

**SECTION 23-THE TOWN AND COUNTRY PLANNING
DEVELOPMENT ORDER**
Order by the Minister

*Government
Notices*
348 of 1962
98 of 1964
*Statutory
Instruments*
65 of 1965
337 of 1969

1. This Order may be cited as the Town and Country Planning Development Order.

Title

2. This Order shall apply to all land-

Application

- (a) in any area in respect of which there is an Order, made under the provisions of the Act, to prepare a development plan; and
- (b) in any area subject to an approved development plan; and
- (c) in such areas as are within a distance of twenty miles of the boundaries of any area mentioned in paragraph (a) or (b); and
- (d) in such other areas as may be specified by the Minister by statutory notice.

3. In this Order, unless the context otherwise requires-

Interpretation

"planning authority" means a planning authority to which functions have been delegated under the provisions of section *twenty-four* of the Act.

(As amended by No. 65 of 1965)

4. As from the appointed day all development in the areas to which this Order applies shall require the grant of permission for the purposes of Part V of the Act.

Grant of permission

5. (1) Subject to the provisions of this Order, development of any class specified in the Schedule is permitted by this Order and may be undertaken upon land to which this Order applies without the permission of the Minister or planning authority, as the case may be:

Permitted development

Provided that the permission granted by this Order in respect of any such class of development shall be subject to any condition or limitation imposed in the Schedule in relation to that class.

(2) Nothing in this paragraph or in the Schedule shall be deemed to permit any development which is not in accordance with any condition imposed when permission is granted or deemed to be granted under Part V of the Act otherwise than by this Order.

6. (1) If the Minister is satisfied that it is expedient that development of any of the classes specified in the Schedule should not be carried out in any particular area, or that any particular development of any of the said classes should not be carried out, unless permission is granted on an application in that behalf, the Minister may direct that the permission

Directions restricting permitted development

granted by paragraph 5 shall not apply to-

(a) all or any development of all or any of the said classes in any particular area specified in the direction; or

(b) any particular development, specified in the direction, falling within any of the said classes.

(2) Notice of any direction specifying any particular area under paragraph (a) of sub-paragraph (1) shall be given by public notice by the Minister, and such notice shall contain a concise statement of the effect of the direction and name a place or places where a copy thereof and a map defining the area to which it relates may be seen at all normal hours of official business; and any such direction shall come into force on the date on which notice thereof is first published.

(3) Notice of any direction specifying any particular development under paragraph (b) of sub-paragraph (1) shall be served by the planning authority on the owner of the land affected, and any such direction shall come into force on the date on which notice thereof is served on the owner.

(4) No direction given or having effect under this paragraph shall have effect in relation to the carrying out in case of emergency of any development specified in the Schedule or, unless such direction specifically so provides, to the carrying out by statutory undertakers of the following operations:

(a) maintenance of bridges, buildings and railway stations;

(b) alteration and maintenance of railway track, and provision and maintenance of track equipment, including signal boxes, signalling apparatus and other appliances and works required in connection with the movement of traffic by rail;

(c) maintenance of harbours, quays, wharves and canals;

(d) provision and maintenance of mechanical apparatus or appliances required for the purposes of shipping or in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a harbour, quay or wharf;

(e) any development required in connection with the improvement and maintenance or repair of water courses or drainage works, or sewers or sewage disposal works.

7. If any person who proposes to carry out any operations on land or make any change in the use of land or buildings wishes to have it determined whether the carrying out of those operations or the making of that change in the use of the land or buildings would constitute or involve development within the meaning of the Act and, if so, whether an application for permission in respect thereof is required under the Act having regard to this Order, he may apply to the Minister or planning authority, as the case may be, to determine that question.

Application for determination whether permission is required

8. (1) An application to the Minister or planning authority, as the case may be, for any permission or decision required under this Order shall, unless otherwise provided in this Order, be made in accordance with the provisions of the Town and Country Planning (Application for Planning Permission) Regulations.

Application for grant of permission

(2) Where an applicant so desires, an application, hereinafter called an application in principle, may be made under sub-paragraph (1) for permission for the use of any building or land or for the erection of any building, and any approval thereof shall be subject to the subsequent approval of the Minister or planning authority with respect to any matter relating to the siting, design or external appearance of the building, or the means of access thereto, in which case particulars and plans in regard to these matters shall not be required and permission may be granted subject as aforesaid (with or without other conditions) or refused:

Provided that-

(i) where such permission is granted, it shall be expressed to be granted under this sub-paragraph on an application in principle and the approval of the Minister or planning authority shall be required with respect to the matters reserved in the permission before any development is commenced;

(ii) where the Minister or planning authority is of the opinion that in the circumstances of the case the application for permission ought not to

be considered separately from the siting, design or external appearance of the building, or the means of access thereto, he or it shall, within forty-two days from the receipt of the application in principle, serve notice on the applicant that he or it is unable to entertain such application, specifying the matters as to which he or it requires further information for the purpose of arriving at a decision in respect of the proposed development, and the applicant may either furnish the information so required (in which event the application shall be treated as if it had been received on the date when such information was furnished and had included such information) or appeal to the Tribunal within twenty-eight days of receiving such notice, or such longer period as the Tribunal in writing may agree, as if the application in principle had been refused by the Minister or planning authority.

(3) On receipt of an application under this paragraph or under paragraph 7, the Minister or planning authority shall send to the applicant an acknowledgment in writing thereof, which acknowledgment shall not be deemed to be a notice or document for the purposes of paragraph 16.

9. (1) Before granting permission for development in either of the following cases, whether unconditionally or subject to conditions, the Minister or planning authority shall consult with the following authorities:

Consultations

(a) where it appears to the Minister or planning authority that the development is likely to affect adversely any land in the area of any local or township authority, with such authority;

(b) where it appears to the Minister or planning authority that the development is likely to create or attract traffic which will result in a material increase in the volume of traffic entering or leaving a main road or using a level crossing over a railway, with the appropriate highway or railway authority.

(2) The Minister or planning authority shall give not less than fourteen days' notice to the authority required to be consulted that such an application is to be taken into consideration, and shall not determine the application until after the expiration of the period mentioned in such notice and shall, in deciding the application, take into account any representations or objections received from such authority.

10. On referring any application to the Minister pursuant to a direction in that behalf under the provisions of section *twenty-six* of the Act, a planning authority shall, within seven days of the receipt of the direction, serve on the applicant notice of the terms of the direction and of any reasons given by the Minister for issuing the direction, and such notice shall inform the applicant that the application has been referred to the Minister who shall, if the applicant so desires, afford him or his representative an opportunity of appearing before and being heard by a person appointed by the Minister for that purpose.

Reference of applications to the Minister

11. (1) The Minister or planning authority shall in every case serve notice on the applicant of his or its decision.

Notification to applicants

(2) The period within which the Minister or planning authority shall serve notice on the applicant shall be ninety days from the date of receipt of the application or such extended period as may be agreed in writing by the applicant.

(3) Every such notice shall be in writing, and in the case of an application for permission or approval where the Minister or planning authority decides to grant such permission or approval subject to conditions or to refuse it, or in the case of an application for determination under paragraph 7 (whether forming part of an application for permission or approval or not) where the Minister or planning authority determines that the carrying out of the proposals therein would constitute or involve development, he or it shall state the reasons therefor in such notice.

12. The Minister or planning authority, as the case may be, shall keep a separate register containing the following information in respect of all applications for permission to develop with which he or it is concerned, namely:

Register of applications

(a) particulars of any application for permission to develop made to him or it in respect of any land, including the stand, plot, lot or farm number of the property, and the road, district and town in which it is situate, the name and address of the applicant, the registered number and date of receipt of the application, and brief particulars of the development forming the subject of the application;

(b) particulars of any direction given under the Act or this Order in respect of the application;

- (c) the decision of the Minister or planning authority in respect of the application and the date of such decision;
- (d) the date and effect of any decision of the Minister in respect of any application referred to him under section *twenty-six* of the Act;
- (e) the date and effect of any determination or order of the Tribunal in respect of an appeal against a decision on the application;
- (f) the date and effect of any decision of the High Court in respect of an appeal against the determination of the Tribunal.

13. Every register shall contain an index in the form of cards, each card to contain the stand, plot, lot or farm number of the property which is the subject of the application and the road, district and town in which it is situate, the name and address of the applicant and the registered number of the application and to be filed by townships in numerical sequence according to the stand or plot number and by lots or farms in numerical sequence according to the lot or farm number.

Index to register

14. Every entry in the register shall be made within seven days of the happening of the event in respect of which an entry is required to be made.

Entry in register

15. The register shall be kept at the offices of the Minister or the planning authority, as the case may be, and made available for inspection by the public during normal hours of official business.

Inspection of register

16. Any notice or other document to be served or given under this Order shall be served or given in accordance with the provisions of section *fifty* of the Act:

Notices

Provided that any notice of an unconditional grant of planning permission which is to be served under paragraph 11 may be served in accordance with the provisions of section *fifty* of the Act as though the word "registered" were deleted from the said section.

(As amended by No. 98 of 1964)

SCHEDULE

(Paragraph 5)

PART I

CLASSES OF DEVELOPMENT PERMITTED SUBJECT TO CONDITIONS

The following development is permitted under paragraph 5 subject to the conditions set out opposite the description of that development in Column (2).

The references in that column except where otherwise mentioned are to the standard conditions as numbered and set out in Part II.

<i>Column (1)</i> <i>Description of Development</i>	<i>Column (2)</i> <i>Conditions</i>
<i>Class I-Development within the curtilage of a dwelling-house</i> The enlargement, improvement or other alteration of a dwelling-house materially affecting the external appearance of the building so long as the cubic content of the dwelling-house (as ascertained by external measurement) is not exceeded by more than 1,750 cubic feet or one-tenth whichever is the greater subject to a maximum of 4,000 cubic feet.	1. The height of such buildings shall not exceed the height of the original dwelling-house. 2. Standard conditions Nos. 1, 2 and 3.
<i>Class II-Sundry minor operations</i>	Standard conditions Nos. 1 and 2.
1. The erection or construction of gates, fences, walls or other means of enclosure not being within the curtilage of a dwelling-house not exceeding seven feet in height and the maintenance, improvement or other alteration of such gates, fences, walls or other means of enclosure, except on land at the junction of two roads in front of a line joining a point on the boundary of each road reserve at a distance of thirty feet from the intersection of such road reserves, extended if necessary.	
2. The painting of the exterior of any building or work otherwise than for the purpose of advertisement.	
<i>Class III-Changes of use</i> Development consisting of a change of use to-	
(a) as a light industrial building as defined by the Town and Country Planning (Use Groups) Regulations from use as a general industrial building as so defined;	
(b) use as any type of shop except-	

- (i) a drive-in shop;
 - (ii) a fried fish shop;
 - (iii) a butcher's shop;
 - (iv) a shop for the sale of pet animals or birds;
 - (v) a shop for the sale of motor vehicles;
- from use as any type of shop except a drive-in shop.

<i>Column (1)</i> <i>Description of Development</i>	<i>Column (2)</i> <i>Conditions</i>
<i>Class IV-Temporary buildings and uses</i>	
<p>The use of land (other than a building or the curtilage of a building) for any purpose for not more than twenty-eight days in total in any calendar year, and the erection or placing of movable structures on the land for the purposes of that use.</p>	<p>Standard conditions Nos. 1, 2 and 3.</p>
<i>Class V-Development for industrial purposes</i>	
<p>The deposit by an industrial undertaker of waste material or refuse resulting from an industrial process on any land comprised in a site which was used for such deposit, otherwise than in contravention of previous planning control, on the appointed day.</p>	<p>Standard conditions Nos. 1 and 2.</p>
<i>Class VI-Repairs to roads and ways</i>	
<p>The carrying out of works required for maintenance or improvement of roads or ways not under the control of a highway authority being works carried out on land within the existing limits of such roads or ways.</p>	<p>Standard conditions Nos. 1 and 2.</p>
<i>Class VII-Rebuilding of existing buildings, works and plant</i>	
<p>The rebuilding, restoration or replacement of buildings, works or plant which were in existence on the appointed day</p>	<ol style="list-style-type: none"> 1. The cubic content of the original building or of the works or plant shall not be increased by more than ten per centum. 2. There shall be no material alteration from the external appearance, as on the appointed day, except with the approval of the Minister or planning authority, as the case may be.

3. Standard conditions Nos. 1, 2 and 3.

Class VIII-Development by local or township authorities

1. The erection or construction and the maintenance, improvement or other alteration by a local or township authority of-

(a) such ancillary buildings, works and equipment as are required on land belonging to or maintained by them for the purposes of any related and appropriate functions exercised by them on that land; Standard conditions Nos. 1, 2 and 3.

(b) lamp standards, fire alarms, public drinking fountains, street nameplates, refuse bins or baskets, information kiosks, passenger shelters, public shelters and seats, barriers for the control of persons who are waiting to enter public vehicles and such other similar structures or works as may be required in connection with the operation of any public service. Standard condition No. 2.

2. The deposit by a local or township authority of waste material or refuse on any land comprised in a site which was used for that purpose, otherwise than in contravention of a planning permission, on the appointed day. Standard conditions Nos. 1 and 2.

Column (1)

Description of Development

Column (2)

Conditions

Class IX-Development of site and service schemes

The erection of buildings and the use of land for any purposes for which the erection of such buildings or the use of such land is in accordance with a layout approved by the planning authority as a site and service scheme.

Standard conditions Nos. 1, 2 and 3.

(As amended by No. 98 of 1964 and No. 337 of 1969)

PART II

STANDARD CONDITIONS

- 1. This permission shall not authorise any development which involves the formation, laying out, or material widening of a means of access to a main or district road as defined in the Roads and Road Traffic Act
- 2. No development shall be carried out which creates an obstruction to the view of persons using any road used by vehicular traffic at or near any bend, corner, junction or intersection of any roads so as to be likely to cause danger to such persons.
- 3. No part of any building shall project beyond any building line laid down for the holding or stand.

PART III

This Part shall apply only to areas for which a council has been appointed pursuant to section 3 of the Local Government Act.

<i>Column (1)</i> <i>Description of Development</i>	<i>Column (2)</i> <i>Conditions</i>
<i>Class X-Conforming development</i> Where a layout or subdivisional plan has been lawfully approved and any conditions contained in such approval have been fulfilled, the erection in any use zone of buildings or the use of land for any purpose for which the permission of the planning authority is not normally required by the approved written document.	<ul style="list-style-type: none"> 1. In residential use zones for the erection of dwelling-houses only, the approved subdivision of plot or stand shall not be greater than one and one-quarter acres in extent. 2. The Minister is satisfied that adequate provision for parking, loading and unloading of vehicles in the case of industrial and commercial buildings or uses has been made. 3. The approval of the Minister to the external design appearance and materials in the case of commercial buildings and uses has been obtained. 4. If the development is likely to affect adversely any land in the area of any local or other township authority or is likely to create or attract traffic which will result in a material increase in the volume of traffic entering or leaving a main road or using a level crossing over a railway, the provisions of paragraph 9 shall first be complied with. 5. For the purpose of the Town and

Country Planning (Appeals) Regulations, any development permitted under this Class shall be treated as though it had been approved by the planning authority, and the date of receipt or issue of any building permit given under any building by-laws or the Public Health (Building) Regulations or in the case of a use of land the date on which it was first so used shall be regarded as the date of making a decision.

6. Standard conditions Nos. 1, 2 and 3.

(As amended by No. 98 of 1964)