, does not exceed four feet in height.

4 Nothing in this permission authorises—

(a) the erection of a wall exceeding four feet in height when measured from the lowest adjacent grade level; or

(b) the construction of a swimming pool.

CLASS III

Enlargement of buildings other than residential buildings

1 Subject to the standard conditions, enlargement of buildings other than residential buildings—

(a) where the site coverage of the original building (measured externally) is not exceeded by more than 250 square feet; and

(b) where the gross floor area of the original building is not exceeded by more than 400 square feet.

2 Nothing in this permission authorises an enlargement where—

(a) the height of the enlargement exceeds the height of the original building;

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- (b) the building as enlarged is used for purposes other than those of the existing principal use; or
- (c) the enlargement is not attached to the original building.

CLASS IV

Damaged buildings, works and plant

Subject to the standard conditions, the rebuilding, restoration or replacement of buildings, works or plant which have suffered damage from storm, fire or other causes if—

- (a) not more than 60% of the volume of the said building, works or plant has been destroyed by such damage;
- (b) the height and bulk of the replacement buildings, works or plant does not exceed that of the original buildings, works or plant.

CLASS V

Temporary buildings and uses

1 Subject to paragraph 3, the erection or construction on land in, on, over or under which operations for which planning permission has been granted under the Act are being carried on or for which planning permission is not required, of buildings, works, plant or machinery needed temporarily in connection with the said operations for the period of such operations, so, however, that such building, works, plant or machinery shall be removed prior to the issue of a certificate of use and occupancy permit in respect of the development.

2 Subject to condition 1 of the standard conditions, the use of land for any purpose for not more than 28 days in total in any twelve month period, and the erection or placing of moveable structures on the land for the purposes of that use.

3 Nothing in this permission authorises—

- (a) the use of land for storage or dumping purposes;
- (b) any works of excavation or regrading.

CLASS VI

Satellite Receiving Dishes

1 Subject to paragraphs 2 and 3 and to the standard conditions, the installation, alteration or replacement of a satellite dish not

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exceeding 48 inches in diameter on a building or within the curtilage of such a building.

2 Nothing in this permission authorises the installation of a satellite dish above the eaves of any building.

3 Not more than one satellite dish may be installed on any one residential building.

CLASS VII

Solar Energy Collection Systems

1 Subject to paragraphs 2 and 3 and to the standard conditions, the installation of a solar energy collection system not exceeding 80 square feet in area on a building or within the curtilage of a building.

2 No part of a solar energy collection system installed on a building shall project more than ten inches above the surface of a roof.

3 No part of a solar energy collection system installed on the ground shall exceed four feet in height.

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SECOND SCHEDULE (paragraph 4)

The following are the standard conditions referred to in the First Schedule and where these conditions apply planning permission granted by this Order shall be deemed to be granted subject to these conditions:—

1 Subject to paragraph 4, the development shall be in conformity with the development plan in force in relation to the land on which the development takes place and, without derogation from the generality of the foregoing, the development shall conform to the provisions of such plan relating to set back from lot boundaries, site coverage and the height of buildings or other structures.

2 The development for which planning permission is granted by this Order shall be similar to the principal building on the site in its architectural style, exterior building materials and exterior colour.

3 Where no setback is specified in respect of a development in the development plan in force, that development shall not encroach beyond the existing building line at the front of the original building.

4 No wall, fence or gate shall be permitted so as to obstruct the minimum sightline visibility splay at the entrance of a private, estate or public road.

5 No development shall be permitted which would lead to a reduction in the space available for the parking, turning or circulation of vehicles.

6 No development shall be permitted which would lead to a reduction in the space required by the development plan to be available for recreational or amenity purposes or a reduction in the space used as a playing field.

7 Walls for which planning permission is granted by this Order shall be faced with Bermuda stone, finished to give the appearance of Bermuda stone or plaster rendered at the time of construction.

Dated this 31st day of December 1999

Minister of the Environment