8. DEVELOPMENT OF LAND

The Town and Country Planning (General Development) (Scotland) Order, 1948

1948 No. 1030 (S. 81)

Made - - - -	13*th May*, 1948
Laid before Parliament	25*th May*, 1948
Coming into Operation	1*st July*, 1948*

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* *See* S.I. 1948 No. 265, p. 4236 above.

In exercise of the powers conferred on me by Sections 11, 12 and 14 of the Town and Country Planning (Scotland) Act, 1947(a) and of all other powers enabling me in that behalf, I hereby order as follows:—

Application, Citation and Commencement

1.—(1) This Order shall apply to all land in Scotland:

Provided that in the event of a special development order being made in relation to any such land, this order shall apply thereto to such extent only and subject to such modifications as may be specified in the special order.

(2) This Order may be cited as the Town and Country Planning (General Development) (Scotland) Order, 1948, and shall come into force on the appointed day.*

Interpretation

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, namely:—

" the Act " means the Town and Country Planning (Scotland) Act, 1947;

" the appointed day " means the day appointed for the coming into force of the Act;

" aqueduct" does not include an underground conduit;

" building " does not include plant or machinery or a structure or erection of the nature of plant or machinery but includes any other structure or erection and any part of a building as so defined;

" classified road ", " road " and " trunk road " have the meanings assigned to these expressions by the Trunk Roads Acts, 1936(b) and 1946(c), and in relation to a trunk road the reference to a proposed road in the definition of road shall include a reference to the site of a proposed road shown in a development plan as likely to be the subject of an order under Section 1 of the Trunk Roads Act, 1946;

" contravention of previous planning control " in relation to any development has the same meaning as for the purposes of Section 72 of the Act;

" development affecting trunk roads " means

(*a*) the formation, laying out or alteration of any means of access to a trunk road; and

(*b*) any other development of land within 220 feet from the middle of a trunk road or such lesser or greater distance as may be specified in relation to trunk roads generally or to a particular trunk road by directions given under paragraph (3) of Article 9 of this Order;

" development plan " means a development plan as approved or made by the Secretary of State or as for the time being amended, under Part II of the Act;

" industrial process " means any process for or incidental to any of the following purposes, namely:—

(*a*) the making of any article or of part of any article, or

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(a) 10 & 11 Geo. 6. c. 53.
(b) 1 Edw. 8 & 1 Geo. 6. c. 5.
(c) 9 & 10 Geo. 6. c. 30.
* *See* S.I. 1948 No. 265, p. 4236 above.

(*b*) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolition, of any article, or

(*c*) without prejudice to the foregoing paragraphs, the getting, dressing or treatment of minerals,

being a process carried on in the course of trade or business, and for the purposes of this definition, the expression " article " means an article of any description, including a ship or vessel;

" industrial undertakers " means undertakers by whom an industrial process is carried on, and " industrial undertaking " shall be construed accordingly;

" local highway authority " in relation to a road, means the local authority responsible (otherwise than as agents) for the maintenance of the road;

" mine " includes any site on which mining operations are carried on;

" mineral undertakers " means undertakers engaged in mining operations and includes undertakers licensed under the Petroleum (Production) Act, 1934(**a**), to search and bore for and get petroleum; and for the purposes of this Order any land in respect of which a licence is in force under the said Act authorising any undertakers to search and bore for and get petroleum, shall be deemed to be comprised in their undertaking;

" mining operations " means the winning and working of minerals in, on or under land, whether by surface or underground working;

" private street " means any street maintained or liable to be maintained by any person other than a local highway authority;

" private way " means a road or footpath which is not a highway;

" public vehicle " means a public service vehicle, tramcar or trolley vehicle within the meaning of those expressions in the Road Traffic Act, 1930(**b**);

" shop " means a building used for the carrying on of any retail trade or retail business wherein the primary purpose is the selling of goods (excluding refreshments other than eatables not cooked on the premises, and beverages) by retail, and without prejudice to the generality of the foregoing, includes a building used for the purposes of a hairdresser, undertaker, ticket agency or receiving office for goods to be washed, cleaned or repaired, or for other purposes appropriate to a shopping area, but does not include a building used as an amusement arcade, pin-table saloon, funfair, garage, petrol filling station, or premises licensed for the sale of exciseable liquors for consumption on the premises;

" unclassified road " means a road other than a trunk or classified road.

(2) The Interpretation Act, 1889(**c**), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Permitted Development

3.—(1) Subject to the subsequent provisions of this Order, development of any class specified in the First Schedule to this Order is permitted by this Order and may be undertaken upon land to which this Order applies, without the permission of the local planning authority or the Secretary of State :

(**a**) 24 & 25 Geo. 5. c. 36. (**b**) 20 & 21 Geo. 5. c. 43.
(**c**) 52 & 53 Vict. c. 63.

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 said First Schedule in relation to that class, and neither such permission nor any permission granted on an application made in pursuance of any such condition or limitation shall authorise any development (other than development of Class XI) which:—

(*a*) consists of the formation, laying out or alteration of a means of access to any road used by vehicular traffic, other than—

(i) the formation, laying out or alteration of a means of access for pedestrians only to an unclassified road; or

(ii) the alteration for agricultural purposes of a means of access, used for those purposes, to a road which is neither a trunk road nor a road classified in Class I or Class II by the Minister of Transport under the Ministry of Transport Act, 1919(**a**); or

(*b*) obstructs the view of persons using any road used by vehicular traffic at or near any bend, corner, junction or intersection so as to be likely to cause danger to such persons.

(2) Nothing in this Article or in the First Schedule to this Order shall operate so as to permit any development contrary to a condition imposed by any permission granted or deemed to be granted under Part II of the Act on an application.

(3) Any development of Class XI authorised by an Act or order subject to the grant of any consent or approval shall not be deemed for the purposes of this Order to be so authorised unless and until that consent or approval is obtained; and in relation to any development of Class XI authorised by any Act passed or order made after the appointed day, the foregoing provisions of this Article shall have effect subject to any provision to the contrary contained in the Act or order.

Directions restricting permitted development

4.—(1) If either the Secretary of State or the local planning authority is satisfied that it is expedient that development of any of the classes specified in the First Schedule to this Order should not be undertaken in any particular area, or that any particular development of any of those classes should not be undertaken, unless permission is granted on an application in that behalf, the Secretary of State or the local planning authority may direct that the permission granted by Article 3 of this Order shall not apply to:—

(*a*) all or any development of all or any of those classes in any particular area specified in the direction, or

(*b*) any particular development, specified in the direction, falling within any of those classes:

Provided that in the case of development of Class XI no such direction shall have effect in relation to development authorised by any Act passed after the commencement of this Order or by any Order requiring the approval of both Houses of Parliament approved after that date.

(2) A direction by a local planning authority under this Article shall not have effect unless and until it is approved by the Secretary of State and the Secretary of State may approve the direction with or without modifications.

(3) Notice of any direction specifying any particular area given or approved by the Secretary of State under head (*a*) of paragraph (1) of this Article shall be published by the local planning authority in one or more newspapers

(**a**) 9 & 10 Geo. 5. c. 50.

circulating in the locality in which the area is situate and, unless the Secretary of State otherwise directs, on the same or a subsequent date in the Edinburgh Gazette, 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 of a map defining the area to which it relates may be seen at all reasonable hours: and any such direction shall come into force on the date on which notice thereof is first published.

(4) Notice of any direction specifying any particular development given or approved by the Secretary of State under head (*b*) of paragraph (1) of this Article shall be served by the local planning authority on the owner and occupier of the land affected, and any such direction shall come into force on the date on which notice thereof is served on the occupier, or if there is no occupier, on the owner.

(5) Any direction in force immediately before the coming into force of this Order under Article 5 or Article 6 of the Town and Country Planning (General Interim Development) Order (Scotland) 1946(a), shall, in so far as it relates to development permitted by this Order, continue in force and have effect as if it were a direction given under this Article of which notice had been duly published or served, as the case may be.

(6) No direction given or having effect under this Article shall have effect in relation to the carrying out in case of emergency of any development specified in the First Schedule to this Order, or, unless such direction specifically so provides, to the carrying out by statutory undertakers of any 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 docks, harbours, quays, wharves, canals and towing paths;
(*d*) provision and maintenance of mechanical apparatus or appliances (including signalling equipment) required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a dock, quay, harbour, bank, wharf or basin;
(*e*) any development required in connection with the improvement, maintenance or repair of watercourses or drainage works.

Applications for Planning Permission

5.—(1) Applications for planning permission made to a local planning authority shall be made in accordance with any regulations under section 98 of the Act for the time being in force.*

(2) The period within which the local planning authority shall give notice to the applicant of their decision or of the reference of the application to the Secretary of State shall be the following period from the date of receipt of the application, namely:—

(*a*) in the case of an application referred to in paragraph 1 of Class XVII of the First Schedule hereto, eighteen months;
(*b*) in the case of an application for permission for development affecting trunk roads, three months; and
(*c*) in any other case, two months,

(a) S.R. & O. 1946 (No. 1147) I, p. 1618. * *See* S.I. 1948 No. 914, p. 4326 below.

or such extended period as may at any time be agreed upon in writing between the applicant and the local planning authority.

(3) Every such notice shall be in writing, and where the local planning authority decide to grant permission subject to conditions or to refuse permission, they shall state their reasons in writing, and send with the decision a notification in the terms (or substantially in the terms) set out in the Second Schedule hereto.

(4) Where a local planning authority grant planning permission for any development either unconditionally or subject to conditions, that authority shall, if an application to the Central Land Board for the making of a determination of development charge was made at the same time as the application for such permission, forthwith furnish to the Central Land Board a copy of the application for such permission, and of the plans or other documents submitted therewith, a copy of such permission, and copies or extracts from any correspondence explaining or qualifying the application or the permission.

(5) A local planning authority shall also furnish to the Secretary of State and to such other persons as may be prescribed by directions given by the Secretary of State under this Order, such information as may be so prescribed with respect to applications for planning permission made to them, including information as to the manner in which any such application has been dealt with.

(6) In relation to land of local planning authorities and to the development by local authorities of land in respect of which they are the local planning authority, applications for planning permission shall be made to the Secretary of State in accordance with any regulations under section 32 of the Act for the time being in force.

Directions restricting the grant of planning permission

6.—(1) The Secretary of State may give directions restricting the grant of permission by a local planning authority during such period as may be specified in the directions, in respect of any such development or in respect of development of any such class, as may be so specified.

(2) A local planning authority to whom a direction has been given under this Article shall, during the period specified in the direction, deal with applications for planning permission for development to which such direction relates in such manner as to give effect to the terms of the direction.

Special provisions as to planning permission for development affecting trunk roads

7.—(1) Before granting planning permission for development affecting trunk roads, whether unconditionally or subject to conditions, a local planning authority shall consult with the Minister of Transport, to whom they shall notify receipt of the application on such form as may be issued for the purpose by the Minister of Transport.

(2) On receipt of any application for planning permission for development affecting trunk roads, the local planning authority shall notify the applicant that the application cannot be dealt with except after consultation with the Minister of Transport.

(3) The Minister of Transport may give directions restricting the grant of such permission by the local planning authority, and the local planning authority shall deal with the application in such manner as to give effect to the terms of the direction.

Development not according with the development plan

8. A local planning authority may in such cases and subject to such conditions as may be prescribed by directions given by the Secretary of State under this Order grant planning permission for development which does not accord with the provisions of the development plan.

Consultation as to applications for planning permission

9.—(1) Before granting planning permission in any of the following cases, whether unconditionally or subject to conditions, a local planning authority shall consult with the following authorities or persons, namely:—

(*a*) where it appears to the local planning authority that the development is likely to affect land in the area of any neighbouring local planning authority, with that authority;

(*b*) where it appears to the local 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 trunk road or using a level crossing over a railway, with the Minister of Transport;

(*c*) where the development involves the formation, laying out or alteration of any means of access to a road (other than a trunk road) or is likely to create or attract traffic which will result in a material increase in the volume of traffic entering or leaving such a road, for which the local planning authority are not also the local highway authority, with the local highway authority concerned;

(*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 proposed coal working notified by the National Coal Board to the local planning authority, with the National Coal Board;

(*e*) where the development is of land which is situate within half a mile from any Royal Palace or Park, and might affect the amenities of that Palace or Park, with the Minister of Works.

(2) Before refusing planning permission or imposing any conditions upon the grant of planning permission for any development of land for the purposes of agriculture, a local planning authority shall consult with the Agricultural Executive Committee for the area in which the land is situate.

(3) The Secretary of State may give directions to a local planning authority requiring that authority to consult with the authorities, persons or bodies named in such directions in any case or class of case which may be specified in such directions, and before determining any application for planning permission in any such case or class of case, the local planning authority shall enter into consultation accordingly.

(4) Where under this Article a local planning authority are required to consult with any authority, person or body as to any application, they shall give not less than 14 days' notice to such authority, person or body that such application is to be taken into consideration, shall not determine the application until after the expiration of the period of such notice, and shall, in determining the application, take into account any representations made by such authority, person or body.

Reference of applications to the Secretary of State

10. On referring to the Secretary of State any application for planning permission in accordance with a direction given by the Secretary of State under section 13 of the Act, the local planning authority shall serve on the

applicant a notice of the terms of the direction and of any reasons given by the Secretary of State for issuing the direction, and such notice shall inform the applicant that the application has been so referred, and shall contain a statement that the Secretary of State will, if the applicant so desires, afford to the applicant an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and that the decision of the Secretary of State on the application will be final.

Appeals

11.—(1) Any applicant who desires to appeal

(*a*) against a decision of a local planning authority refusing planning permission or granting such permission subject to conditions, or

(*b*) on the failure of a local planning authority to give notice of their decision or of the reference of the application to the Secretary of State,

shall give notice of appeal to the Secretary of State, stating the grounds on which the appeal is made, within one month of receipt of notice of the decision or of the expiry of the appropriate period specified in paragraph (2) of Article 5 of this Order, as the case may be, or such longer period as the Secretary of State may allow, and shall send a copy of the notice of appeal to the local planning authority.

(2) As soon as may be after the receipt of a copy of a notice of appeal, the local planning authority shall furnish to the Secretary of State a copy of the following documents, or where an application in respect of the same development has been made to the Central Land Board and the appeal is against a refusal of permission, two copies thereof:—

(i) the application made to the local planning authority;

(ii) all relevant plans, drawings and particulars submitted to them;

(iii) the notice of the decision, if any;

(iv) all other relevant correspondence with the applicant;

(v) a statement containing the observations of the local planning authority on the appeal.

Register of applications

12.—(1) Every local planning authority shall keep a register containing the following information, in respect of all land within their area, namely:—

(*a*) particulars of any application for planning permission made to them in respect of any such land, including the name and address of the applicant, the 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 (if any) of the local planning authority in respect of the application, and the date of such decision;

(*d*) the date and effect of any decision of the Secretary of State in respect of the application, whether on appeal or on a reference under section 13 of the Act.

(2) Such register shall include an index for enabling a person to trace any entry in the register.

(3) Such register may be kept either at the office of the local planning authority or, in relation to a county, at any convenient place within the district of the local planning authority.

Directions and Notices

13.—(1) Any power conferred by this Order to give a direction shall be construed as including power to cancel or vary the direction by a subsequent direction.

(2) Any notice to be served or given under this Order may be served or given in the manner prescribed by section 101 of the Act and by any regulations made under that section.

Saving

14. Nothing in this Order shall apply to any permission which is deemed to be granted under section 30 or section 32 of the Act.

Dated this thirteenth day of May, Nineteen hundred and forty-eight.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

Article 3.

FIRST SCHEDULE

Permitted Development

Class I. Development within the curtilage of a dwellinghouse

The erection or construction and the maintenance, improvement or other alteration, within the curtilage of any dwellinghouse, of—

(i) any building or work (other than a dwelling or a garage) ancillary to, but not forming part of, or permanently attached to, a dwellinghouse, and required for any purpose incidental to the enjoyment of the dwellinghouse as such; and

(ii) shelters for keeping poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment only of the occupants of the dwellinghouse;

Provided that the height of any such building or shelter does not exceed 10 feet and that its cubic capacity does not exceed 1,000 cubic feet, and that it is so sited as not to affect adversely the amenity of adjoining properties or of the neighbourhood.

Class II. Gates and fences, etc.

The erection or construction of gates, fences, walls, or other means of enclosure, not exceeding seven feet in height and not affording access to or abutting on a highway, and the maintenance and repair of any gates, fences, walls, or other means of enclosure.

Class III. Changes of Use

Development consisting of a change of use to—

(*a*) use as a light industrial building as defined by the Town and Country Planning (Use Classes) (Scotland) Order, 1948(a), from use as a general industrial building as so defined;

(*b*) use as any type of shop from use as

(i) a fried fish shop;
(ii) a tripe shop;
(iii) a shop for the sale of pet animals or birds; or
(iv) a cats-meat shop.

(a) S.I. 1948 No. 966; for revocation and replacement by S.I. 1948 No. 1771, *see* p. 4349 below.

Class IV. Temporary Uses

The use of land unoccupied by buildings for any purpose for a period or periods not exceeding 28 days in total in any calendar year, and the erection or placing of moveable structures on the land for the purposes of that use.

Class V. Agricultural buildings, works and uses

1. The erection or construction on land used for the purposes of agriculture of—

(i) separate buildings for such purposes permanently affixed to the ground and having a superficial area of not more than 300 square feet and a maximum height (measured to the ridge thereof, if any) of 13 feet, being not more than 150 feet from the group of principal farm buildings occupied with such land and not for human habitation;
(ii) buildings for such purposes not permanently affixed to the ground (including shelters for livestock, but not buildings for human habitation);
(iii) silos not exceeding 14 feet in height;
(iv) wells and reservoirs, or water tanks not exceeding 14 feet in height nor 20,000 gallons in capacity;
(v) straw pulping plants, sheep buchts or fanks, permanent sheep dipping accommodation, and lambing pens;
(vi) structures mainly or wholly of poles, straw, bracken, hurdles, or like material;

and the formation, alteration and maintenance of private ways on such land.

2. The erection or construction and the maintenance, improvement or other alteration of roadside stands for milk churns, except where they would abut on any trunk or classified road.

3. The winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for the purposes aforesaid.

Class VI. Forestry buildings and works

The erection or construction and the maintenance, improvement or other alteration on land used for the purposes of forestry (including afforestation) of buildings (not constructed of stone, concrete or brick) having a superficial area of not more than 300 square feet and a maximum height (measured to the ridge thereof, if any) of 13 feet, to be used as offices, tool or store sheds, workshops or shelters in connection with forestry, and not for human habitation; and the formation, alteration and maintenance of private ways on such land.

Class VII. Development for Industrial Purposes

1. Development of the following descriptions, carried out by an industrial undertaker on land used (otherwise than (i) in contravention of previous planning control or (ii) without planning permission granted or deemed to be granted under Part II of the Act) for the carrying out of any industrial process, and for the purposes of such process, or on land used (otherwise than as aforesaid) as a dock, harbour or quay for the purposes of an industrial undertaking:—

(1) the provision, re-arrangement or replacement of private ways or private railways, sidings or conveyors;

(2) the provision or re-arrangement of sewers, mains, pipes, cables or other apparatus;

(3) the installation or erection by way of addition or replacement, of plant or machinery, or structures or erections of the nature of plant or machinery, not exceeding 50 feet in height or the height of the plant, machinery, structure or erection so replaced whichever is the greater, provided that such plant, machinery, structure or erection does not substantially affect the external appearance of the premises of the undertaking.

2. 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, whether or not the superficial area or the height of the deposit is thereby extended.

Class VIII. Repairs to private streets and private ways

The carrying out of works required for the maintenance or improvement of a private street or private way, being works carried out on land within the boundaries of the street or way.

Class IX. Repairs to services

The carrying out of any works for the purpose of inspecting, repairing or renewing sewers, mains, pipes, cables or other apparatus, including the breaking open of any land for that purpose.

Class X. War damaged buildings, works and plant

The rebuilding, restoration or replacement of buildings, works or plant which have sustained war damage, so long as the cubic content immediately before the occurrence of such damage is not increased and such operations do not involve a material alteration from the external appearance immediately before the occurrence of such damage.

Class XI. Development under local or private Acts, or Orders

Development authorised by any local or private Act of Parliament or by any Order approved by both Houses of Parliament, being an Act or Order which designates specifically both the nature of the development thereby authorised and the land upon which it may be carried out:

Provided that planning permission shall be required in respect of the erection, construction, alteration or extension of any building, including any bridge, aqueduct, pier or dam but not including any other structure or erection, or the formation, laying out or alteration of a means of access to any road used by vehicular traffic, but the local planning authority shall not refuse permission and shall not impose conditions upon the grant thereof, unless they are satisfied that it is expedient so to do on the ground that:—

(*a*) the design or external appearance of such building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification so as to conform with such amenity; or

(*b*) in the case of a building, bridge, aqueduct, pier or means of access, the erection, construction, formation, laying out, alteration or extension, ought to be, and could reasonably be, carried out elsewhere on the land.

Class XII. Development by local authorities

1. The erection, construction, maintenance, improvement or other alteration by a local authority of—

(i) such small ancillary buildings, works and equipment as may be required for the purposes of any allotments, cemeteries, parking places, open spaces, playing fields, parks, recreation grounds, gardens or public walks and pleasure grounds belonging to or maintained by them;

(ii) information kiosks, passenger shelters, public shelters and seats, telephone boxes, fire alarms, public drinking fountains, horse troughs, refuse bins or baskets, barriers for the control of persons 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 administered by them.

2. The deposit by a local authority of waste material or refuse on any land comprised in a site which was used for that purpose, otherwise than in contravention of previous planning control, on the appointed day, whether or not the superficial area or the height of the deposit is thereby extended.

Class XIII. Development by local highway authorities

The erection, construction, maintenance, improvement or other alteration by a local highway authority of buildings or works reasonably required in connection with the use, safety or enjoyment of roads.

Class XIV. Land Drainage Works

The carrying out of any works required in connection with the improvement or maintenance of watercourses or land drainage works.

Class XV. Development by sewerage authorities

Any development by a Sewerage Authority within the meaning of Part VI of the Public Health (Scotland) Act, 1897(a) and the provisions of the Burgh Police (Scotland) Act, 1892(b) being development below the surface of the ground required in connection with the provision, improvement or maintenance of sewers.

Class XVI. Development by Statutory Undertakers

A. *Railway or Light Railway Undertakings*

Development required in connection with the movement of traffic by rail and carried out by the undertakers or their lessees in, on, over or under the operational land of the undertaking, *except* the construction of railways and the construction or erection, or the reconstruction or alteration so as materially to affect the design or external appearance thereof, of any railway station or bridge, or of any residential building, office or building to be used for manufacturing or repairing work, which is not situate wholly within the interior of a railway station.

B. *Dock, Harbour, Water Transport, Canal or Inland Navigation Undertakings*

1. Development required for the purposes of shipping or in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock or harbour, or the movement of traffic by canal or inland navigation, or by any railway forming part of the undertaking and carried out by the undertakers or by their lessees in, on, over or under the operational land of the undertaking, *except* the construction or erection, or the reconstruction or alteration so as materially to affect the design or external appearance thereof, of bridges or other buildings (not being structures or erections required in connection with the handling of traffic).

2. The use of any land for the spreading of dredgings.

C. *Water or Hydraulic Power Undertakings*

Development required for the purposes of the undertaking of any of the following descriptions, that is to say:—

(i) the laying underground of mains, pipes or other apparatus;

(ii) the improvement, maintenance or repair of watercourses or land drainage works;

(iii) any other development carried out in, on, over or under the operational land of the undertaking *except*

(*a*) the erection, or the reconstruction or alteration so as materially to affect the design or external appearance thereof, of buildings,

(*b*) the installation or erection, by way of addition or replacement, of any plant or machinery, or structures or erections of the nature of plant or machinery, exceeding 50 feet in height or the height of the plant, machinery, structure or erection so replaced, whichever is the greater.

(a) 60 & 61 Vict. c. 38. (b) 55 & 56 Vict. c. 55.

D. *Gas Undertakings*

Development required for the purposes of the undertaking of any of the following descriptions, that is to say—

(i) the laying underground of mains, pipes or other apparatus;

(ii) the installation in a gas distribution system of gas valve governor houses not exceeding (except when constructed underground elsewhere than under a road) 600 cubic feet in capacity;

(iii) any other development carried out in, on, over or under the operational land of the undertaking *except:*—

(*a*) the erection, or the reconstruction or alteration so as materially to affect the design or external appearance thereof, of buildings;

(*b*) the installation of any plant or machinery, or structures or erections of the nature of plant or machinery, exceeding 50 feet in height, or capable, without addition, or being extended to a height exceeding 50 feet;

(*c*) the replacement of any plant or machinery, or structures or erections of the nature of plant or machinery, to a height exceeding 50 feet or the height of the plant, machinery, structure or erection so replaced, whichever is the greater.

E. *Electricity Undertakings*

Development required for the purposes of the undertaking of any of the following descriptions, that is to say:—

(i) the laying underground of pipes, cables or other apparatus;

(ii) the installation in an electrical transmission line of feeder pillars or transforming or switching kiosks or chambers not exceeding (except when constructed underground elsewhere than under a road) 600 cubic feet in capacity;

(iii) the installation of service lines from an electrical transmission line;

(iv) any other development carried out on, in, over or under the operational land of the undertaking *except:*—

(*a*) the erection, or the reconstruction so as materially to affect the design or external appearance thereof, of buildings; or

(*b*) the installation or erection, by way of addition or replacement, of any plant or machinery, or structures or erections of the nature of plant or machinery, exceeding 50 feet in height or the height of the plant, machinery, structure or erection so replaced, whichever is the greater.

F. *Tramway or Road Transport Undertakings*

Development required for the purposes of the undertaking of any of the following descriptions, that is to say:—

(i) the installation of posts, overhead wires or transformer boxes not exceeding 600 cubic feet in capacity in, on, over or adjacent to a road for the purpose of supplying current to public vehicles;

(ii) the installation of tramway tracks, conduits and drains and pipes in connection therewith for the working of tramways;

(iii) the installation of telephone cables and apparatus used for the operation of public vehicles;

(iv) the erection or construction, and the maintenance, improvement or other alteration of passenger shelters and barriers for the control of persons waiting to enter public vehicles;

(v) any other development carried out on, in, over or under the operational land of the undertaking *except:*—

(*a*) the erection, or the reconstruction or alteration so as materially to affect the design or external appearance thereof, of buildings;

(*b*) the installation or erection by way of addition or replacement of any plant or machinery, or structures or erections of the nature of plant or machinery, exceeding 50 feet in height, or the height of the plant, machinery, structure or erection so replaced, whichever is the greater.

G. *Lighthouse Undertakings*

Development required for the purposes of the exercise of the functions of a General Lighthouse Authority under the Merchant Shipping Act, 1894(a).

Class XVII. Development by Mineral Undertakers

1. Where mining operations have been carried out in any land at any time on or after the 15th day of August, 1946, and before the appointed day

(*a*) in conformity with the provisions of a planning scheme or of permission granted thereunder or in accordance with permission granted at any time before the 11th day of November, 1943, by or under an interim development order and in force immediately before the appointed day: or

(*b*) under article 4 of the Town and Country Planning (General Interim Development) Order (Scotland), 1946,

the continuation of such mining operations in adjoining land (where they form a continuous operation in relation to the land first mentioned) for a period of four months from the appointed day (or for such longer period not exceeding six months from the appointed day as may be allowed in writing in any particular case by the local planning authority); and if during that period an application for planning permission for those operations is made, or by virtue of paragraph 1 of the Tenth Schedule to the Act is treated as having been made, the continuation of such operations until the application (or any appeal in respect thereof) has been dealt with.

2. The erection, alteration or extension by mineral undertakers on land in or adjacent to and belonging to a quarry or mine comprised in their undertaking of any building, plant or machinery, or structure or erection of the nature of plant or machinery, which is required in connection with the winning and working of minerals other than coal in pursuance of planning permission granted or deemed to be granted under Part II of the Act, or which is required in connection with the treatment or disposal of such minerals:

Provided that planning permission shall be required for the erection, alteration or extension of a building, but the local planning authority shall not refuse permission and shall not impose conditions upon the grant thereof, unless they are satisfied that it is expedient so to do on the ground that

(*a*) the erection, alteration or extension of such building would injure the amenity of the neighbourhood and modifications can reasonably be made or conditions can reasonably be imposed in order to avoid or reduce the injury; or

(*b*) the proposed building or extension ought to be, and can reasonably be, sited elsewhere.

Class XVIII. Development by the National Coal Board

Development of the following descriptions carried out by the National Coal Board, or their lessees or licencees:—

1. The winning and working underground, in a mine commenced before the appointed day, of coal or other minerals mentioned in paragraph 1 of the First Schedule to the Coal Industry Nationalisation Act, 1946(b), and any underground development incidental thereto.

2. Any development required in connection with coal industry activities as defined in Section 63 of the Coal Industry Nationalisation Act, 1946, and carried out in the immediate vicinity of a pithead;

Provided that planning permission shall be required in respect of the erection, alteration or extension of a building, but the local planning authority shall not

(a) 57 & 58 Vict. c. 60. (b) 9 & 10 Geo. 6. c. 59.

refuse permission and shall not impose conditions on the grant thereof unless they are satisfied that it is expedient so to do on the ground that:—

(*a*) the erection, alteration or extension of such building would injure the amenity of the neighbourhood and modifications can reasonably be made or conditions can reasonably be imposed in order to avoid or reduce the injury; or

(*b*) that the proposed building or extension ought to be, and can reasonably be, sited elsewhere.

3. The deposit of waste materials or refuse resulting from colliery production activities as defined by paragraph 2 of the First Schedule to the Coal Industry Nationalisation Act, 1946, on land comprised in a site used (otherwise than in contravention of previous planning control) for the deposit of waste materials or refuse on the appointed day, whether or not the superficial area or the height of the deposit is thereby extended.

Class XIX. Development Sanctioned by a Government Department

1. Development by a local authority or by statutory undertakers which has been sanctioned by any government department other than the Secretary of State for Scotland before the 15th day of August, 1946, and on which work had been commenced and was proceeding on the appointed day, or by the Secretary of State for Scotland whether before or after the commencement of this Order:

Provided that—

(i) development sanctioned by the Secretary of State after the commencement of this Order shall be permitted by this Order only to the extent specified in the sanction:

(ii) development sanctioned by the Secretary of State after the commencement of this Order, not being development by a local authority who are the local planning authority, shall not be permitted by this Order, unless the local authority or statutory undertaker, as the case may be, have on or before the date of application for sanction, or at such later date as the Secretary of State may in any particular case allow, notified the local planning authority of the application and have furnished the Secretary of State with a statement that this has been done.

For the purposes of this paragraph, development shall be deemed to be sanctioned by a government department including the Secretary of State if—

(*a*) any consent, authority or approval to or for the development is granted by the department in pursuance of any enactment;

(*b*) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;

(*c*) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for the purpose;

(*d*) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable; or

(*e*) any undertaking is given by the department to pay a grant in respect of the development in accordance with any enactment authorising the payment of such grants.

2. The erection of any overhead line for the supply of electricity authorised by the Minister of Fuel and Power before the appointed day.

Article 5

SECOND SCHEDULE

1. *Notification to be sent to Applicant on refusal of planning permission or on the grant of permission subject to conditions.* (To be endorsed on Notices of Decision.)

(1) If the applicant is aggrieved by the decision of the local planning authority to refuse permission for the proposed development, or to grant permission subject

to conditions, he may, by giving notice in writing within one month of the receipt of the notice of the aforesaid decision, appeal to the Secretary of State. The appeal should be addressed to the Secretary, Department of Health for Scotland, St. Andrew's House, Edinburgh, 1. A copy of the notice of appeal should at the same time be sent to the local planning authority. The Secretary of State will, if the applicant so desires, afford to the applicant an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose and the decision of the Secretary of State on the appeal will be final.

The Secretary of State is not, however, required to entertain such an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the provisions of section 12 of the Act and of the Town and Country Planning (General Development) (Scotland) Order, 1948, and to any directions given under the Order.

(2) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of such use by the carrying out of any development which has been or would be permitted, he may serve on the local planning authority in whose district the land is situated a purchase notice requiring that authority to purchase his interest in the land in accordance with Section 17 of the Town and Country Planning (Scotland) Act, 1947.

(3) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused, or granted subject to conditions, by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Sections 18 and 76 of the Town and Country Planning (Scotland) Act, 1947.

EXPLANATORY NOTE

(This Note is not part of this Order, but is intended to indicate its general purport.)

This Order is the general order, applicable to all land in Scotland, providing for the grant of planning permission for the development of land under the Town and Country Planning (Scotland) Act, 1947. Article 3 of the Order and the First Schedule deal with development which is permitted by the Order itself and Article 4 provides procedure for the withdrawal of such permission in particular circumstances. Articles 5 to 12 and the Second Schedule concern applications for permission made to local planning authorties. Special provision is made in relation to development near trunk roads by Articles 7 and 9 read with the definition of " development affecting trunk roads " in Article 2; and by Article 8 in relation to development not according with the development plan approved under Part II of the Act. Article 9 requires consultation in respect of certain types of application with persons and bodies likely to be affected. Article 10 deals with the procedure on reference of an application to the Secretary of State under Section 13 of the Act, and Article 11 with that on an appeal to him under Section 14. Provision is made by Article 12 for the keeping of a register of planning applications, which will be available for inspection by the public. (Section 12 (5) of the Act.)