

ORDINANCE
OF THE STATES OF DELIBERATION

ENTITLED

**The Land Planning and Development (Guernsey) Law,
2005 (Savings and Transitional Provisions) Ordinance, 2007**

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[CONSOLIDATED TEXT]

NOTE

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* No. XXX of 2007 (Recueil d'Ordonnances Tome XXXII, p. 439); as amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016).

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ARRANGEMENT OF SECTIONS

1. Application of this Ordinance.
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3. Savings—appeals etc. made under the repealed enactments.
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5. Savings—redetermination of decisions quashed on appeal.
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SCHEDULE Applications to be Determined under Provisions of Repealed Enactments.

(Made on 26th September, 2007.)

The Land Planning and Development (Guernsey) Law, 2005 (Savings and Transitional Provisions) Ordinance, 2007

THE STATES, in pursuance of their resolutions of the 27th June 2002 and the 26th January 2005^a and in exercise of the powers conferred on them by sections 89 and 96 of the Land Planning and Development (Guernsey) Law, 2005^b, and of all other powers enabling them in that behalf, hereby order: –

Application of this Ordinance.

1. The following provisions of this Ordinance shall apply notwithstanding section 93 of the Planning Law.

Savings—applications made under the repealed enactments.

2. An application under any of the provisions of the repealed enactments set out in the Schedule, which was –

- (a) made before the commencement date, and
- (b) not determined as at that date,

shall be determined as if the repealed enactments had not been repealed and as if the Planning Law were not in force.

^a Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

Savings—appeals etc. made under the repealed enactments.

3. (1) An appeal under section 26 of the Island Development Law^c, section 4(1) of the Ancient Monuments Law^d or an application to have an order set aside under section 4(4) of the Building Law^e which is instituted or made, as the case may be, before the commencement date, shall be determined as if those Laws had not been repealed and as if the Planning Law were not in force.

(2) Where, at the commencement date, a period for instituting an appeal in respect of a decision made under any of the repealed enactments or for applying for an order under section 4(4) of the Building Law has not expired –

- (a) that period shall continue to run, and
- (b) any such appeal or application made during that period must be made and determined,

as if the repealed enactments had not been repealed and as if the Planning Law were not in force.

Savings—appeals in respect of decisions on certain applications falling within the Schedule.

4. An appeal against any decision made by the [Authority] on an application which falls within the Schedule and to which section 2 applies shall be instituted and determined as if the repealed enactments had not been repealed and as if the Planning Law were not in force.

NOTE

In section 4, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.

^c Ordres en Conseil Vol. XX, p. 276 as amended by Vol. XXII, p. 573, Vol. XXIII, p. 231, Vol. XXXI, p. 61, Vol. XXXII, p. 33.

^d Ordres en Conseil Vol. XXI, p. 219.

^e Ordres en Conseil Vol. XVII, p. 56.

Savings—redetermination of decisions quashed on appeal.

5. Where, on an appeal referred to in section 3 or 4, a court quashes a decision of the [Authority] to refuse or to grant an application subject to any conditions, that application shall be redetermined by the [Authority] as if the repealed enactments had not been repealed and as if the Planning Law were not in force.

NOTE

In section 5, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.

Transitional provisions—plans.

6. Section 7 (transition from current plans to Development Plans, Subject Plans and Local Planning Briefs) of the Planning Law shall apply to any –

- (a) adopted Detailed Development Plan prepared under section 6 of the Island Development Law, and
- (b) outline planning brief adopted by the States,

which was in effect immediately before the commencement of Part II of the Planning Law and which is not listed in Schedule 1 to the Planning Law as it applies to those listed in that Schedule.

Transitional provisions—in principle grants and preliminary declarations.

7. (1) Any permission granted subject to conditions –
- (a) under section 16(1)(c) of the Island Development Law, and
 - (b) requiring further approval from the [Authority] in relation to specified matters before the development may be carried out,

(known as a "**Permission in Principle**"), shall, for the avoidance of doubt, within its period of validity, be treated as an outline permission for the purposes of the Planning Law and any provisions made under it.

(2) Any preliminary declaration granted under section 27 of the Island Development Law shall, during its period of validity, be taken into account in the determination of any subsequent application for planning permission which is made –

- (a) under the Planning Law, and
- (b) in respect of the same, or substantially the same, land and development in respect of which the preliminary declaration was granted,

in the same way as it would have been taken into account in the determination of a subsequent application for permission in respect of such land and development under the Island Development Law.

NOTE

In section 7, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.

Interpretation.

8. (1) In this Ordinance, unless the context otherwise requires –

"Ancient Monuments Law" means the Ancient Monuments and Protected Buildings (Guernsey) Law, 1967,

"Building Law" means the Building (Guernsey) Law, 1956,

"the commencement date" means the date on which the Planning Law is commenced by Ordinance under section 96 of that Law,

"[**Authority**]" means the States of Guernsey [Development & Planning Authority],

"**Island Development Law**" means the Island Development (Guernsey) Law, 1966,

"**outline permission**" means planning permission subject to the reservation of particular matters for subsequent approval,

"**the Planning Law**" means the Land Planning and Development (Guernsey) Law, 2005,

"**repealed enactments**" means the Building Law, the Ancient Monuments Law and the Island Development Law and the –

- (a) Island Development (Amendment) (Guernsey) Law, 1970^f,
- (b) Island Development (Amendment) (Guernsey) Law, 1972^g,
- (c) the Island Development (Special Provisions) (Guernsey) Law, 1974^h,
- (d) Island Development (Amendment) (Guernsey) Law, 1988ⁱ, and
- (e) Island Development (Amendment) (Guernsey) Law,

f Ordres en Conseil Vol. XXII, p. 573.

g Ordres en Conseil Vol. XXIII, p. 231.

h Ordres en Conseil Vol. XXIV, p. 277.

i Ordres en Conseil Vol. XXXI, p. 61.

1990^j, and

"States" means the States of Guernsey.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

NOTES

In section 8,

the words, first, "Authority" and, second, "Development & Planning Authority" in square brackets in the definition of the expression "Authority" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 8 and section 2, Schedule 1, paragraph 4(b), Schedule 2, Part 3, with effect from 1st May, 2016.

The functions, rights and liabilities of the Environment Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Development & Planning Authority and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 4(b), Schedule 2, Part 3, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

Citation and commencement.

9. This Ordinance may be cited as the Land Planning and Development (Guernsey) Law, 2005 (Savings and Transitional Provisions) Ordinance, 2007 and shall come into force on the same date as the Planning Law.

NOTE

The Law was brought into force on 6th April, 2009 by the Land Planning and Development (Fees and Commencement) Ordinance, 2008, section 15.

^j Ordres en Conseil Vol. XXXII, p. 33.

APPLICATIONS TO BE DETERMINED UNDER PROVISIONS OF REPEALED
ENACTMENTS

The provisions referred to in section 2 are –

- (a) section 3(2) (application to demolish, efface, alter or add to or change the appearance of any registered building, structure or object) of the Ancient Monuments Law, and
- (b) the following sections of the Island Development Law –
 - (i) section 15(1) (application for permission to develop or to carry out certain operations and works),
 - (ii) section 16(2) (application to revoke or vary any condition attached to a section 16 permission),
 - (iii) section 19(2) (application to obtain permission to remove material forming surface or subsoil of land),
 - (iv) section 19(5) (application to revoke or vary any condition attached to a section 19(4) permission), and
 - (v) section 27(1) (application for a preliminary declaration).