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Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

1972 CHAPTER 52

PART III

GENERAL PLANNING CONTROL

Determination by . . .^{F1} planning authorities of applications for planning permission

Textual Amendments

F1 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

26 Determination of applications.

- (1) Subject to the provisions of sections 23 to 25 of this Act, and to the following provisions of this Act, where an application is made to a . . .^{F2} planning authority for planning permission, that authority, in dealing with the application, shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations, and—
 - (a) subject to [^{F3}sections 38 and 39] of this Act, may grant planning permission, either unconditionally or subject to such conditions as they think fit; or
 - (b) may refuse planning permission.
- (2) In determining any application . . .^{F4} to which section 23 of this Act applies, the . . .^{F2} planning authority shall take into account any representations relating to that application which are received by them before [^{F5}the expiry of any period prescribed under subsection (1)(h) of that section.]
- (3) Where an application for planning permission is accompanied by such a certificate as is mentioned in subsection (1)(b), (c) or (d) of section 24 of this Act, or by a certificate

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containing a statement in accordance with subsection (3)(b) of that section, the . . . ^{F2} planning authority—

- (a) in determining the application, shall take into account any representations relating thereto which are made to them, before the end of the period mentioned in subsection (4) of that section, by any person who satisfies them that he is an owner of any land to which the application relates or that he is the tenant of an agricultural holding any part of which is comprised in that land; and
- (b) shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with the preceding paragraph.

- (4) In determining any application for planning permission to which section 25 of this Act applies, the . . . ^{F2} planning authority shall take into account any representations relating to the application which are received by them before the periods mentioned in subsection (3) of that section have elapsed.

[^{F6}(4A) When granting an application for planning permission as regards any building or premises in relation to which a duty is imposed by any of sections 4, 5 and 7 to 8A of the ^{M1}Chronically Sick and Disabled Persons Act 1970 (facilities at premises open to the public to include, where reasonable and practicable, provision for the needs of the disabled etc.) the planning authority shall ensure that the applicant is aware of such duty.]

- (5) Before a . . . ^{F2} planning authority grant planning permission for the use of land as a caravan site, they shall, unless they are also the authority having power to issue a site licence for that land, consult the local authority having that power.
- (6) In this section “site licence” means a licence under Part I of the ^{M2}Caravan Sites and Control of Development Act 1960 authorising the use of land as a caravan site and “owner” and “agricultural holding” have the same meanings as in section 24 of this Act.

Textual Amendments

- F2** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F3** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 53\(1\), Sch. 11 Pt. II para. 54](#)
- F4** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 69\(2\), Sch. 4 Pt. I](#)
- F5** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 69\(2\), Sch. 2 para. 5](#)
- F6** [S. 26\(4A\)](#) inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), s. 36](#)

Marginal Citations

- M1** 1970 c. 44.
- M2** 1960 c. 62.

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VALID FROM 25/09/1991

[^{F7}26A Power of planning authority to decline to determine applications.

- (1) A planning authority may decline to determine an application for planning permission for the development of any land if—
 - (a) within the period of two years ending with the date on which the application is received, the Secretary of State has refused a similar application referred to him under section 32 of this Act or has dismissed an appeal against the refusal of a similar application; and
 - (b) in the opinion of the authority there has been no significant change since the refusal or, as the case may be, dismissal mentioned in paragraph (a) of this subsection in the development plan, so far as material to the application, or in any other material considerations.
- (2) For the purposes of this section an application for planning permission for the development of any land shall only be taken to be similar to a later application if the development and the land to which the applications relate are in the opinion of the planning authority the same or substantially the same.
- (3) The reference in subsection (1)(a) of this section to an appeal against the refusal of an application includes an appeal under section 34 in respect of an application.]

Textual Amendments

- F7** S. 26A inserted (25.9.1991 subject to limitations as mentioned in S.I. 1991/2092, art. 4, **Sch. 2 Pt. II**) by **Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 47(1)** (with s. 84(5)); S.I. 1991/2092, **art.3**

VALID FROM 25/09/1991

[^{F8}26B Assessment of environmental effects.

- (1) The Secretary of State may by regulations under this Act make provision about the consideration to be given, before planning permission for development of any class specified in the regulations is granted, to the likely environmental effects of the proposed development.
- (2) The regulations—
 - (a) may make the same provision as, or provision similar or corresponding to, any provision made, for the purposes of any Community obligation of the United Kingdom about the assessment of the likely effects of development on the environment, under section 2(2) of the ^{M3}European Communities Act 1972; and
 - (b) may make different provisions for different classes of development.
- (3) Where a draft of regulations made in exercise both of the power conferred by this section and the power conferred by section 2(2) of the European Communities Act 1972 is approved by resolution of each House of Parliament, no statutory instrument

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containing such regulations shall be subject to annulment by virtue of subsection (2) of section 273 (regulations and orders) of this Act.]

Textual Amendments

F8 S. 26B expressed to be inserted after s. 26 (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), **s.48** (with s. 84(5)); S.I. 1991/2092, **art.3**

Marginal Citations

M3 1972 c. 68.

27 Conditional grant of planning permission.

(1) Without prejudice to the generality of section 26(1) of this Act, conditions may be imposed on the grant of planning permission thereunder—

- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the . . . ^{F9} planning authority to be expedient for the purposes of or in connection with the development authorised by the permission;
- (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period:

Provided that conditions may not be imposed by a . . . ^{F9} planning authority under paragraph (a) of this subsection for regulating the development or use of any land within the area of another . . . ^{F9} planning authority except with the consent of that authority.

(2) [^{F10}Subject to section 41A(6) of this Act, any] planning permission granted subject to such a condition as is mentioned in subsection (1)(b) of this section is in this Act referred to as “planning permission granted for a limited period”.

(3) Where—

- (a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition (not being a condition attached to the planning permission by or under section 38 or 39 of this Act); and
- (b) any building or other operations are commenced after the time so specified, the commencement and carrying out of those operations do not constitute development for which that permission was granted.

Textual Amendments

F9 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **s. 172(2)**

F10 Words substituted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), **Sch. 2 para. 1**

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Modifications etc. (not altering text)

C1 S. 27(1)(a) modified by S.I. 1984/996, art. 2, Sch.

[^{F11}27A Aftercare conditions on permission for winning and working of minerals.

- (1) Where planning permission for development consisting of the winning and working of minerals is granted subject to a restoration condition, it may be granted subject also to any such aftercare condition as the planning authority think fit.
- (2) In this Act—
 - “restoration condition” means a condition requiring that after operations for the winning and working of minerals have been completed, the site shall be restored by the use of any or all of the following, namely, subsoil, topsoil and soil-making material; and
 - “aftercare condition” means a condition requiring that such steps shall be taken as may be necessary to bring land to the required standard for whichever of the following uses is specified in the condition, namely—
 - (a) use for agriculture;
 - (b) use for forestry; or
 - (c) use for amenity.
- (3) An aftercare condition may either—
 - (a) specify the steps to be taken; or
 - (b) require that the steps be taken in accordance with a scheme (in this section referred to as an “aftercare scheme”) approved by the planning authority.
- (4) A planning authority may approve an aftercare scheme in the form in which it is submitted to them or may modify it and approve it as modified.
- (5) The steps that may be specified in an aftercare condition or an aftercare scheme may consist of planting, cultivating, fertilising, watering, draining or otherwise treating the land.
- (6) Where a step is specified in a condition or a scheme, the period during which it is to be taken may also be specified, but no step may be required to be taken after the expiry of the aftercare period.
- (7) In subsection (6) of this section “the aftercare period” means a period of five years from compliance with the restoration condition or such other maximum period after compliance with that condition as may be prescribed; and in respect of any part of a site, the aftercare period shall commence on compliance with the restoration condition in respect of that part.
- (8) The power to prescribe maximum periods conferred by subsection (7) of this section includes power to prescribe maximum periods differing according to the use specified.
- (9) In a case where—
 - (a) the use specified is a use for agriculture; and
 - (b) the land was in use for agriculture at the time of the grant of the planning permission or had previously been used for that purpose and had not at the time of the grant been used for any authorised purpose since its use for agriculture ceased; and

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- (c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture, the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.
- (10) In any other case where the use specified is a use for agriculture the land is brought to the required standard when it is reasonably fit for that use.
- (11) Where the use specified is a use for forestry, the land is brought to the required standard when it is reasonably fit for that use.
- (12) Where the use specified is a use for amenity, the land is brought to the required standard when it is suitable for sustaining trees, shrubs or plants.
- (13) Before imposing an aftercare condition in a case where the use specified in the condition is for forestry, the planning authority shall consult the Forestry Commission as to whether it is appropriate to specify that use.
- (14) Where after consultations required by subsection (13) of this section the planning authority are satisfied that the use that they ought to specify is a use for forestry, they shall consult the Forestry Commission with regard to whether the steps to be taken should be specified in the aftercare condition or in an aftercare scheme.
- (15) The planning authority shall also consult the Forestry Commission—
- (a) as to the steps to be specified in an aftercare condition which specifies a use for forestry; and
 - (b) before approving an aftercare scheme submitted in accordance with an aftercare condition which specifies such a use.
- (16) The planning authority shall also, from time to time as they consider expedient, consult the Commission as to whether the steps specified in an aftercare condition or an aftercare scheme are being taken.
- (17) On the application of any person with an interest in land in respect of which an aftercare condition has been imposed the planning authority, if they are satisfied that the condition has been complied with, shall issue a certificate to that effect.
- (18) A person who has complied with an aftercare condition but who has not himself carried out any operations for the winning and working of minerals in, on or under the land shall be entitled, subject to any condition to the contrary contained in a contract which is enforceable against him by the person who last carried out such operations, to recover from that person any expenses reasonably incurred by him in complying with the aftercare condition.
- (19) In this section “authorised” means authorised by planning permission and “forestry” means the growing of a utilisable crop of timber.]

Textual Amendments

F11 S. 27A inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), s. 22

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28 Directions, etc. as to method of dealing with applications.

(1) Subject to the provisions of section 26(2) to (5) of this Act, provision may be made by a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by . . .^{F12} planning authorities, and in particular—

- (a) for enabling the Secretary of State to give directions restricting the grant of planning permission by the . . .^{F12} planning authority, either indefinitely or 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;
- (b) for authorising the . . .^{F12} planning authority, in such cases and subject to such conditions as may be prescribed by the order, or by directions given by the Secretary of State thereunder, to grant planning permission for development which does not accord with the provisions of the development plan;
- (c) for requiring the . . .^{F12} planning authority, before granting or refusing planning permission for any development, to consult with such authorities or persons as may be prescribed by the order or by directions given by the Secretary of State thereunder;
- (d) for requiring the . . .^{F12} planning authority to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
- [^{F13}(dd) for requiring the planning authority to give any applicant for any consent, agreement or approval required by a condition imposed on a grant of planning permission notice of their decision on his application, within such time as may be so prescribed;]
- (e) for requiring the . . .^{F12} planning authority to give to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to the authority, including information as to the manner in which any such application has been dealt with.

[^{F14}(2) The provisions of paragraphs (d) and (e) of subsection (1) above shall apply in relation to applications for an approval required by a development order as they apply in relation to applications for planning permission.]

[^{F15}(3) In this section “planning authority” includes a regional planning authority.]

Textual Amendments

F12 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F13 [S. 28\(dd\)](#) inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\), Sch. 2 para. 6\(a\)](#)

F14 [S. 28\(2\)](#) as originally enacted repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#) and a new [s. 28\(2\)](#) added by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\), Sch. 2 para. 6\(b\)](#)

F15 [S. 28\(3\)](#) as originally enacted repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#) and a new [s. 28\(3\)](#) added by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\), Sch. 2 para. 6\(c\)](#)

Modifications etc. (not altering text)

C2 [S. 28](#) extended by [S.I. 1988/1221, art. 5](#)

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[^{F16}28A Permission to develop land without compliance with conditions previously attached.

- (1) This section applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
- (2) Special provision may be made with respect to such applications—
 - (a) by regulations under section 22 of this Act as regards the form and content of the application, and
 - (b) by a development order as regards the procedure to be followed in connection with the application.
- (3) On such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—
 - (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
 - (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- (4) This section does not apply where the application is made after the previous planning permission has become time-expired, that is to say, the previous permission having been granted subject to a condition as to the time within which the development to which it related was to have begun, that time has expired without the development having been begun.]

Textual Amendments

F16 S. 28A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(1), [Sch. 11 Pt. II para. 31](#)

29 Permission to retain buildings or works or continue use of land.

- (1) An application for planning permission may relate to buildings or works constructed or carried out, or a use of land instituted, before the date of the application, whether [^{F17}—
 - (a)] the buildings or works were constructed or carried out, or the use instituted, without planning permission or in accordance with planning permission granted for a limited period [^{F18}; or
 - (b) the application is for permission to retain the buildings or works, or continue the use of land, without complying with some condition subject to which a previous planning permission was granted.]
- (2) Any power to grant planning permission to develop land under this Act shall include power to grant planning permission for the retention on land of buildings or works constructed or carried out, or for the continuance of a use of land instituted, as mentioned in subsection (1) of this section; and references in this Act to planning permission to develop land or to carry out any development of land, and to applications for such permission, shall be construed accordingly:

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Provided that this subsection shall not affect the construction of section 23, 25, 26(2) or (4), or 57, . . . ^{F19} or of Part VII of this Act.

- (3) Any planning permission granted in accordance with subsection (2) of this section may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or (in the case of buildings or works constructed or carried out or a use instituted in accordance with planning permission granted for a limited period) so as to take effect from the end of that period, as the case may be.

Textual Amendments

- F17** Word inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\)](#), [Sch. 2 para. 7\(a\)](#)
- F18** Words added by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\)](#), [Sch. 2 para. 7\(b\)](#)
- F19** Words repealed by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(2), [Sch. 12 Pt. IV](#)

30 Provisions as to effect of planning permission.

- (1) Without prejudice to the provisions of this Part of this Act as to the duration, revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein.
- (2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.

[^{F20}30A Date of planning permission.

The date of the granting or of the refusal of any such application as is mentioned in section 23(2) of this Act shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.]

Textual Amendments

- F20** [S. 30A](#) inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\)](#), s. 69(2), [Sch. 2 para. 8](#)

31 Information regarding, and registers of, applications and decisions.

- (1) ^{F21}
- (2) Every . . . ^{F22} planning authority shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect to applications for planning permission made to that authority, including information as to the manner in which such applications have been dealt with. . . ^{F23} ^{F24} and also containing such information as may be so prescribed with respect to simplified planning zone schemes relating to zones in the authority's area].
- (2A) ^{F25}

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- (3) a development order may make provision for the register to be kept in two or more parts, each part containing such information relating to applications for planning permission made to the authority as may be prescribed by the order, and may also make provision—
- (a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted therewith; and
 - (b) for the entry relating to any application, and every thing relating thereto, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of, without prejudice to the inclusion of any different entry relating thereto in another part of the register.
- (4) Every register kept under this section shall be available for inspection by the public at all reasonable hours.
- [^{F26}(5) The provisions of this section shall apply in relation to applications for an approval required by a development order as they apply in relation to applications for planning permission.]

Textual Amendments

- F21** S. 31(1) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\)](#), s. 69(2), **Sch. 4 Pt. I**
- F22** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **s. 172(2)**
- F23** Words repealed by [Local Government, Planning and Land Act 1980 \(c.65\)](#), **Sch. 34 Pt. XI**
- F24** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), 26(3), **Sch. 6 Pt. IV para. 1**
- F25** S. 31(2A) repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), **Sch. 34 Pt. XI**
- F26** S. 31(5) added by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\)](#), s. 69(2), **Sch. 2 para. 9**

[^{F27}**31A Power of planning authorities to vary planning permission.**

Notwithstanding any other provision of this Part of this Act, a planning authority may, at the request of the grantee or of a person acting with his consent, vary any planning permission granted by them, if it appears to them that the variation sought is not material.]

Textual Amendments

- F27** S. 31A inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\)](#), **s. 46**

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