
LAND PLANNING AND DEVELOPMENT CONTROL ORDINANCE, 2013

**LAND PLANNING AND DEVELOPMENT CONTROL (GENERAL
DEVELOPMENT) ORDER, 2013**

(Section 16(2))

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Citation and commencement

1. This Order may be cited as the Land Planning and Development Control (General Development) Order, 2013, and comes into force on 1st February 2014.

Interpretation

2. In this Order—
- "adopted policy"** means a policy adopted by the Authority or by the Government after public consultation and which has not been superseded;
- "as originally built"** means the building as first constructed, without subsequent extension;
- "curtilage"**, in relation to a dwelling house, means land defined and occupied with it for purposes ancillary to the domestic use as a dwelling house;
- "listed building"** means a listed building as defined in the Ordinance and includes any building which is subject to a Building Preservation Order under section 40 of the Ordinance; and until such time as the Historic Environment Record supersedes the report "Listing and Preservation of Buildings of Architectural and Historic Interest" of 1974 (the "Crallan Report") it includes buildings and groups of buildings listed in that report;
- "low voltage "** in relation to an electrical conductor means a voltage below 450V a.c. and **"high voltage"** means a voltage higher than 450V a.c.;
- "tree preservation order"** means a Tree Preservation Order under section 42 of the Ordinance and includes an interim order under that section;
- "the paved surface"** of a road includes an adjoining area normally treated as part of the carriageway and in use as such.

General development permission

3. Subject to the prior approval procedures in paragraph 4, development permission is deemed to have been granted for purposes of section 16(1) of the Ordinance in respect of any of the following types of development:

3.1 Alteration of buildings

The alteration, without any form of extension, of any building (not being a listed building):

Provided that this paragraph does not apply if—

- (a) the building is in a Historic Conservation Area and the alteration would affect the external appearance of the building;
- (b) the alteration would affect the form or colour of the roof of the building; or
- (c) the alteration would increase the area of clear glazing in any elevation of the building that faces a dwelling house which is within 15 metres of the building intended to be altered.

3.2 Extension of buildings

The extension of any building (not being a listed building or a building in a Historic Conservation Area), by up to 30% of the ground floor area (measured from the inside of the external walls) of the building as originally built, and where—

- (a) the extension is single storey;
- (b) the extension (including its roof) matches the form, external materials and colour of the existing building; and
- (c) the extension is to be used for the same purpose as the existing building:

Provided that this paragraph does not apply if—

- (i) the extension would be used for domestic occupancy as a separate dwelling;
- (ii) the extension would increase the eaves height or ridge height of the existing building; or
- (iii) the eaves height or ridge height of the extension would exceed those of the existing building; or
- (iv) any part of the extension would stand forward of the existing building in the direction of a public road that would be within 25 metres of the building as extended; or
- (v) any part of the extension would be within—
 - (aa) 5 metres of any boundary of the property where there is another dwelling house within 15 metres of that boundary; or
 - (bb) 2 metres of a boundary, in any other case; or
- (vi) any excavation associated with the extension would be within 3 metres of a low-voltage electricity conductor pole or a pole stay-anchor, or five metres in the case of a high-voltage electricity conductor pole or stay-anchor, or any part of the extension would be under any overhead electricity line or over a sewer, storm drain or electricity cable; or
- (vii) any external lighting relating to the extension would emit light above horizontal or its light source would be visible beyond the boundary of the property; or

- (viii) rainwater drainage from the extension would be directed to any foul drainage system or to a public road.

3.3 Use incidental to a residential dwelling

The use of any building or land within the curtilage of a dwelling house for a purpose incidental to the residential use of the dwelling house:

Provided that this paragraph does not apply if—

- (a) the land or building would be used for domestic occupancy as a separate dwelling; or
- (b) in a case where there is another dwelling within 25 metres of the land, the land or building would be used for the keeping or breeding of livestock.

3.4 Construction for a purpose incidental to a residential dwelling

The construction within the curtilage of a dwelling house (not being a listed building or a building situated in a Historic Conservation Area) of buildings for a purpose incidental to the residential use of the dwelling house:

Provided that this paragraph does not apply if—

- (a) the building would be used for domestic occupancy as a separate dwelling;
- (b) the building would not match the form, external materials and colour of the dwelling-house;
- (c) the building would exceed, in the case of a building with an apex roof 3.6 metres in height measured to the ridge, or 2.4 metres in height in any other case;
- (d) the building would stand forward of the dwelling house in the direction of a public road that would be within 25 metres of the building;
- (e) the building would be within—
 - (i) five metres of a boundary of the property where there is another dwelling-house within 15 metres of that boundary; or
 - (ii) two metres of a boundary, in any other case;
- (f) any excavation associated with the building would be within three metres of a low-voltage electricity conductor pole or a pole stay-anchor, or five metres in the case of a high-voltage electricity conductor pole or stay-anchor, or any part of the building would be under any overhead electricity line or over a sewer, storm drain or electricity cable;
- (g) the building would, together with all buildings in the curtilage of the dwelling-house, cumulatively occupy more than 30 per cent of the curtilage of the dwelling-house;
- (h) in a case where there is another dwelling within 25 metres of the land, the building would be used for the keeping or breeding of livestock;
- (i) any external lighting relating to the building would emit light above horizontal or its light source would be visible beyond the boundary of the property; or
- (j) rainwater drainage from the building would be directed to any foul drainage system or to a public road.

3.5 Radio or television antenna or satellite dish

The erection within the curtilage of a dwelling house (not being a listed building or a building situated in a Historic Conservation Area) of a radio or television antenna or satellite dish made of transparent material or finished coloured black, for domestic use:

Provided that this paragraph does not apply if—

- (a) any part of the antenna or dish would exceed the height of the eaves of the dwelling house or 2.4 metres, whichever is greater;
- (b) any part of the antenna or dish would stand forward of the dwelling house in the direction of a public road that would be within 25 metres of the antenna;
- (c) any part of the antenna or dish would be within—
 - (i) 5 metres of a boundary of the property where there is another dwelling-house within 15 metres of that boundary; or
 - (ii) 2 metres of a boundary, in any other case; or
- (d) any part of the antenna or dish would be within five metres of any overhead electricity line.

3.6 Solar hot water or photovoltaic panels

The installation of solar hot water or photovoltaic panels on the roof of any building (not being a listed building):

Provided that this paragraph does not apply if—

- (a) the part of the roof on which the panel would be installed forms part of a street elevation of a building in a Historic Conservation Area; or
- (b) the panel would be installed on a plane other than the plane of the part of the roof on which it would be installed.

3.7 Shipping containers

The siting and use for storage of a shipping container wholly in accordance with an adopted policy in respect of the siting and use of shipping containers:

Provided that this paragraph does not apply if—

- (a) the container would affect the setting of a listed building;
- (b) the container would be situated within a National Conservation Area; or
- (c) any part of the container would be within nine metres of an electricity line.

3.8 Demolition

The demolition of any building or other structure (not being a listed building):

Provided that this paragraph does not apply if—

- (a) the building or other structure is situated in a Historic Conservation Area; or
- (b) the building or other structure retains or gives structural support to any land or any other structure.

3.9 Development by the Crown for road maintenance or improvement

Development carried out by or on behalf of, or with the approval of, the Crown for the maintenance or improvement of a road:

Provided that this paragraph does not apply if—

- (a) it affects the setting of a listed building; or

- (b) it includes work outside the existing road boundaries as defined by the paved surface of that road.

3.10 Underground sewers, water mains and cables

The laying or renewing of underground sewers, water mains and underground cables, associated inspection and access chambers:

Provided that this paragraph does not apply if—

- (a) the development would affect a listed building or its setting or land in a National Conservation Area;
- (b) the development would affect any tree to which a tree preservation order applies;
- (c) the development consists of or includes a borehole for water abstraction;
- (d) any part of the development would be above the level of the surrounding ground; or
- (e) the development would interfere with existing underground apparatus or structures.

3.11 Overhead cables

The installation of overhead cables and associated poles and fittings:

Provided that this paragraph does not apply if—

- (a) the installation would be within the registration districts of Prosperous Bay, The Barn, Deadwood, Sandy Bay East, Diana's Peak Ring Road, Silver Hill, White Hill, Longwood South or Longwood North;
- (b) the installation would include more than six new poles;
- (c) the development would affect a listed building or its setting;
- (d) the development would affect any tree to which a tree preservation order applies;
- (e) in the case of development in a National Conservation Area, the development includes any pole-mounted or other high level transformer or fails to comply with any adopted management plan for the area;
- (f) in the case of development in a Comprehensive Development Area or Coastal Village Area identified in an adopted Development Plan, or any area to which a development brief or design guide has been adopted by the Land Development Control Authority, the development fails to comply with that development brief or design guide; or
- (g) the installation would not provide a safe distance between the installation and road traffic using a public road as authorised by the Highway Authority under the Road Traffic Ordinance.

3.12 Use of land for agricultural or forestry purposes

The use of land for agricultural or forestry purposes:

Provided that this paragraph does not apply if it—

- (a) includes engineering or building operations; or
- (b) includes the erection of polytunnels, shade houses or greenhouses and fails to comply with an adopted policy in relation to them; or
- (c) affects any tree to which a tree preservation order applies; or
- (d) affects land in a National Conservation Area and fails to comply with any adopted development management plan for the area.

3.13 Display of advertisements

The display of an advertisement in accordance with an adopted policy or regulation in respect of such display.

3.14 Gates, fences, walls and enclosures

The erection of gates, fences, walls and other means of enclosure not exceeding a height of 1.8 metres:

Provided that this paragraph does not apply if—

- (a) the development would affect a listed building or its setting or it is situated in a National Conservation Area;
- (b) the development would abut a public road or interfere with visibility on a public road; or
- (c) the materials to be used are other than timber, natural stone, compacted earth, black-finished metalwork or rendered blockwork.

3.15 Public emergency

The carrying out of development by or on behalf of St Helena Government, or a utility company authorised by St Helena Government, for the purpose of alleviating an imminent or existing public emergency:

Provided that such works must be authorised only for the duration of such public emergency and must be removed and the land (and any building affected by the development) reinstated to its previous condition at the end of the public emergency, unless development permission has been applied for and granted under section 16(1) of the Ordinance for its further retention.

Prior approval procedures

4. (1) A developer must, prior to the commencement of any development listed in paragraph 3 (other than paragraph 3.15), apply to the Chief Planning Officer for a determination as to whether prior approval of the Authority will be required as to the siting, design, height and external appearance of the development.

(2) The application under subparagraph (1) must be accompanied by a written description of the proposed development, the materials to be used and a plan indicating the site, together with any prescribed fee.

(3) In determining whether prior approval is required, the Chief Planning Officer must consider the possible effects of the development upon public amenity, public safety, existing public infrastructure and aerodrome safeguarding.

(4) The developer must not commence ~~with~~ the development before the occurrence of one of the following:

- (a) Receipt of written notice by Chief Planning Officer that prior approval is not required;
- (b) the Chief Planning Officer notifies the developer within 14 days from the date of receiving the application under sub-paragraph (2) that prior approval is required and the Authority gives such approval; or

(c) the expiry of 14 days following the date on which the application was received by the Chief Planning Officer without him or her making, or notifying the developer of, any determination whether or not such approval is required.

(5) The development must, except to the extent that the Authority otherwise agrees in writing, be carried out—

- (a) where prior approval was required - in accordance with the details approved by the Authority;
 - (b) where prior approval was not required - in accordance with the details submitted with the application;
 - (c) in any case referred to in subparagraph (4)(c)- within a period of 5 years from the date on which the application was submitted under subparagraph (2).
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