

1976 No. 693 (S. 61)

TOWN AND COUNTRY PLANNING, SCOTLAND
The Town and Country Planning (General Development)
(Scotland) Amendment Order 1976

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| <i>Made</i> | - | - | - | | <i>29th April 1976</i> |
| <i>Laid before Parliament</i> | | | | | <i>13th May 1976</i> |
| <i>Coming into Operation</i> | | | | | <i>3rd June 1976</i> |

In exercise of the powers conferred on me by Sections 28, 33, 51 and 273 of the Town and Country Planning (Scotland) Act 1972(a) and of all other powers enabling me in that behalf, I hereby order as follows:—

Citation, commencement and interpretation

1.—(1) This order may be cited as the Town and Country Planning (General Development) (Scotland) Amendment Order 1976 and the Town and Country Planning (General Development) (Scotland) Order 1975(b) and this order may be cited together as the Town and Country Planning (General Development) (Scotland) Orders 1975 to 1976.

(2) This order shall come into operation on 3rd June 1976.

(3) The Interpretation Act 1889(c) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

2. The Town and Country Planning (General Development) (Scotland) Order 1975 is hereby amended as follows:—

(a) For Article 11, paragraph (1)(d) there shall be substituted the following:—

“(d) where the development consists of the erection of a building (other than an alteration, extension or re-erection of an existing building or the erection of a building of a temporary character) in an area of coal working or proposed coal working notified by the National Coal Board to the planning authority, with the National Coal Board;”

(b) For Article 14 there shall be substituted the following:—

“*Appeals*

14.—(1) Any applicant who desires to appeal,—

(a) against a decision of a planning authority refusing planning permission to develop land, refusing to grant any approval required under this Order, or granting permission or approval subject to conditions; or

(b) against a determination of a planning authority under section 51 of the Act; or

(a) 1972 c. 52.

(b) S.I. 1975/679 (1975 I, p. 2410).

(c) 1889 c. 63.

- (c) on the failure of a planning authority to give notice of their decision or determination or of the reference of the application to the Secretary of State,

hereinafter in this Article referred to as “the appellant”, shall give, within six months of notice of the decision or determination or of the expiry of the appropriate period allowed under Article 7(3) of this Order, as the case may be, or such longer period as the Secretary of State may at any time allow, notice of appeal to the Secretary of State, stating the grounds on which the appeal is made. In the case of an appeal in respect of an application for a determination under section 51 of the Act (whether the appeal is made under sub-paragraph (b) or sub-paragraph (c) above) the notice of appeal shall be given in writing; and in every other case the notice of appeal shall be given on a form obtained from the Secretary of State.

(2) The appellant shall also with the notice of appeal furnish to the Secretary or State the following documents:—

- (i) a copy of the application made to the planning authority;
- (ii) a copy of all relevant plans, drawings, particulars and documents (other than any notice provided in accordance with section 23 of the Act and of the relevant certificate under that section and the certificate given in accordance with section 24 of the Act) submitted with the application;
- (iii) a copy of the notice of the decision or determination, if any;
- (iv) a copy of all other relevant correspondence with any planning authority;
- (v) a certificate under section 24 of the Act as applied by section 33 of the Act;
- (vi) a statement indicating to the Secretary of State whether the appellant wishes his case to be determined on the basis of written submissions without the holding of a public local inquiry.

(3) Where the appeal is against a decision of a planning authority refusing planning permission to develop land, refusing to grant any approval required under this Order or granting permission or approval subject to conditions or on the failure of a planning authority to give notice of their decision or of the reference of the application to the Secretary of State, the appellant shall in terms of section 180 of the Local Government (Scotland) Act 1973(a) serve a copy of the notice of appeal on the regional planning authority concerned and shall inform the Secretary of State of the date on which a copy of the said notice has been served.

(4) If the regional planning authority wish to take part in the appeal proceedings they shall within one month of receiving the copy of the notice of appeal so advise the Secretary of State and shall within two months thereafter send to the Secretary of State a statement of their observations on the appeal.

(5) The Secretary of State shall advise the planning authority of the appeal and shall transmit to them a copy of the notice of appeal and copies of such of the documents specified in paragraph (2) of this Article as he deems necessary for the purpose of the appeal.

(a) 1973 c. 65.

(6) The planning authority shall submit to the Secretary of State not later than three months from the date when the Secretary of State advises them of the appeal a statement of their observations on the appeal and, in any appropriate case, a copy of any notice provided in accordance with section 23 of the Act and of the relevant certificate under that section and a copy of the certificate given in accordance with section 24 of the Act.

(7) If the planning authority or the regional planning authority fail to submit their observations or other documents to the Secretary of State within the times specified in paragraphs (4) and (6) of this Article or if the appellant or the planning authority or the regional planning authority fail to submit any observations or documents required by the Secretary of State within any time specified by him the Secretary of State may proceed to determine the appeal."

Bruce Millan,

One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
29th April 1976.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Town and Country Planning (General Development) (Scotland) Order 1975 as follows:—

- (a) Paragraph (1)(d) of Article 11 (which requires consultation with the National Coal Board for development in an area of proposed coal working) has been amended so that the Board will have to be consulted by planning authorities before planning permission is granted for the erection of a building in a notified area of coal working whether the workings occur before the date of receipt of the application or are proposed for the future; and
- (b) The substitution of an amended Article 14 (Appeals), setting out the procedure for the making of appeals to the Secretary of State. The principal changes are that certain categories of appeal must be made on a form supplied by the Secretary of State, that the appeal must be accompanied by the documents set out in the Article, that the Secretary of State will advise the planning authority of the appeal and transmit to them copies of the appropriate documents, that the planning authority must within three months submit a statement of their observations on the appeal and certain other documents to the Secretary of State, that the regional planning authority, if they wish to take part in the appeal proceedings, must advise the Secretary of State within one month of receiving the copy of the notice of appeal and submit to him a statement of their observations within two months thereafter and that failing compliance with these time limits the Secretary of State may proceed to determine the appeal.

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