

1970 No. 1454

**TOWN AND COUNTRY PLANNING,
ENGLAND AND WALES**

**The Town and Country Planning (Determination of
appeals by appointed persons) (Prescribed Classes)
Regulations 1970**

<i>Made - - - -</i>	<i>1st October 1970</i>
<i>Laid before Parliament</i>	<i>8th October 1970</i>
<i>Coming into Operation</i>	<i>2nd November 1970</i>

The Minister of Housing and Local Government, in exercise of the powers conferred on him by sections 21 and 104 of the Town and Country Planning Act 1968(a) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Town and Country Planning (Determination of appeals by appointed persons) (Prescribed Classes) Regulations 1970 and shall come into operation on 2nd November 1970.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“the Act” means the Town and Country Planning Act 1968 ;

“the principal Act” means the Town and Country Planning Act 1962(b) ;

“the Minister concerned” means, except as respects Wales, the Minister of Housing and Local Government and, as respects Wales, the Secretary of State ; and “Wales” includes Monmouthshire ;

“local planning authority”, except in regulation 5, means—

(a) the local planning authority (within the meaning of section 2 of the principal Act) for the area in which the land is situate ;
or

(b) in relation to appeals affecting land within Greater London, the authority which, by virtue of section 24 of the London Government Act 1963(c), or of regulations made under that section, is the local planning authority in relation to the class of development concerned in the area of Greater London where the land is ;

(c) an authority exercising delegated functions on behalf of any such authority as is mentioned in (a) or (b) above—

as the case may be ;

 (a) 1968 c. 72.

(b) 1962 c. 38.

(c) 1963 c. 33.

“dwellinghouse” means a building used for residential purposes and includes a flat or other separate dwelling which is comprised in a larger building of which it forms part ;

“funfair” includes an amusement arcade or pintable saloon ;

“the General Development Order” means the Town and Country Planning General Development Order 1963(a) as amended ;

“local authority” has the meaning assigned to it by section 221(1) of the principal Act (as amended by section 29(5) of the London Government Act 1963) ;

“office” includes a bank, a betting office and premises used for the purposes of a building society, an estate agent or an employment agent ;

“operational land”, except in relation to land of the Post Office, has the meaning assigned to it by section 221(1) of the principal Act as affected by section 69 of the Act, and in relation to land of the Post Office means, subject to section 69 of the Act so far as applicable, land of the Post Office of any such class as may be specified in regulations made pursuant to paragraph 93(4) of Schedule 4 to the Post Office Act 1969(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 by retail, and includes a laundrette, fried food shop, roadside refreshments stall, restaurant, premises licensed for the sale of intoxicating liquors for consumption on or off the premises, a post office and a building used for the purposes of a hairdresser, undertaker, ticket or travel agency or for the reception of goods to be washed, cleaned or repaired, but does not include a building used as a funfair ;

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of electricity, gas, hydraulic power or water and includes the British Airports Authority, the Post Office and companies which are deemed to be statutory undertakers by virtue of section 141(2) of the Transport Act 1968(c).

(2) References in these regulations to the use of land or buildings for residential purposes shall be construed as excluding a use falling within any of Classes XI, XII, XIV or XVI of the Schedule to the Town and Country Planning (Use Classes) Order 1963(d) and references to development for residential purposes shall be construed accordingly.

(3) In paragraph 8 of Schedule 1 to these regulations, the reference to land does not include a building.

(4) For the purposes of Schedule 2 to these regulations, development or land is concurrently the subject of another appeal to the Minister concerned or of an application referred to him or of an order, where that appeal, application or order comes into the jurisdiction of the Minister concerned within the period of one month before or after the giving of notice of the appeal to which Schedule 1 of these regulations relates.

(5) The Interpretation Act 1889(e) applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(a) S.I. 1963/709 (1963 I, p. 862); the relevant amending instrument is S.I. 1969/276 (1969 I, p. 730).

(b) 1969 c. 48. (c) 1968 c. 73. (d) S.I. 1963/708 (1963 I, p. 857). (e) 1889 c. 63.

Classes of appeals for determination by appointed persons

3. Subject to the next following regulation, the Minister of Housing and Local Government hereby prescribes the following classes of appeals to be determined in accordance with the provisions of Part III of the Act by a person appointed for the purpose by the Minister concerned instead of by such Minister, namely, appeals under section 23 of the principal Act (appeals against planning decisions), as originally enacted or as applied by section 24 of that Act (appeal in default of planning decision) where the appeal relates to an application for planning permission to carry out development of land or for approval of matters reserved by a planning permission for development of land, being in either case development wholly within any one or more of the descriptions in the classes of appeals specified in Schedule 1 to these regulations.

Classes of appeals reserved for determination by the Minister concerned

4. The foregoing regulation shall not apply to any such appeal as is mentioned in that regulation if it relates to an application for planning permission to carry out development of land or for approval of matters reserved by a planning permission for development of land, being in either case development falling within any one or more of the classes of case specified in Schedule 2 to these regulations.

Publicity for directions under section 21(1) of the Act

5.—(1) For the purposes of this regulation “local planning authority” means either a London Borough Council or the Common Council of the City of London or a local planning authority within the meaning of section 2 of the principal Act, as the case may be.

(2) On the making by the Minister concerned of a direction under section 21 (1) of the Act he may by notice in writing enclosing a copy of the direction require the local planning authority of any area for which the direction has effect to publish as soon as may be a notice in at least one newspaper circulating in the area ; and this notice shall contain a concise statement of the effect of the direction and shall specify the place or places where a copy of the direction and (where the direction affects less than the whole of the area of the local planning authority) a map defining the area for which the direction has effect, may be seen at all reasonable hours.

Revocation and Saving

6. The Town and Country Planning (Determination of appeals by appointed persons) (Prescribed Classes) Regulations 1968(a) are hereby revoked but without prejudice to the validity of anything done thereunder, and any appeal of which notice was given before the coming into operation of these regulations shall be determined as if these regulations had not been made.

SCHEDULE 1

CLASSES OF APPEALS FOR DETERMINATION BY APPOINTED PERSONS

Appeals relating to applications in respect of development by operations

1. The erection, or the enlargement or other alteration, of a building or buildings for use as not more than 30 dwellinghouses.

(a) S.I. 1968/1972 (1968 III, p. 5378).

2. The development for residential purposes of land not exceeding 1 hectare (2.47 acres) in extent, where the application for planning permission does not specify the number of dwellinghouses to which it relates.

3. The erection, or the enlargement or other alteration of buildings to be used for or in connection with any of the following purposes:—

- (a) a shop ;
- (b) an office ;
- (c) a repository or warehouse ;
- (d) a hotel, boarding house, guest house, residential club, hostel or lodging house ;
- (e) a petrol filling station ;
- (f) the repair of motor vehicles or the garaging of private motor cars ;
- (g) religious worship or instruction ; or
- (h) the breeding, training or keeping of dogs, cats or horses,

if the aggregate floor space created by the development does not exceed 500 square metres (5,381.55 square feet) and the area of land to which the application relates does not exceed 8,000 square metres (9,567.2 square yards).

4. The formation, laying out or widening of a means of access.

5. The carrying out of building, engineering or other operations on land for a purpose ancillary or incidental to existing or proposed development of any kind specified in the foregoing or following classes.

Appeals relating to applications in respect of development by change of use

6. The change in the use of a building or buildings to use as not more than 30 dwellinghouses.

7. The change in the use of a building or buildings to use for or in connection with any purpose specified in Class 3 above, if the aggregate floor space used for such purpose does not exceed 500 square metres (5,381.55 square feet) and the area of land to which the application relates does not exceed 8,000 square metres (9,567.2 square yards).

8. The change in the use of land not exceeding 4,000 square metres (4,783.6 square yards) in extent to use for or in connection with any of the following purposes:—

- (a) the storage of materials, excluding scrap metal, refuse or waste materials ;
- (b) car parking ; or
- (c) the display and sale of motor vehicles.

SCHEDULE 2

CLASSES OF CASES EXCEPTED FROM SCHEDULE 1

Where the appeal relates to:—

1. Development to which a direction given by the Minister concerned under the provisions of article 8 of the General Development Order applies.

2. Development to which a direction given by the Minister of Transport or, in Wales, the Secretary of State under article 9(2) of the General Development Order applies.

3. Development by a local authority.

4. Development by statutory undertakers on operational land or on land in the case of which the circumstances mentioned in section 70(2) of the Act apply.

5. Development by the National Coal Board on land of a class specified in regulations made pursuant to section 204 of the principal Act.

6. Development for which planning permission has been refused by a local planning authority, or granted by them subject to conditions, where the local planning authority have included in their reasons for such decision the statement that such decision has been made following an expression of views, by a government department or new town development corporation, that the application should not be granted wholly or in part, or should be granted only subject to conditions.

7. Development where the same development or the same land is concurrently the subject or part of the subject of another appeal to the Minister concerned, not being an appeal within any of the classes specified in Schedule 1 to these regulations, or of an application referred to him, under any provisions of the Act or the principal Act, or of an order made under section 27 or 28 of the principal Act.

Given under the official seal of the Minister of Housing and Local Government on 1st October 1970.

(L.S.)

Peter Walker,
Minister of Housing and Local Government.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations revoke and re-enact, with amendments, the Town and Country Planning (Determination of appeals by appointed persons) (Prescribed Classes) Regulations 1968.

The principal amendments are in Schedule 1. They extend the prescribed classes of planning appeals which are to be determined by persons appointed for the purpose by the Minister of Housing and Local Government (in Wales and Monmouthshire, the Secretary of State) instead of being determined by the Minister or the Secretary of State.

Regulation 4 provides that certain excepted classes of appeals (set out in Schedule 2) which would otherwise fall within the prescribed classes are to continue to be determined by the Minister or the Secretary of State.

Regulation 5 provides for the advertisement by local planning authorities of any direction made by the Minister or the Secretary of State under section 21 (1) of the Town and Country Planning Act 1968 whereby specified classes of appeals are to be determined by him instead of by an appointed person.

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