STATUTORY INSTRUMENTS

1972 No. 1652

TOWN AND COUNTRY PLANNING, ENGLAND AND WALES

The Town and Country Planning (Determination of appeals by appointed persons) (Prescribed Classes) Regulations 1972

Made - - -	3*rd November* 1972
Laid before Parliament	10*th November* 1972
Coming into Operation	1*st December* 1972

The Secretary of State for the Environment, in exercise of the powers conferred on him by section 287 of and paragraph 1 of Schedule 9 to the Town and Country Planning Act 1971(**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 1972 and shall come into operation on 1st December 1972.

Interpretation

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

"the Act" means the Town and Country Planning Act 1971;

"local planning authority", except in regulation 5, means—

(*a*) the local planning authority (within the meaning of section 1 of the 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(**b**), 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;

"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;

"excepted purpose" means—

(*a*) any purpose connected with the winning and working of minerals, their treatment or disposal, or their grading, washing, grinding or crushing; or

(**a**) 1971 c. 78. (**b**) 1963 c. 33.

(*b*) any purpose connected with the prospecting for or testing of mineral deposits; or

(*c*) any industrial purpose specified in Classes V to VIII of the Schedule to the Town and Country Planning (Use Classes) Order 1972(**a**);

"the General Development Order" means the Town and Country Planning General Development Order 1963(**b**) as amended;

"local authority" has the meaning assigned to it by section 290(1) of the Act;

"operational land", except in relation to land of the Post Office, has the meaning assigned to it by section 222 of the Act as affected by section 223 of the Act, and in relation to land of the Post Office means, subject to section 223 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(**c**);

"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(**d**).

(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 or XIV of the Schedule to the Town and Country Planning (Use Classes) Order 1972 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 Secretary of State or of an application referred to him or of an order where that appeal, application or order comes into the jurisdiction of the Secretary of State 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.

Classes of appeal for determination by appointed persons

3. Subject to the next following regulation, the Secretary of State hereby prescribes the following classes of appeal to be determined by a person appointed for the purpose by the Secretary of State instead of by the Secretary of State, namely:—

(*a*) appeals under section 36 of the Act (appeals against planning decisions), as originally enacted or as applied by section 37 of the Act (appeals in default of planning decision), where the appeal relates to an application for planning permission to carry out development of

(**a**) S.I. 1972/1385 (1972 III, p. 4235)

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

(**c**) 1969 c. 48.

(**d**) 1968 c. 73.

(**e**) 1889 c. 63.

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 appeal specified in Schedule 1 to these regulations;

(*b*) appeals under section 88 of the Act (appeals against enforcement notices) where the breach of planning control alleged in the enforcement notice consists in the carrying out of development wholly within any one or more of the descriptions in the classes of appeal specified in Schedule 1 to these regulations or failure to comply with a condition or limitation on a grant of planning permission for any such development.

Classes of appeal reserved for determination by the Secretary of State

4. The foregoing regulation shall not apply to—

(*a*) any such appeal as mentioned therein if it relates to an application in respect of development falling within any one or more of the classes of case specified in Schedule 2 to these regulations, or to an enforcement notice alleging a breach of planning control in respect of development falling within any one or more of the classes of case specified in the said Schedule; or

(*b*) any such appeal as is mentioned in paragraph (*b*) of that regulation where the grounds upon which the appeal is made (as originally indicated in the notice of appeal or as amended at any time before the expiry of the period specified in the notice as the period at the end of which the notice is to take effect) include any of the grounds set out in paragraphs (*b*) to (*e*) of section 88(1) of the Act.

Publicity for directions under paragraph 3 of Schedule 9 to 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 1 of the Act, as the case may be.

(2) On the making by the Secretary of State of a direction under paragraph 3 of Schedule 9 to 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 1970(**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.

(**a**) S.I. 1970/1454 (1970 III, p. 4780).

SCHEDULE 1

CLASSES OF APPEAL 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 60 dwellinghouses.

2. The development for residential purposes of land not exceeding 2 hectares (4·94 acres) in extent where the application does not specify the number of dwellinghouses to which it relates.

3. The erection or the enlargement or other alteration of any building for use for other than residential purposes or an excepted purpose, provided that the aggregate floor space created by the development does not exceed 500 sq. metres (5,381·55 sq. ft.) and the area of land to which the application relates does not exceed 8,000 sq. metres (9,567·2 sq. yds.).

4. The formation, laying out or widening of a means of access or the laying down of hardstanding for the parking of vehicles.

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. A change in the use of a building or buildings to use as not more than 60 dwellinghouses.

7. A change in the use of a building or buildings to use for or in connection with any purpose other than residential purposes or an excepted purpose, provided that the aggregate floor space used for such purpose does not exceed 500 sq. metres (5,381·55 sq. ft.) and the area of land to which the application relates does not exceed 8,000 sq. metres (9,567·2 sq. yds.).

8. A change in the use of land to use for any purpose other than an excepted purpose, provided that the area of land involved does not exceed 4,000 sq. metres (4,783 sq. yds.).

SCHEDULE 2

CLASSES OF CASE EXCEPTED FROM SCHEDULE 1

Where the appeal relates to:—

1. Development to which a direction given by the Secretary of State under the provisions of article 8 or article 9 of the General Development Order applies.

2. Development by a local authority.

3. Development by statutory undertakers on operational land or on land in the case of which the circumstances mentioned in section 225(2)(*b*) of the Act apply.

4. Development by the National Coal Board on land of a class specified in regulations made pursuant to section 273 of the Act.

5. 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 their decision the statement that it 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.

6. Development where the same development or the same land is concurrently the subject or part of the subject of another appeal to the Secretary of State, 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 of an order made under section 45 or 51 of the Act.

Peter Walker,
Secretary of State for the Environment.

3rd November 1972.

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 1970.

The principal amendments, which are in regulation 3 and Schedule 1, have the effect of adding to the prescribed classes of appeals which are to be determined by persons appointed for the purpose by the Secretary of State instead of being determined by the Secretary of State. In addition to classes of appeals against planning decisions (certain classes of which were prescribed by regulation 3 of the regulations of 1970) regulation 3 prescribes certain classes of appeals against enforcement notices. All the classes of appeals to which regulation 3 relates are prescribed by reference to Schedule 1, which has been amended to include most types of building operations and most uses of land (subject in both cases to limitations on the size of building and on the area of land involved).

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 Secretary of State. These classes are the same in substance as those set out in the regulations of 1970 (though drafting amendments have been made in Schedule 2) but they apply both to appeals against planning decisions and to appeals against enforcement notices. Insofar as appeals against enforcement notices are concerned, regulation 4 also excepts from the prescribed classes appeals made on grounds which include any of the grounds set out in paragraphs (*b*) to (*e*) of section 88(1) of the Town and Country Planning Act 1971.

Regulation 5 (which re-enacts regulation 5 of the regulations of 1970 without amendments of substance) provides for the advertisement by local planning authorities of any direction made by the Secretary of State under paragraph 3 of Schedule 9 to the Town and Country Planning Act 1971 whereby specified classes of appeals are to be determined by him instead of by an appointed person.

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