
STATUTORY INSTRUMENTS

1980 No. 1086

Private Streets (Northern Ireland) Order 1980

PART II

LAYING OUT AND CONSTRUCTION OF STREETS

Exercise of street planning functions by the Department

3.—(1) Where the development of land for which planning permission is required under [^{F1}Part 3 of the Planning Act] consists of or includes or appears to require the laying out or construction of streets, the Department shall determine the width, position and arrangement of the streets, and the land to be regarded for the purposes of Part III as being comprised in those streets.

(2) The functions exercisable by the Department by virtue of paragraph (1) are in this Order referred to as “street planning functions” and, where regulations are made under paragraph (3), shall be exercised in accordance with those regulations.

(3) The Department may, by regulations which shall be subject to affirmative resolution, prescribe minimum standards to be applied by it in the exercise of street planning functions, and the regulations may empower the Department to dispense with or relax any of the requirements of the regulations in respect of such matters as may be specified in the regulations.

(4) The Department may, where it considers it necessary for the exercise of street planning functions, require the applicant for permission for the development of any land to submit plans and particulars showing the general scheme for the development of the land of which any street is intended to form part.

[^{F2}(4A) Where street planning functions are exercisable by the Department in relation to a street which joins an existing public road, the Department may, subject to paragraph (4B), attach to any determination under this Article in respect of that street a requirement that such works as the Department considers necessary for the improvement of that public road are carried out in accordance with an agreement under paragraph (4C).

(4B) Works required under paragraph (4A) for the improvement of a public road shall be works which are either—

- (a) within the boundary of that road; or
- (b) on land owned by the Department.

(4C) The Department may enter into an agreement under seal with any person—

- (a) for the carrying out at the expense of that person of works required under paragraph (4A); and
- (b) for the issue of a certificate by the Department when those works have been completed in accordance with the agreement and the terms and conditions of the agreement have been duly complied with.

(4D) An agreement under paragraph (4C) between the Department and any other person—

- (a) shall contain such detailed provisions as to the nature of the works to be carried out as the Department thinks fit; and
- (b) may include provision for ensuring that, for such period as may be specified in the agreement, any defects in those works shall be remedied by, and at the expense of, that person.

(4E) The person with whom the Department enters into an agreement under paragraph (4C) shall secure the due performance of the agreement by means of a guarantee bond or by any other means acceptable to the Department.

(4F) A certificate issued by the Department under paragraph (4C)(b) in respect of any works shall be conclusive for all purposes of this Order that those works have been carried out in accordance with the agreement.

(4G) In paragraph (4A) “improvement” has the same meaning as in^[F3] Article 43 of the Roads (Northern Ireland) Order 1993].

(5) Where the Department grants outline planning permission for the development of any land and that permission is conditional upon the subsequent approval of the particulars of the proposed development, the Department may defer its determination of the matters referred to in paragraph (1) pending the submission of those particulars.

^[F2](5A) The Department may stop up or temporarily close any street which another person has constructed—

- (a) before a determination has been given by the Department under paragraph (1) in respect of that street; or
- (b) otherwise than in conformity with a determination so given.]

(6) In this Article “outline planning permission” has the same meaning as in the ^[F4]Planning Act].

F1 Words in art. 3(1) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern-Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 26\(a\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F2 1992 NI 19

F3 1993 NI 15

F4 Words in art. 3(6) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern-Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 26\(b\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Application of the Planning Order

4.—(1) Subject to the provisions of this Order, functions exercisable in relation to development under the ^[F5]Planning Act] shall be deemed to include street planning functions and an application for planning permission under ^[F6]that Act] shall be deemed to include an application for the determination by the Department of any matters set out in Article 3(1) which appear to the Department to require to be determined in accordance with the application for planning permission.

(2) The ^[F7]Planning Act] shall apply to the exercise of street planning functions in like manner as it applies to the exercise of functions in relation to development.

(3) Without prejudice to the generality of ^[F8]section 58 of the Planning Act], an applicant for permission for the development of any land may appeal under ^[F9]that section] against the refusal of the Department to dispense with or relax as respects that land any standards prescribed in regulations made under Article 3(3) which it is empowered by those regulations to dispense with or relax.

(4) For the purposes of [F10Part 5 of the Planning Act], failure to provide a street for which planning permission has been granted either under the Planning Act (Northern Ireland) 1944 [F11or the Planning Act] shall be deemed to be a breach of planning control and the powers exercisable by the Department under that Part shall include power to provide that street.

- F5** Words in art. 4(1) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 27\(a\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F6** Words in art. 4(1) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 27\(b\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F7** Words in art. 4(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 28](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F8** Words in art. 4(3) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 29\(a\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F9** Words in art. 4(3) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 29\(b\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F10** Words in art. 4(4) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 30\(a\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F11** Words in art. 4(4) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 30\(b\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Standards for construction of streets

- 5.—(1) The Department may, by regulations which shall be subject to affirmative resolution—
- (a) prescribe standards in relation to any matter (other than a matter in relation to which regulations may be made under Article 3(3)) in connection with or affecting the construction of streets;
 - (b) draw up and include in the regulations such detailed requirements as may be necessary in relation to all or any of the matters for which regulations may be made under this paragraph;
 - (c) provide for the determination of any question arising under the regulations between the Department and the person by or on whose behalf plans are deposited;
 - (d) provide for the giving of notices and the deposit of plans;
 - (e) provide for the inspection of work and for the carrying out of such investigations and tests and the taking of such samples as are necessary to ensure that the work is in conformity with the regulations;
 - (f) provide for the removal or alteration of work not in conformity with the regulations;
 - (g) provide that no work shall be commenced on matters to which regulations under this paragraph apply until any question arising under the regulations has been determined or any plans required to be deposited have been approved by the Department;
 - (h) provide for the [F12 bearing of any expenses] in connection with—
 - (i) the carrying out of [F12 inspections,] investigations and tests and the taking of samples for the purposes of regulations made under sub-paragraph (e), and

(ii) the removal or alteration of work for the purposes of regulations made under sub-paragraph (f).

(2) Regulations made under paragraph (1) may empower the Department to dispense with or relax any of the requirements of the regulations in respect of such matters as may be specified in the regulations and may include such supplemental and incidental provisions as appear to the Department to be expedient.

(3) Any person who contravenes regulations made under paragraph (1) shall be liable on summary conviction to a fine not exceeding £500 and to a further fine not exceeding £50 for each day during which the offence continues after conviction therefor.

F12 [1992 NI 19](#)

Appeal against refusal to relax regulations made under Article 5

6.—(1) Where application is made to the Department to dispense with or relax any requirement of regulations made under Article 5(1) which it is empowered by those regulations to dispense with or relax and it appears to the Department that the application should be refused, the Department shall, within a period of 28 days from the day on which such application is made, issue notice to that effect to the applicant giving such reasons as it considers appropriate.

(2) Before determining an application under this Article, the Department shall, if it sees fit, or if the applicant so requests within a period of 28 days from the day on which he receives such notice, afford to the applicant an opportunity of appearing before and being heard by a person appointed for that purpose by the Planning Appeals Commission and considered by it to be qualified in that behalf.

(3) Where a hearing is held under paragraph (2), the Department shall consider any recommendations made by the person appointed under that paragraph.

Changes to legislation:

There are currently no known outstanding effects for the Private Streets (Northern Ireland) Order 1980, PART II.