



Town and Country Planning Act 1971

1971 CHAPTER 78

PART IV

ADDITIONAL CONTROL IN SPECIAL CASES

Industrial development

66 Meaning of "industrial building"

- (1) In this Part of this Act " industrial building" means a building used or designed for use—
- (a) for the carrying on of any process for or incidental to any of the following purposes, that is to say—
 - (i) the making of any article or of part of any article; or
 - (ii) the altering, repairing, ornamenting, finishing, cleaning, washing, freezing, packing or canning, or adapting for sale, or breaking up or demolition, of any article; or
 - (iii) without prejudice to the preceding sub-paragraphs, the getting, dressing or preparation for sale of minerals or the extraction or preparation for sale of oil or brine ;
 - (b) for the carrying on of scientific research,
being a process or research carried on in the course of a trade or business.
- (2) For the purposes of subsection (1) of this section, premises which—
- (a) are used or designed for use for providing services or facilities ancillary to the use of other premises for the carrying on of any such process or research as is mentioned in that subsection; and
 - (b) are or are to be comprised in the same building or the same curtilage as those other premises,
- shall themselves be treated as used or designed for use for the carrying on of such a process or, as the case may be, of such research.
- (3) In this section—

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" article " means an article of any description, including a ship or vessel;
 " building " includes a part of a building;
 " scientific research " means any activity in the fields of natural or applied science for the extension of knowledge.

67 Industrial development certificates

- (1) Subject to the provisions of this section and of section 68 of this Act, an application to the local planning authority for permission to develop land by—
 - (a) the erection thereon of an industrial building of one of the prescribed classes ;
or
 - (b) a change of use whereby premises, not being an industrial building of one of the prescribed classes, will become such an industrial building,
 shall be of no effect unless a certificate (in this Act referred to as an " industrial development certificate ") is issued under this section by the Secretary of State, certifying that the development in question can be carried out consistently with the proper distribution of industry, and a copy of the certificate is furnished to the local planning authority together with the application.
- (2) Subject to subsection (5) of this section, an industrial development certificate shall be required for the purposes of an application for planning permission made as mentioned in section 32(1) of this Act if the circumstances are such that, in accordance with subsection (1) of this section, such a certificate would have been required if the application had been for planning permission to construct the building, or to institute the use of land, which the application seeks permission to retain or continue or (as the case may be) seeks permission to retain or continue without complying with a condition previously imposed, and the provisions of this section shall have effect in relation to that application accordingly.
- (3) In considering whether any development for which an industrial development certificate is applied for can be carried out; consistently with the proper distribution of industry, the Secretary of State shall have particular regard to the need for providing appropriate employment in development areas,
- (4) An industrial development certificate shall not be required for the extension of an industrial building if the extension, taken by itself, would not be an industrial building of one of the prescribed classes, but (subject to the provisions of section 68 of this Act) an industrial development certificate shall be required for the extension of any building if the extension, taken by itself, would be such an industrial building.
- (5) An industrial development certificate shall not be required for the purposes of an application for planning permission to retain a building or continue a use of land after the end of any period specified in, or otherwise without complying with, a condition subject to which a previous planning permission was granted if the condition in question is not one subject to which the previous planning permission was granted in accordance with the provisions of section 70 of this Act or subject to which that planning permission is by virtue of that section deemed to have been granted.
- (6) The preceding provisions of this section shall have effect without prejudice to any provisions for restricting the granting of planning permission by local planning authorities which are included in a development order by virtue of section 31(1) of this Act.
- (7) In this section—

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" the prescribed classes " means such classes or descriptions of industrial buildings as may be prescribed by regulations made for the purposes of this section by the Secretary of State;

" development area " means any area for the time being specified as such under section 15 of the Industrial Development Act 1966, and subsection (6) of that section (which provides for references to a development area in certain provisions to have effect as if certain localities outside that area were included therein) shall apply to any such reference in this section;

and any reference to an application made as mentioned in section 32(1) of this Act includes a reference to an application which by virtue of section 88(7) or 95(6) of this Act is deemed to have been made for such planning permission as is mentioned in the said section 88(7) or, as the case may be, the said section 95(6).

68 Exemption of certain classes of development

- (1) Notwithstanding anything in section 67 of this Act, but subject to section 69 of this Act, an industrial development certificate shall not be required if the industrial floor space to be created by the development in question (in this section referred to as " the proposed development"), together with any other industrial floor space created or to be created by any related development, does not exceed 5,000 square feet, excluding, where an industrial development certificate has been issued in respect of any related development, any floor space created or to be created by that development or by development carried out, or for which planning permission has been granted, before the issue of that certificate.
- (2) Regulations made for the purposes of section 67 of this Act by the Secretary of State may direct that no industrial development certificate shall be required in respect of the erection, in any area prescribed by or under the regulations, of industrial buildings of any such class or description as may be so prescribed, or in respect of a change of use whereby premises in any such area, not being an industrial building of a class or description so prescribed, will become an industrial building of such a class or description.
- (3) In this section " industrial floor space " means floor space comprised in an industrial building or industrial buildings of any of the prescribed classes.
- (4) For the purposes of subsection (1) of this section development shall, in relation to an application for planning permission (in this section referred to as " the relevant application "), be taken to be " related development" if—
 - (a) it related, or is to relate, to the same building as that to which the proposed development is to relate (in this subsection referred to as the " relevant building"); or
 - (b) it related, or is to relate, to a building which is, or is to be, contiguous or adjacent to the relevant building, and it was, or is to be, development comprised in, or for the purposes of, the same scheme or project or for the purposes of the same undertaking as the proposed development,and (in either case) it fulfils one or other of the conditions mentioned in subsection (5) of this section.
- (5) The said conditions are—
 - (a) that it is development for which, before the date of the relevant application, planning permission has been granted by a planning decision made on or after 1st April 1960;

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- (b) that it is development which has been initiated on or after 1st April 1960 but before the date of the relevant application and is not development for which planning permission has been granted by a planning decision made on or after 1st April 1960;
 - (c) that it is development in respect of which an application to the local planning authority for planning permission either is pending on the date of the relevant application or is made on that date.
- (6) For the purposes of subsection (5)(c) of this section, an application is pending on a particular date if—
- (a) it is made before that date and not withdrawn ; and
 - (b) no planning decision on that application has been made before that date.
- (7) In subsection (4) of this section and in this subsection "building" does not include a part of a building; and any reference in subsection (4) of this section to development relating to a building is a reference to the erection, extension, alteration or re-erection of the building or a change of use of the whole or part of the building.
- (8) In this section " the prescribed classes " has the same meaning as in section 67 of this Act.

69 Power to vary exemption limit as to industrial floor space

- (1) The Secretary of State may by order direct that subsection (1) of section 68 of this Act shall be amended by substituting, for the number of square feet specified in the subsection as originally enacted or as previously amended under this subsection, such number of square feet as may be specified in the order being not less than 1,000 square feet.
- (2) Any amendment made by an order under this section may be made so as to have effect either in relation to the whole of England and Wales or in relation only to a part of England and Wales specified in the order.
- (3) Any amendment made by such an order shall have effect—
- (a) in relation to applications for planning permission relating to land in any area to which the order applies which are made on or after the date on which the order comes into operation; and
 - (b) in relation to applications relating to land in such an area which have been made before that date, other than any application on which a planning decision has been made before that date.
- (4) Where in accordance with subsection (3) of this section an amendment made by such an order has effect in relation to an application for planning permission made before the date on which the order comes into operation, so much of section 67(1) of this Act as requires a copy of an industrial development certificate to be furnished to the local planning authority together with the application shall have effect in relation to that application with the substitution, for the words " together with the application " , of the words " as soon as practicable after the certificate is issued "
- (5) In this section any reference to land in any area to which an order under this section applies shall be construed as a reference to land of which any part is in that area.

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70 Restrictions or conditions attached to certificates

- (1) An industrial development certificate in respect of any development may be issued subject to such restrictions on the making of an application for planning permission for that development (whether as to the period within which, or the persons by whom, such an application may be made, or otherwise) as the Secretary of State considers appropriate having regard to the proper distribution of industry; and where an industrial development certificate in respect of any development is issued subject to any such restrictions, and an application for planning permission for that development is made which does not comply with those restrictions, the provisions of section 67 of this Act shall apply in relation to that application as if no such certificate had been issued.
- (2) Without prejudice to subsection (1) of this section, an industrial development certificate may be issued either unconditionally or subject to such conditions as the Secretary of State considers appropriate having regard to the proper distribution of industry; and any reference in this section to conditions attached to an industrial development certificate is a reference to conditions subject to which such a certificate is issued.
- (3) Without prejudice to the generality of subsection (2) of this section, conditions may be attached to an industrial development certificate—
 - (a) for requiring the removal of any building or the discontinuance of any use of land to which the certificate relates at the end of a specified period and the carrying out of any works required for the reinstatement of land at the end of that period ;
 - (b) restricting the amount of office floor space (as defined in section 85 of this Act) to be contained in any building to which the certificate relates, or precluding it from containing any office floor space (as so defined);and conditions of the kind mentioned in paragraph (b) of this subsection may be framed so as to apply (either or both) to the building as originally erected or as subsequently extended or altered.
- (4) In so far as any of the conditions attached to an industrial development certificate are of such a description that (apart from this section) they could not have been imposed under this Act this Act shall apply in relation to any application for planning permission for the purposes of which that certificate is required, and to any planning permission granted on such an application, as if the powers conferred by this Act included power to impose conditions of that description.
- (5) Where conditions are attached to an industrial development certificate, and, on an application for planning permission for the purposes of which that certificate is required, planning permission is granted, the authority granting the permission shall grant it subject to those conditions, with or without other conditions.
- (6) Planning permission to which subsection (5) of this section applies shall not be invalid by reason only that the requirements of that subsection are not complied with; but where any such planning permission is granted without complying with the requirements of that subsection the planning permission shall be deemed to have been granted subject to the conditions attached to the industrial development certificate, or (if any other conditions were imposed by the authority granting the permission) to have been granted subject to the conditions attached to the certificate in addition to the other conditions.

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71 Provisions as to conditions imposed under s.70

- (1) This section applies to any condition subject to which planning permission is granted in accordance with the provisions of section 70 of this Act, or subject to which planning permission is by virtue of that section deemed to have been granted, whether it is a condition which could have been imposed apart from that section or not.
- (2) If the planning permission is or was granted by the local planning authority, the Secretary of State shall not be required to entertain an appeal under section 36 of this Act from the decision of the local planning authority, in so far as that decision relates or related to any condition to which this section applies.
- (3) If any condition imposed by an authority granting planning permission is inconsistent with any condition to which this section applies, the last-mentioned condition shall prevail so far as it is inconsistent with the condition so imposed.
- (4) Where on an application made as mentioned in section 32(1) of this Act (as modified by section 67 of this Act) planning permission is granted (either unconditionally or subject to conditions) for a building to be retained, or a use of a building to be continued, without complying with a condition to which this section applies (that condition being one subject to which a previous planning permission was granted or is deemed to have been granted), nothing in section 70 of this Act or in the foregoing provisions of this section shall be construed as preventing the subsequent planning permission from operating so as to extinguish or modify that condition, as the case may be.

72 Provision for cases where certificate withheld

- (1) Where such an application as is mentioned in subsection (1) or (2) of section 67 of this Act is, by virtue of those subsections, of no effect by reason that the requirements of those subsections are not fulfilled, the local planning authority shall consider whether, if those requirements had been fulfilled, they would nevertheless have refused the permission sought by the application, either in respect of the whole or in respect of part of the land to which the application relates; and if they are of the opinion that they would so have refused that permission, they shall serve on the applicant a notice in writing to that effect.
- (2) Where a notice is served under subsection (1) of this section in respect of the whole or part of any land, it shall operate, for the purposes of sections 38 and 39 of this Act, as if the application for planning permission had been an effective application and the notice had been a planning decision of the local planning authority refusing that permission in respect of that land or that part thereof, as the case may be; and the provisions of those sections (if in those circumstances they would have been applicable) shall have effect accordingly.