



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART III **E+W**

#### CONTROL OVER DEVELOPMENT

##### *Meaning of development*

#### 55 **Meaning of “development” and “new development”.** **E+W**

- (1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

<sup>F1</sup>[(1A) For the purposes of this Act “building operations” includes—

- (a) demolition of buildings;
  - (b) rebuilding;
  - (c) structural alterations of or additions to buildings; and
  - (d) other operations normally undertaken by a person carrying on business as a builder.]
- (2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—
- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
    - (i) affect only the interior of the building, or
    - (ii) do not materially affect the external appearance of the building,and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;
  - (b) the carrying out on land within the boundaries of a road by a <sup>F2</sup>. . . highway authority of any works required for the maintenance or improvement of the road [<sup>F3</sup>but, in the case of any such works which are not exclusively for the

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maintenance of the road, not including any works which may have significant adverse effects on the environment];

- (c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
- (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;
- (e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;
- (f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.
- <sup>F4</sup>[(g) the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority.]

<sup>F5</sup>(2A) The Secretary of State may in a development order specify any circumstances or description of circumstances in which subsection (2) does not apply to operations mentioned in paragraph (a) of that subsection which have the effect of increasing the gross floor space of the building by such amount or percentage amount as is so specified.

(2B) The development order may make different provision for different purposes.]

- (3) For the avoidance of doubt it is hereby declared that for the purposes of this section—
  - (a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used;
  - (b) the deposit of refuse or waste materials on land involves a material change in its use, notwithstanding that the land is comprised in a site already used for that purpose, if—
    - (i) the superficial area of the deposit is extended, or
    - (ii) the height of the deposit is extended and exceeds the level of the land adjoining the site.
- (4) For the purposes of this Act mining operations include—
  - (a) the removal of material of any description—
    - (i) from a mineral-working deposit;
    - (ii) from a deposit of pulverised fuel ash or other furnace ash or clinker; or
    - (iii) from a deposit of iron, steel or other metallic slags; and
  - (b) the extraction of minerals from a disused railway embankment.

<sup>F6</sup>[(4A) Where the placing or assembly of any tank in any part of any inland waters for the purpose of fish farming there would not, apart from this subsection, involve development of the land below, this Act shall have effect as if the tank resulted from carrying out engineering operations over that land; and in this subsection—

“fish farming” means the breeding, rearing or keeping of fish or shellfish (which includes any kind of crustacean and mollusc);

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“inland waters” means waters which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows; and

“tank” includes any cage and any other structure for use in fish farming.]

- (5) Without prejudice to any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

<sup>F7</sup>(6) . . . . .

#### Subordinate Legislation Made

**P1** S. 55(2)(f); s. 55(2)(f) (with s. 333(7)) power exercised (5.7.1991) by [S.I. 1991/1567](#)

#### Textual Amendments

**F1** S. 55(1A) inserted (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **s. 13(1)** (with [s. 84\(5\)](#)); [S.I. 1992/1279](#), **art. 2** (with [art. 3](#))

**F2** Word in s. 55(2)(b) repealed (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. [118](#), [120](#), [121](#), [Sch. 6 para. 1](#), [Sch. 9](#) {with [s. 111](#)}; [S.I. 2006/1281](#), **art. 2**

**F3** Words in s. 55(2)(b) inserted (14.3.1999) by [S.I. 1999/293](#), **reg. 35(1)7**

**F4** S. 55(2)(g) inserted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **s. 13(2)** (with [s. 84\(5\)](#)); [S.I. 1991/2728](#), **art. 2**; [S.I. 1992/1279](#), **art. 2** (with [art. 3](#))

**F5** S. 55(2A)(2B) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 49(1)**, [121](#) (with [ss. 49\(4\)](#), [111](#)); [S.I. 2004/2097](#), **art. 2**; [S.I. 2006/1061](#), **art. 2**

**F6** S. 55(4A) inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **s. 14(1)(2)** (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), **art. 3** (subject to [art. 4](#))

**F7** S. 55(6) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. [31\(4\)](#), [84\(6\)](#), [Sch. 6 para. 9](#), [Sch. 19](#), [Pts. I, II](#) (with [s. 84\(5\)](#)); [S.I. 1991/2067](#), **art. 3**, [Sch. 1](#)

#### Modifications etc. (not altering text)

**C1** S. 55(2)(b) modified (24.9.2014) by [The Thames Water Utilities Limited \(Thames Tideway Tunnel\) Order 2014 \(S.I. 2014/2384\)](#), **arts. 1**, [51\(2\)](#)

## 56 Time when development begun. **E+W**

- (1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—

- (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
- (b) if the development consists of a change in use, at the time when the new use is instituted;
- (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).

- (2) For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.

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- (3) The provisions referred to in subsection (2) are sections [F<sup>8</sup>61L(5) and (7),] 85(2), 86(6), 87(4), [F<sup>9</sup>89] 91, 92 [F<sup>10</sup>, 94 and 108(3E)(c)(i)] .
- (4) In subsection (2) “material operation” means—
- (a) any work of construction in the course of the erection of a building;
  - F<sup>11</sup>[(aa) any work of demolition of a building;]
  - (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
  - (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);
  - (d) any operation in the course of laying out or constructing a road or part of a road;
  - (e) any change in the use of any land which constitutes material development.
- (5) In subsection (4)(e) “material development” means any development other than—
- (a) development for which planning permission is granted by a general development order [F<sup>12</sup>or a local development order] for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;
  - [F<sup>13</sup>(b) development of a class specified in paragraph 1 or 2 of Schedule 3; ] and
  - (c) development of any class prescribed for the purposes of this subsection.
- (6) In subsection (5) “general development order” means a development order (within the meaning of section 59) made as a general order applicable (subject to such exceptions as may be specified in it) to all land in England and Wales.

#### Textual Amendments

- F8** Words in s. 56(3) inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), **Sch. 12 para. 2(a)**; S.I. 2012/57, art. 4(1)(h) (with arts. 6, 7, 9-11); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2
- F9** Word in s. 56(3) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 32, 84(2)-(4), **Sch. 7 para. 10(1)** (with s. 84(5)); S.I. 1991/2067, art. 3 (subject to art. 4)
- F10** Words in s. 56(3) substituted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), **Sch. 12 para. 2(b)**; S.I. 2012/57, art. 4(1)(h) (with arts. 6, 7, 9-11); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2
- F11** S. 56(4)(aa) inserted (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, **Sch. 7 para. 10(2)** (with s. 84(5)); S.I. 1992/1279, art. 2 (with art. 3)
- F12** Words in s. 56(5)(a) inserted (6.8.2004 for specified purposes, 10.5.2006 for E. so far as not already in force, 30.4.2012 for W. so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 40(2)(a) (with s. 111); S.I. 2004/2097, art. 2; S.I. 2006/1061, art. 2(a); S.I. 2012/1100, art. 2
- F13** S. 56(5)(b) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31(4), 84(2)-(4), **Sch. 6 para. 10**; S.I. 1991/2067, art. 3 (subject to art. 4)

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**Modifications etc. (not altering text)**

**C2** S. 56 applied (with modifications) (3.11.1995) by [S.I. 1995/2863](#), reg. 3, [Sch.](#)

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