

SCOTTISH STATUTORY INSTRUMENTS

2021 No. 98

The Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Order 2021

Citation, commencement and application **S**

1.—(1) This Order may be cited as the Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Order 2021 and comes into force on 25 March 2021.

(2) This Order applies only to land specified in schedule 1.

Commencement Information

II Art. 1 in force at 25.3.2021, see [art. 1\(1\)](#)

Interpretation **S**

2.—(1) In this Order—

[^{F1}“border department” means any of—

- (a) the Commissioners for Her Majesty’s Revenue and Customs,
- (b) the [^{F2}Secretary of State for Business and Trade],
- (c) the Secretary of State for the Environment, Food and Rural Affairs, or
- (d) the Secretary of State for Transport,]

“building” includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building,

[^{F3}“ developer ” means the Scottish Ministers, a border department, or a person carrying out the development on behalf of the Scottish Ministers or a border department,]

“development” means development carried out, or proposed to be carried out, as the case may be, pursuant to the planning permission granted by article 3(1),

“engagement parties” means the persons and bodies specified in schedule 3,

“European site” has the meaning given in regulation 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994 ^{M1},

“goods” includes animals and plants,

“goods vehicle” means a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted,

“hard surfacing” includes any artificial surfacing and may be permeable or porous,

“reinstatement plan” means a plan detailing the reinstatement works and a method statement and timetable for carrying out the reinstatement works,

“reinstatement works” means the cessation of the use, and the removal of all buildings, for which planning permission is granted by article 3(1)(a) and (b) on a site and the restoration of the site to its condition before such development commenced, except as specified in a reinstatement plan approved by the Scottish Ministers,

“relevant approval” has the meaning given in article 4(1)(a),

“relevant owners and occupiers” means, in respect of a development—

- (a) those owners of the land adjacent to the site, and
- (b) those occupiers of the land adjacent to the site, or to roads that will be used by vehicles travelling to and from the site that are likely to be affected by the development,

“safety hazard area” means an area notified to the ^{F4}... planning authority—

- (a) by the Health and Safety Executive for the purposes of paragraph 3 of schedule 5 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 ^{M2}, or
- (b) by the Office for Nuclear Regulation for the purposes of paragraph 3A of that schedule,

“site” means the land on which a developer proposes to implement, or implements, as the case may be, the planning permission granted by article 3(1),

“site operator” means, in respect of a site, the person whose name is notified in writing from time to time to the Scottish Ministers as responsible for site operations,

“waste hierarchy” means the waste hierarchy set out in Article 4(1) of Directive 2008/98/EC of the European Parliament and of the Council on waste ^{M3}.

(2) Except when a contrary intention appears, any reference in this Order to the height of a building shall be construed as a reference to its height when measured from ground level,

(3) For the purposes of paragraph (2), “ground level” means the level of the surface of the ground immediately adjacent to the building in question or, where the level of the surface of the ground on which it is situated or is to be situated is not uniform, the level of the highest part of the surface of the ground adjacent to it.

(4) Any requirement of this Order—

- (a) on a developer to engage with engagement parties in respect of a development, or
- (b) to publish a document,

includes such use of hard copy, electronic means (including social media), or other forms of communication as the site operator or developer considers appropriate.

Textual Amendments

- F1** Words in art. 2(1) inserted (1.10.2021) by *The the Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Amendment Order 2021* (S.S.I. 2021/293), arts. 1, **3(a)**
- F2** Words in reg. 2(1) substituted (3.5.2023) by *The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023* (S.I. 2023/424), art. 1(2), **Sch. para. 68** (with art. 17)
- F3** Words in art. 2(1) substituted (1.10.2021) by *The the Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Amendment Order 2021* (S.S.I. 2021/293), arts. 1, **3(b)**
- F4** Word in art. 2(1) omitted (1.10.2021) by virtue of *The the Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Amendment Order 2021* (S.S.I. 2021/293), arts. 1, **3(c)**

Commencement Information

I2 Art. 2 in force at 25.3.2021, see **art. 1(1)**

Marginal Citations

M1 S.I. 1994/2716.

M2 S.S.I. 2013/155, as relevantly amended by S.I. 2014/469.

M3 OJ L No. 312, 22.11.2008, p.3.

Grant of planning permission for a limited period **S**

3.—(1) Subject to the provisions of this article and regulation 64 of the Conservation (Natural Habitats, &c.) Regulations 1994, planning permission is granted for—

- (a) the making of a material change in the use of any buildings or other land for the purpose of or in connection with—
 - (i) any activity that forms part of, or is incidental to, functions required to be carried out by or on behalf of the Scottish Ministers [^{F5}or a border department] in connection with vehicles (in particular goods vehicles) and goods entering or exiting, or that are about to enter or exit, Great Britain, including—
 - (aa) recording vehicles entering or exiting the site,
 - (bb) providing, reviewing, checking, endorsing and approving customs declarations, permits and other documents relating to vehicles and goods,
 - (cc) examining, seizing and detaining goods,
 - (dd) inspecting vehicles and goods for any other lawful purpose,
 - (ee) storing or holding goods carried in vehicles,
 - (ff) checking vehicles to ensure compliance with the conditions imposed by this Order ^{F6} ...,
 - (ii) the associated stationing of vehicles,
 - (iii) carrying out repairs to vehicles, where an examiner appointed pursuant to section 66A of the Road Traffic Act 1988 ^{M4} has—
 - (aa) examined the vehicle on the site,
 - (bb) determined, pursuant to section 69(1) of that Act ^{M5} (power to prohibit driving of unfit vehicles), that owing to any defects in the vehicle, it is, or is likely to become, unfit for service, and
 - (cc) prohibited the driving of the vehicle on a road,
- (b) the construction, installation, provision, operation, maintenance, improvement or alteration, decommissioning or removal of any buildings, and the carrying out of any works and earth modelling, required or provided in connection with the use of the site pursuant to sub-paragraph (a), including but not limited to the provision of—
 - (i) facilities for drivers of vehicles,
 - (ii) facilities for persons engaged in [^{F7}those activities described in sub-paragraph (a)(i)],
 - (iii) roads and other means of access,
 - (iv) any main, pipe, cable or other apparatus for the provision of water, gas, electricity or other services,
 - (v) any foul water and surface water drainage systems,

- (vi) hard surfacing,
- (vii) lighting,
- (viii) landscaping,
- (ix) noise attenuation measures,
- (x) security and reception facilities,
- (c) reinstatement works.
- (2) Planning permission is granted by paragraph (1) subject to—
 - (a) article 4,
 - (b) the conditions specified in schedule 2, and
 - (c) such other conditions as the Scottish Ministers may specify in a relevant approval.
- (3) This Order does not permit—
 - (a) schedule 1 development, as defined in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017^{M6}, unless the Scottish Ministers have directed under regulation 6(4) or 6(6) that the development is exempt from the requirements of those Regulations, or
 - (b) schedule 2 development, as defined in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, unless the Scottish Ministers have—
 - (i) made a screening direction under regulation 7(4) of those Regulations that the development is not EIA development, or
 - (ii) directed under regulation 6(4) or 6(6) that the development is exempt from the requirements of those Regulations.
- (4) Planning permission is granted by paragraph (1) subject to the requirement that—
 - (a) on the date falling 5 years after the date which is notified in terms of paragraph 25(b) of schedule 2 (the “notified date”), any use of the land so authorised is discontinued, and
 - (b) the developer shall carry out the reinstatement works specified in the reinstatement plan approved by the Scottish Ministers under Part 5 of schedule 2 before the date falling 6 years after the notified date.

Textual Amendments

- F5** Words in art. 3(1)(a)(i) inserted (1.10.2021) by [The the Town and Country Planning \(Cairnryan Border Control Posts\) \(EU Exit\) \(Scotland\) Special Development Amendment Order 2021 \(S.S.I. 2021/293\)](#), arts. 1, [4\(a\)\(i\)](#)
 - F6** Words in art. 3(1)(a)(i) omitted (1.10.2021) by virtue of [The the Town and Country Planning \(Cairnryan Border Control Posts\) \(EU Exit\) \(Scotland\) Special Development Amendment Order 2021 \(S.S.I. 2021/293\)](#), arts. 1, [4\(a\)\(ii\)](#)
 - F7** Words in art. 3(1)(b)(ii) substituted (1.10.2021) by [The the Town and Country Planning \(Cairnryan Border Control Posts\) \(EU Exit\) \(Scotland\) Special Development Amendment Order 2021 \(S.S.I. 2021/293\)](#), arts. 1, [4\(b\)](#)
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Commencement Information

- I3** [Art. 3](#) in force at 25.3.2021, see [art. 1\(1\)](#)

Marginal Citations

- M4** 1988 c.52. Section 66A was inserted by section 9(1) of the [Road Traffic Act 1991 \(c.4\)](#) and amended by [Good Vehicles \(Licensing of Operators\) Act 1995 \(c.23\)](#).
- M5** Section 69 was amended by section 12 of the [Road Traffic Act 1991 \(c.4\)](#).
- M6** S.S.I. 2017/102.

Relevant approvals **S**

- 4.—(1) No development on any site may commence unless—
- (a) a developer has made a written submission to the Scottish Ministers for approval for the use of the land and the operations comprised in the development (“relevant approval”),
 - (b) the Scottish Ministers have ascertained that the development is not likely to have a significant effect on a European site or European offshore marine site, either alone or in combination with other plans or projects, and
 - (c) the developer has obtained the relevant approval.
- (2) A submission made under paragraph (1)(a) must include—
- (a) the name of the developer by whom the submission is made and the name of the site operator,
 - (b) a plan, reproduced from or based on an Ordnance Survey map, drawn to an identified scale, which shows the location and boundary of the site to which the submission relates,
 - (c) a plan showing the maximum extent (in terms of height and area) and general layout of, and the means of access to, the development,
 - (d) details of any planning permission (including planning permission granted by another development order) that the developer proposes to rely on,
 - (e) a document confirming that the owners and occupiers of the site have been notified of the developer's intention to make a submission under paragraph (1)(a),
 - (f) a document identifying any other land in the vicinity of the site of which the developer is the owner,
 - (g) if the developer considers that it is likely to cease to need the planning permission granted by article 3(1)(a) and (b) on or by a date substantially earlier than when the planning permission would cease, that earlier date,
 - (h) an analysis of the likely environmental effects of the development,
 - (i) a screening report under the Conservation (Natural Habitats, & c.) Regulations 1994, and for the purposes of this sub-paragraph—
“screening report” means a report which includes an appraisal of whether the development, either alone or in combination with other plans or projects, is likely to have a significant effect on a European site or a European offshore marine site,
 - (j) a report which—
 - (i) summarises—
 - (aa) the methods used to engage with the engagement parties regarding the development,
 - (bb) the information provided to the engagement parties and when it was provided to them, and
 - (cc) the outcome of engagement with each engagement party, and
 - (ii) includes—

- (aa) a statement of the period given to each engagement party to make representations about the development, being not less than 21 days and beginning with the date on which they were invited to make such representations, and
- (bb) copies of the representations received from engagement parties,
- (k) an assessment of the traffic impacts of the development,
- (l) an assessment of the impacts of the development on any part of the site which is shown as safeguarded on a safeguarding map for the purposes of the Town and Country Planning (Safeguarded Aerodromes, Technical Sites, Meteorological Technical Sites and Military Explosives Storage Areas) (Scotland) Direction 2016 ^{M7},
- (m) a statement from the Health and Safety Executive and the Office of Nuclear Regulation (as appropriate) in respect of the development where the site or any part of it is in, or includes, a safety hazard area,
- (n) a statement including—
 - (i) a description of the development,
 - (ii) a summary of the planning history of the site,
 - (iii) identification of the national and local planning policies relevant to the site and the development, and
 - (iv) an assessment of any other material considerations which are relevant to the determination of the submission and which are, in the opinion of the developer, important to that determination.

(3) Where the Scottish Ministers are in receipt of a submission made under paragraph (1)(a) and they consider they have not been provided with sufficient information to determine whether to give the relevant approval, they must within the period of 21 days beginning with the date of receipt of the submission notify the developer of what further information or documents they require.

(4) Where a condition in schedule 2 requires the approval of the Scottish Ministers to be obtained in respect of any document or other matter, such approval may only be granted in relation to a site in respect of which a relevant approval has been obtained.

(5) Approval of any document or other matter pursuant to a condition of a relevant approval (including a condition in schedule 2) may be given subject to such further conditions as the Scottish Ministers consider appropriate in relation to the subject matter of the approval.

(6) Before approving any document or other matter pursuant to a condition of a relevant approval (including a condition in schedule 2), the Scottish Ministers may engage with such engagement parties as the Scottish Ministers consider appropriate.

(7) For the purposes of this article “European offshore marine site” has the meaning given in regulation 18 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 ^{M8}.

Commencement Information

I4 [Art. 4](#) in force at 25.3.2021, see [art. 1\(1\)](#)

Marginal Citations

M7 Contained in Planning Circular 2/2003 “Safeguarding of aerodromes, technical sites, meteorological technical sites, and military explosives storage areas”, available at www.gov.scot/publications/ or by contacting Scottish Government Planning and Architecture Division, Area 2H, Victoria Quay, Edinburgh, EH6 6QQ.

M8 [S.I. 2017/1013](#).

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A member of the Scottish Government

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Order 2021.