

1974 No. 459

**TOWN AND COUNTRY PLANNING,
ENGLAND AND WALES**
**The Town and Country Planning (Transitional Provisions)
Order 1974**

<i>Made</i>	- - -	13th March 1974
<i>Laid before Parliament</i>		27th March 1974
<i>Coming into Operation</i>		1st April 1974

The Secretary of State for the Environment, in relation to England, and the Secretary of State for Wales, in relation to Wales, in exercise of the powers conferred upon them by section 254(1) and (2)(a), (c), (d) and (h) of the Local Government Act 1972(a) and of all other powers enabling them in that behalf, hereby make the following order:—

1. This order may be cited as the Town and Country Planning (Transitional Provisions) Order 1974 and shall come into operation on 1st April 1974.

2. This order does not apply to Greater London.

3.—(1) The Interpretation Act 1889(b) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(2) In this order—

“the Act” means the Local Government Act 1972;

“the Act of 1971” means the Town and Country Planning Act 1971(c);

“existing” means existing immediately before 1st April 1974;

“land” has the same meaning as in the Act of 1971;

“Wales” means the area consisting of the counties established by section 20 of the Act (new local government areas in Wales), and “England” does not include any area included in any of those counties.

4.—(1) Any application relating to land in the area of a district planning authority for—

(a) planning permission or for any consent or approval under the Act of 1971 or any order or regulation made, or having effect as if made, under that Act (except an application for consent under a tree preservation order);

(b) a determination under section 53 of the Act of 1971 (applications to determine whether planning permission required);

(a) 1972 c. 70.
(c) 1971 c. 78.

(b) 1889 c. 63.

- (c) a certificate under section 94 of the Act of 1971 (certification of established use);
- (d) a certificate under section 17 of the Land Compensation Act 1961(a) (certification of appropriate alternative development);
- (e) a determination under section 2(1) of the Building Restrictions (War-Time Contraventions) Act 1946(b) (power to sanction war-time non-compliance with building laws or planning control);

made to an existing local planning authority before 1st April 1974 and not determined before that date shall be treated as having been made to that district planning authority on that date.

(2) Any period within which a local planning authority are required to give notice to an applicant of their decision or determination or of the reference of an application to the Secretary of State shall be treated as commencing on the date on which the application was made to the existing local planning authority.

(3) The district planning authority shall as soon as practicable notify the applicant of the name of the local planning authority to whom is transferred the function of determining an application to which paragraph 1 of this article applies except where this has already been done by or on behalf of an existing local planning authority.

(4) Any action taken by an existing local planning authority before 1st April 1974 in relation to such an application shall be treated as from that date as having been taken by the local planning authority to which the function of determining the application is transferred, except that where the existing local planning authority has consulted any other local authority which ceases to exist on that date about the application the local authority by whom the relevant function of that other local authority is exercisable on and after 1st April 1974 may require to be consulted.

(5) An application for planning permission made to an existing local planning authority by an existing county district council before 1st April 1974 and not determined before that date shall be treated as a proposal for development by the local authority by whom the function to which the planning permission applied for would relate becomes exercisable on and after that date.

(6) Any direction by the Secretary of State under paragraphs 4 and 7 of the Town and Country Planning (Development Plans) Direction 1965 to an existing local planning authority requiring an application to be made to him for permission for development by that authority which has not been complied with before 1st April 1974 shall have effect as if it required the local authority by whom the function to which the development relates becomes exercisable on and after that date to make such application for permission; and an application for permission made by an existing local planning authority in compliance with such a direction before 1st April 1974 and not determined before that date shall be treated as if made by that local authority.

(7) An application for planning permission made before 1st April 1974 by an existing local planning authority to the Secretary of State under regulation 11(2) of the Town and Country Planning General Regulations 1969(c) and not determined before that date shall be treated as if made by the local authority by whom the function to which the planning permission applied for would relate becomes exercisable on and after that date.

(a) 1961 c. 33.

(b) 1946 c. 35.

(c) S.I. 1969/286 (1969 I, p. 766).

5.—(1) Any order made before 1st April 1974 by or on behalf of an existing local planning authority under section 60 of the Act of 1971 (tree preservation orders), or having effect as if so made, shall have effect as if it had been made

(a) by the county planning authority or the district planning authority in whose area the land to which the order relates is situate as agreed before 1st April 1974 between those authorities (except in the case of any order made by the existing Lake District Planning Board or Peak Park Planning Board), or

(b) where there is no such agreement before 1st April 1974, in the case of an order made by the council of an existing county, by the county planning authority in whose area the land is situate or, if more than one, insofar as it relates to any part of the land, by the county planning authority in whose area such part is situate; in the case of an order made by the council of an existing county borough or of an existing county district acting on behalf of the council of an existing county, by the district planning authority in whose area the land is situate or, if more than one, insofar as it relates to any part of the land, by the district planning authority in whose area such part is situate; and in the case of an order made by the existing Lake District Planning Board or Peak Park Planning Board, by the Lake District Special Planning Board for the Lake District National Park or the Peak Park Joint Planning Board for the Peak District National Park, as the case may be.

(2) Any register of applications for consent required to be kept by or on behalf of an existing local planning authority under a tree preservation order shall be delivered on 1st April 1974 to the local planning authority to whom the relevant order is transferred under paragraph (1) of this article or, if more than one, such part of the register (or if this is not practicable, a copy of such part of the register) as relates to the area of each such local planning authority shall be delivered to that authority.

6. Any notice served under section 65 of the Act of 1971 (proper maintenance of waste land) before 1st April 1974 shall have effect on and after that date

(a) if served or having effect as if served by an existing county council, as if it had been served by the county council in whose area the land to which it relates is situate or, if more than one, insofar as it relates to any part of the land, by the county council in whose area such part of the land is situate; and

(b) if served or having effect as if served by the council of an existing county borough or by the council of an existing county district on behalf of an existing county council, as if it had been served by the district council in whose area the land is situate or, if more than one, insofar as it relates to any part of the land, by the district council in whose area such part is situate.

7. Any order made before 1st April 1974 by an existing local authority under section 121 of the Act of 1971 (appropriation of land forming part of a common etc.), or having effect as if so made, to appropriate land shall have effect as if it had been made by the authority in whom the land is vested on 1st April 1974 and as if the purpose for which the land is authorised to be appropriated were a purpose for which that authority might be authorised to acquire land under an enactment.

8. Any agreement entered into by an existing local authority, or having effect as if entered into by such an authority, in pursuance of their powers under section 34 of the Town and Country Planning Act 1932(a) (power to enter into agreements restricting use of land) and in force on 1st April 1974 shall have effect on and after that date as if it had been entered into by the district council in whose area the land to which the agreement relates is situate, if more than one, insofar as it relates to any part of the land, by the district council in whose area that part is situate.

9.—(1) Any register required to be kept by or on behalf of an existing local planning authority which relates to an area wholly within the area of a district planning authority, shall be delivered on 1st April 1974 to that district planning authority and shall form part of the register for the area of that authority.

(2) Any register required to be kept by or on behalf of an existing local planning authority which relates to an area within the areas of more than one district planning authority, shall be delivered on 1st April 1974 to the district planning authority in whose area is situate the larger or largest part, as the case may be, of the area to which the register relates.

(3) A district planning authority to whom a register is delivered under paragraph (2) of this article shall within one month deliver to any other district planning authority to whose area any portion of the register relates such portion of the register or, where it is not practicable to deliver such portion, copies of such portion as relate to the area of that other district planning authority and the district planning authority to whom any register, portion of register or copy which relates to their area is delivered shall include the contents of any such register, portion of register or copy in the register required to be kept by them.

(4) In this article “register” means a register required to be kept under section 34 of the Act of 1971 or under regulation 31 of the Town and Country Planning (Control of Advertisements) Regulations 1969(b) and includes any portion of such a register.

10.—(1) Except where otherwise provided by the Act or by this order, any of the following things done before 1st April 1974 by or to or on or in relation to an existing local planning authority, or having effect as if so done, that is to say— any order, direction, written agreement or other instrument in writing, permission, approval, determination, consent, notice, certificate, proceeding (including appearance at any inquiry or hearing) or decision made, entered into, taken, given or served—

- (i) which relates wholly or in part to a county matter shall have effect as if done by, to, on or in relation to the county planning authority in whose area the land to which it relates is situate or, if more than one, insofar as it relates to any part of the land, the county planning authority in whose area such part is situate; and
- (ii) which relates wholly to matters other than county matters (except in relation to a National Park) shall have effect as if done by, to, on or in relation to the district planning authority in whose area the land to which it relates is situate or, if more than one, insofar as it relates to any part of the land, the district planning authority in whose area such part is situate, and (in relation to a National Park except the Lake District National Park and the Peak District National Park) shall have effect as if done by, to, on or in relation

(a) 1932 c. 48.

(b) S.I. 1969/1532 (1969 III, p. 4962).

to the county planning authority in whose area such part is situate or, if more than one, insofar as it relates to any part of the land, the county planning authority in whose area such part is situate.

(2) In this article "county matter" has the meaning in relation to all matters which is assigned to that term in relation to certain matters in paragraph 32 of Schedule 16 to the Act.

12th March 1974.

Anthony Crosland,
Secretary of State for the Environment.

13th March 1974.

John Morris,
Secretary of State for Wales.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes transitional provisions consequential on the Local Government Act 1972 in relation to the control of development under the Town and Country Planning Act 1971. These provisions are rendered necessary by the establishment of new local planning authorities in England and Wales on 1st April 1974. The Order does not apply to Greater London.

The principal matters covered by this Order are:—

- (a) any application for a permission, consent or determination made to an existing local planning authority under the Town and Country Planning Act 1971 is to be treated as having been made to the new district planning authority, who are to inform the applicant which authority will determine the application;
- (b) any order under section 60 (tree preservation orders) made by an existing local planning authority (unless the new local planning authorities for the area otherwise agree before 1st April 1974) is to be treated, if made by an existing county council, as made by the new county planning authority for the area and, if made by an existing county borough council or county district council, as made by the new district planning authority for the area;
- (c) any notice under section 65 (proper maintenance of waste land), if served by an existing county council, is to have effect as if served by the new county planning authority and if served by an existing county borough council or county district council, as if served by the new district planning authority;
- (d) orders made under section 121 (appropriation of land forming part of a common etc.) are to be treated as if made by the authority in whom the land vests on 1st April 1974.

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