
 STATUTORY INSTRUMENTS

1984 No. 237 (S. 20)

TOWN AND COUNTRY PLANNING, SCOTLAND

**The Town and Country Planning (General Development)
(Scotland) Amendment Order 1984**

<i>Made</i>	- - -	24th February 1984
<i>Laid before Parliament</i>		9th March 1984
<i>Coming into Operation</i>		14th May 1984

In exercise of the powers conferred on me by sections 21, 22, 23, 31 and 273 of the Town and Country Planning (Scotland) Act 1972 (a) and of all other powers enabling me in that behalf, I hereby make the following order:—

1.—(1) This Order may be cited as the Town and Country Planning (General Development) (Scotland) Amendment Order 1984 and the Town and Country Planning (General Development) (Scotland) Orders 1981 (b) and 1983 (c) and this order may be cited together as the Town and Country Planning (General Development) (Scotland) Orders 1981 to 1984.

(2) This order shall come into operation on 14th May 1984.

2. The Town and Country Planning (General Development) (Scotland) Order 1981 is hereby amended as follows:—

(a) in article 2(1) for the definition of “neighbouring land” there shall be substituted—

“ ‘neighbouring land’ means land which is conterminous with or within 4 metres of the boundary of land for which the development is proposed but only if any part of such land is within 90 metres of any part of the development in question:

Provided that—

(a) where the proposed development is taking place within a building divided into separate units “neighbouring land” shall include—

(i) those parts of the building conterminous with or within 4 metres of the unit for which the development is proposed, and

(ii) all units directly above and below the unit for which the development is proposed and all units directly above and below those parts of the building conterminous with or within 4 metres of the boundary of that unit, and

(iii) land outwith the building which is conterminous with or within 4 metres of the boundary of the unit for which the development is proposed.

(b) where the “neighbouring land” consists of or includes a building divided into separate units, and the proposed development is taking place within a building which is not divided into separate units, only those units of that building which are conterminous with

(a) 1972 c. 52; sections 22, 23 and 31 were amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), section 41 and Schedule 2, paragraphs 2 and 9 and Schedule 4.

(b) S.I. 1981/830.

(c) S.I. 1983/1620.

or are within 4 metres of the boundary of the land for which the development is proposed and all parts of the building directly above and below those units shall constitute neighbouring land;

(c) where the “neighbouring land” consists of or includes a building divided into separate units, and the proposed development is taking place within a building which is also divided into separate units, only those units of the former building which are conterminous with or are within 4 metres of the boundary of the unit for which the development is proposed and all parts of the building directly above and below those units shall constitute neighbouring land;

(d) where a road falls within the distance of 4 metres measured from the boundary of the land or the boundary of the unit (as the case may be) for which the development is proposed, the width of such road shall be disregarded in calculating the specified distance unless the road is more than 20 metres in width.”;

(b) article 5 shall cease to have effect;

(c) For article 7 there shall be substituted—

“Notification, certification and publication of applications

7.—(1) Subject to paragraph (4) of this Article an applicant for planning permission or for approval of reserved matters under Articles 8 and 9 shall serve on any party who holds a notifiable interest in neighbouring land and who has not been served in terms of section 24 of the Act with notice of the application a copy of the application together with a notice in the form set out in Part IV of Schedule 3 (or in a form substantially to the like effect) stating—

(a) that the plans or drawings relating to the application may be inspected in the register kept by the planning authority in terms of Article 17(1); and

(b) the address at which the plans may be so inspected if different from the address of the planning authority shown on the application; and

(c) the period within which the plans may be inspected.

(2) The parties holding a notifiable interest in neighbouring land are—

(a) in the case of lands and heritages entered in the valuation roll, the persons appearing therefrom to be the owners, lessees and occupiers of these lands and heritages; and

(b) in any other case, the owners, lessees and occupiers of the land.

(3) An application for planning permission or for approval of reserved matters in respect of which notice under this Article is required shall not be entertained by a planning authority or a regional planning authority unless it is accompanied by a certificate in the form set out in Part V of Schedule 3 (or in a form substantially to the like effect) stating—

(a) that notices have been served in terms of paragraph (1) of this Article; or

(b) that no notification in terms of paragraph (1) of this Article is required; or

- (c) that the applicant has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of all the parties holding a notifiable interest in neighbouring land, and either—
- (i) that the names and addresses of the parties holding a notifiable interest in neighbouring land have not been ascertained and no notice has been served in terms of paragraph (1) of this Article; or
 - (ii) that notices have been served in terms of paragraph (1) of this Article on one or more of the parties holding a notifiable interest in neighbouring land but that the names and addresses of the other parties holding a notifiable interest have not been ascertained;
- (d) where appropriate the names and addresses of all those parties having a notifiable interest in neighbouring land who have been notified in terms of paragraph (1) of this Article.

(4) Where neighbouring land is separated from the land on which the development is proposed by a road not exceeding 20 metres in width the planning authority may dispense with the requirements of this Article insofar as they relate to such land.

(5) (a) Where the applicant has submitted a certificate in terms of paragraph (3)(c) of this Article; or

(b) where the planning authority have dispensed with the requirements of this Article in accordance with paragraph (4) of this Article; or

(c) where the application relates to development of one or more of the classes specified in Schedule 2 which classes are hereby prescribed in terms of section 23(1)(b) of the Act for the purpose of publication as hereinafter mentioned;

the planning authority shall publish a notice (containing similar information to that required to be included in a notice served in accordance with paragraph (1) of this Article) in a newspaper circulating in the locality in which the neighbouring land is situated.

(6) The planning authority shall not be required to publish a notice in accordance with paragraph (5) of this Article where a notice has been published by the applicant in accordance with section 24(2) of the Act (a) (notification of applications to owners and agricultural tenants) or is required to be published by the planning authority in accordance with section 25(2)(a) of the Act (publicity for applications affecting conservation areas).

(7) Where the planning authority are required to publish a notice in a newspaper in accordance with paragraph (5) of this Article, the applicant shall pay the cost to be incurred by the planning authority in arranging such advertisement at the time of submitting his application and the planning authority shall as soon as practicable after the date when the application was received by them arrange for the notice to be published in the form set out in Part VI of Schedule 3 (or in a form substantially to the like effect).”

(d) For article 10(3) the following shall be substituted:—

“(3) Without prejudice to sections 24(4) and 25(3)(a) of the Act an application under Articles 8 and 9 to which Article 7 applies shall not

(a) 1972 c. 52; section 24(2) was amended by the Town and Country Planning (Minerals) Act 1981 (c. 36), section 21(3).

be determined until the expiry of a period of 14 days beginning with whichever of the following dates is the latest:—

- (a) the date on which the application was received by the planning authority, or
- (b) the date on which a notice in accordance with Article 7(5) was published by the planning authority;”;
- (e) In article 10(6)—
 - (i) after the words “For the purposes of this Article” there shall be inserted “Article 7”;
 - (ii) in sub-paragraph (a) after the words “in respect of the application” there shall be inserted “or where the applicant was required to pay the cost of advertisement in accordance with paragraph (7) of Article 7”, and for the words “was paid” there shall be substituted “or the cost of advertising or both were paid”.
- (f) In paragraphs (2)(b) and (4) of article 16 for the words “Article 7(4) or with section 23 of the Act and of the relevant certificate under that section” there shall be substituted “Article 7(3)”.
- (g) For Schedule 2 there shall be substituted—

“SCHEDULE 2

Article 7

The following are the classes of development specified for the purposes of paragraph 5(c) of Article 7:—

- (1) the construction of buildings for use as a public convenience;
- (2) the construction of buildings or other operations, or use of land, for the disposal of refuse or waste materials, or for the storage or recovery of re-usable metal;
- (3) the construction of buildings or other operations (other than the laying of sewers, the construction of pumphouses in a line of sewers, the construction of septic tanks and cesspools serving single dwelling-houses, or single buildings in which not more than 10 people will normally reside, work or congregate and works ancillary thereto) or use of land for the retention, treatment or disposal of sewage, trade-waste, or effluent;
- (4) the construction of buildings or other operations or use of land as a scrap yard or coal yard, or for the winning or working of minerals;
- (5) the construction of buildings or use of land for the purposes of a slaughter-house or knacker’s yard; or for the killing or plucking of poultry;
- (6) the construction of buildings and use of buildings for any of the following purposes, namely, as a theatre, cinema, music hall, dance hall, fun fair, bingo hall, casino, skating rink, swimming bath, gymnasium (not forming part of a school, college or university), building for indoor games, Turkish or other vapour or foam bath, licensed premises, or hot food shop;
- (7) the construction of buildings and the use of buildings or land as a zoo, or wildlife park, or for the business of boarding or breeding cats or dogs;
- (8) the construction of buildings and use of buildings or land as a crematorium, or use of land as a cemetery;
- (9) the construction of buildings and use of buildings or land for motor car or motor cycle racing;
- (10) construction of a building to a height exceeding 20 metres;

- (11) the construction of buildings, operations, and use of buildings or land which will alter the character of an area of established amenity;
 - (12) the construction of buildings, operations, and use of buildings or land which will introduce significant change into a homogeneous area;
 - (13) the construction of buildings, operations, and use of buildings or land which will affect residential property by reason of fumes, noise, vibration, smoke, artificial lighting, or the discharge of any solid or liquid substance;
 - (14) the construction of buildings, operations, or use of buildings or land which will bring crowds into a generally quiet area;
 - (15) the construction of buildings, operations, or use of buildings or land which will cause activity and noise between the hours of 8pm and 8am.”;
- (h) For Part IV of Schedule 3 there shall be substituted the following:—

“PART IV

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972
 TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT) (SCOTLAND) ORDERS
 1981 TO 1984

Notice under Article 7(1)

(a) Insert address or location of proposed development	Proposed development at (a)..... Notice is hereby given that application is being made to—
(b) Insert name of planning authority	(b)..... Council by (c).....
(c) Insert name of applicant
(d) Insert description of proposed development	for planning permission in respect of (d) A copy of the application is attached to this notice. The plans and other documents submitted with it may be inspected at all reasonable hours in the register of planning applications kept by the planning authority at the address of the planning authority shown on the application and also at *
(e) * Insert other address in the locality at which plans etc may be inspected	(e)..... during the period of 14 days beginning with the date of this notice. Any person who wishes to make representations to the above-mentioned Council about the application should make them in writing within that period to the Council at the address of the planning authority shown on the application.

Signed.....
 *On behalf of.....
 Date.....

* Delete where inappropriate.”

(i) After Part IV of Schedule 3 there shall be inserted—

“PART V

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT) (SCOTLAND) ORDERS
1981 TO 1984

Certificate under Article 7(3)

I hereby certify that:—

* I have
The applicant has in accordance with Article 7(3) given the requisite notice to all parties holding a notifiable interest in neighbouring land

OR

No notification is required in accordance with Article 7(3) since there are no parties holding a notifiable interest in neighbouring land

OR

* I have
The applicant has taken the steps listed below, being steps reasonably open to me to ascertain the names and addresses of the party holding a notifiable interest in neighbouring land but have been unable to ascertain the names and addresses of such party

OR

* I have
The applicant has in accordance with Article 7(3) given the requisite notice to such parties holding a notifiable interest in neighbouring land the names and addresses of which I have the applicant has been able to ascertain and I have the applicant has also taken the steps listed below, being steps reasonably open to me to ascertain the names and addresses of other parties holding a notifiable interest in neighbouring land as aforesaid but have been unable to ascertain the name and address of one or more of such parties.

*[The steps which have been taken are as follows:—

]

*[For the purposes of this certificate the planning authority have in accordance with Article 7(4) dispensed with the requirements contained in paragraph (3) of that Article in relation to ((a)) and this certificate is to be construed accordingly.]

*Delete where inappropriate

(a) Give details of neighbouring land to which dispensation applies.

The names and addresses of those parties having a notifiable interest who have been notified in terms of Article 7(1) are as follows:—

Name	Address
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Name of Applicant.....

Address.....Signature

Date *On behalf of:.....

If signature is not that of applicant or appellant give name and address of the signatory and the capacity in which he acts.

.....

*Delete where inappropriate

Under section 23(3) of the Town and Country Planning (Scotland) Act 1972 any person who knowingly or recklessly supplies a certificate in the above terms which is false or misleading in a material particular is guilty of an offence and liable on summary conviction to a fine not exceeding £200.

PART VI

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972
 TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT) (SCOTLAND) ORDERS
 1981 TO 1984

Notice to be published in accordance with Article 7(7)

- | | |
|---|--|
| (a) insert address of planning authority and any other address | Applications for planning permission listed below together with the plans and other documents submitted with them may be examined at (a) |
| (b) insert beginning and end of periods | between the hours of (b)..... |
| (c) insert days of week | on (c)..... |
| (d) insert Director of Planning or officer responsible for planning functions | Written comments may be made to (d)..... at the address below within 14 days from the date of publication of this notice. |

Address	Proposed development
(e)	(f)

- (e) For each application to be advertised insert postal address of proposed development

- (f) For each application to be advertised insert description of proposed development
- (g) Insert name of Director of Planning or officer responsible for planning functions (g).....
- (h) Insert address to which written comments should be sent (h).....”

George Younger,
One of Her Majesty's
Principal Secretaries of State.

New St Andrew's House,
Edinburgh.
24th February 1984.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Town and Country Planning (General Development) (Scotland) Order 1981.

Section 41 of the Local Government and Planning (Scotland) Act 1982, which will come into operation on the same date as the order, amends section 23 of the Town and Country Planning (Scotland) Act 1972 by substitution of a new provision to the effect that a development order may provide for applications for planning permission and similar approvals, consents or agreements to be subject to specified forms of, and procedures for, notification and publicity. This order prescribes new forms and procedures which replace those set out in the 1981 order and in section 23 of the 1972 Act prior to its amendment.

The principal changes are—

- (a) the definition of neighbouring land in article 2(1) of the 1981 Order has been expanded to make clear how it applies where the development is taking place within a building divided into separate units, and how it applies where the neighbouring land is divided into separate units. The definition has also been extended to provide that where a road falls within 4 metres of where the development is taking place, the width of the road shall be disregarded in calculating the distance between the land on which the development is taking place and neighbouring land, unless the road is more than 20 metres in width;
- (b) the requirement placed on applicants by way of article 7 of the 1981 Order to notify all those with a notifiable interest in neighbouring land has been extended to applicants for permission or approval in respect of developments specified in article 5(1) of that order, now specified in Schedule 2 to the order as amended. Thus notification of neighbours is required in respect of all applications for planning permission or for approval of reserved matters under articles 8 and 9. The requirement placed by section 23 of the 1972 Act prior to its amendment on applicants for planning permission in respect of development of a kind specified in article 5(1) of the 1981 Order to post a notice on the land to which the application relates has now been dispensed with, but notices of such applications must continue to be published in a local newspaper;
- (c) the certificate of neighbour notification formerly made in accordance with article 7(4) of the 1981 Order and now to be made in accordance with article 7(3) of the order as amended has been expanded to require the applicant to specify the names and addresses of those whom he has notified and the steps he has taken if he has failed to ascertain the names and addresses of all parties with a notifiable interest in neighbouring land;
- (d) article 7(4) of the 1981 Order as amended enables planning authorities to dispense with the requirement to notify those with a notifiable interest in neighbouring land, where the neighbouring land is separated from the land on which the development is proposed by a road not exceeding 20 metres in width. Under article 7(5) of the order as amended if this power of dispensation is exercised, notice of the application must be published in a local newspaper; and

(e) where notice of an application is required to be published in a newspaper, the planning authority, rather than as previously the applicant, must publish the notice. Under article 7(7) of the 1981 Order as amended the applicant is required to pay the cost to be incurred by the planning authority in arranging such advertisement at the time of submitting his application.

Minor consequential amendments have been made to articles 10(3) and 16 of the 1981 Order and article 10(6)(a) of the order has been adjusted to provide that in cases where a planning application is to be advertised the date when an application is taken to have been received shall not be before the date of payment to the planning authority of the cost of advertisement in a local newspaper.

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