

Consolidated text

ORDINANCE OF THE CHIEF PLEAS OF SARK

ENTITLED

The Development Control (Sark) Ordinance, 1992 *

[CONSOLIDATED TEXT]

NOTE

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* As amended by the Development Control (Sark) (Amendment) Ordinance, 2000; the Development Control (Sark) (Amendment) Ordinance, 2009; the Development Control (Amendment) (Sark) Ordinance, 2011.

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ARRANGEMENT OF SECTIONS

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(Approved by Chief Pleas on 22nd January, 1992.)

The Development Control (Sark) Ordinance, 1992

THE CHIEF PLEAS OF SARK, in exercise of the powers conferred upon them by sections 4, 5, 9, 12 and 17 of the Development Control (Sark) Law, 1991^a, hereby order: –

Commencement of Law.

1. The Development Control (Sark) Law, 1991, hereinafter referred to as "**the Law of 1991**", shall come into force on the 22nd April, 1992.

Control of Development.

2. No person shall, except under the authority of and in accordance with the conditions of a written permission of the Development Control Committee ("**the Committee**") –

- (a) carry out the development of any land,
- (b) place, erect or re-erect on any site, or make any structural alteration to the exterior (including demolition or partial demolition) of –
 - (i) any movable or immovable structure, whether or not visible from any public place or other place to which the public has access, or
 - (ii) any structure which, when so placed, erected

^a Ordre en Conseil No. IX of 1991.

or re-erected, will be visible from any part of the territorial waters adjacent to the Island,

- (c) demolish in whole or in part any wall, hedge, bank or fence which is visible from any public place or other place to which the public has access, or
- (d) in a conservation area –
 - (i) effect the reconstruction, minor extension or minor alteration of an existing immovable structure,
 - (ii) construct a gate, wall, fence, shed or other structure for use in conjunction with an existing immovable structure, or
 - (iii) construct an immovable or other structure designed and intended for use solely for the purposes of a public utility undertaking or for agricultural purposes.

Removal of unsightly refuse dumps.

3. (1) Where in the opinion of the Committee the presence of any refuse dump on any site is offensive or unsightly, the Committee may serve notice upon the owner or occupier of the site requiring him to remove the dump or to take such other steps in relation to it as may be specified in the notice.

(2) A person upon whom a notice is served under subsection (1) shall, within the period specified in the notice, comply with it in all respects.

Matters to be taken into account.

4. In exercising its powers under this Ordinance, the Committee shall take into account such of the following factors as it may consider to be appropriate to the case in question –

- (a) the effect of the development or other work on the natural beauty of the area,
- (b) the desirability of keeping land adjacent to the foreshores and cliffs of the Island in its natural state,
- (c) the degree of suitability of the land to which the application relates for residential or industrial purposes,
- (d) whether the movable or immovable structure or other work in relation to which permission is applied for would be incongruous with its surroundings because of its siting, design or exterior appearance or because of the materials to be used,
- (e) in the case of an application for permission to carry out any development of agricultural land, the degree of suitability of the land as agricultural land,
- (f) the extent to which the development or other work would detract from the character or the amenity of the locality concerned or of the Island,

- (g) the effect of the development or other work on roads, traffic, services, public health, parks, playing fields and other open spaces and on adjoining properties, [...]
- (h) the availability and proximity of services, including roads, electricity, water and sewage disposal[,]
- [(i) the effect of the development or other work on the historical or archaeological significance of the proposed site, and
- (j) the environmental effect of the development or other work on the locality concerned, or to the Island.]

NOTE

In section 4, the word omitted in square brackets in paragraph (g) was repealed, the punctuation in paragraph (h) was substituted and paragraphs (i) and (j) were inserted by the Development Control (Amendment) (Sark) Ordinance, 2011, section 1, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 31st October, 2011.

Applications for permission.

5. (1) A person desirous of obtaining the permission of the Committee for the doing of anything specified in section 2 shall make a written application in that behalf to the Committee.

(2) The application shall be in such form and shall be accompanied by such information and plans as the Committee may require[, and by the prescribed fee (if any)].

[(3) Upon receipt of an application or at any time thereafter the Committee may –

- (a) require the applicant to submit such further information and plans as the Committee may consider necessary, and
- (b) for the avoidance of doubt, may require the applicant to mark out on the site the physical outline of the proposed development, in such manner as the Committee sees fit.]

NOTES

In section 5,

the words in square brackets were inserted by the Development Control (Sark) (Amendment) Ordinance, 2009, section 1(1), with effect from 30th September, 2009;

subsection (3) was substituted by the Development Control (Amendment) (Sark) Ordinance, 2011, section 2, with effect from 31st October, 2011.

Grant or refusal of permission.

6. (1) Upon receipt of an application under section 5 the Committee may –

- (a) grant the permission applied for,
- (b) refuse permission, or

- (c) grant permission subject to –
 - (i) conditions relating to dimensions, design, structure, external appearance or materials,
 - (ii) conditions relating to the use of any building or land,
 - (iii) such other conditions as the Committee may consider necessary or expedient.

(2) The Committee may vary or revoke any such condition upon written application being made to it in that behalf by the person to whom the permission was granted.

Register of applications.

7. (1) The Committee shall keep a register of all applications made to it under section 5.

(2) The register shall contain such information as the Committee may consider necessary or expedient, including the name of the applicant, the date of the application and brief particulars of the development or other work sought to be done.

(3) The register shall be available for public inspection at all reasonable hours.

(4) The Committee may cause extracts from the register to be published in such manner as the Committee may think fit.

Notification of decisions.

8. The Committee shall serve notice of its decision under section 6(1) on the applicant within fourteen days after the day on which the decision was made.

Penalties.

9. A person who –

- (a) contravenes any provision of this Ordinance, the Law of 1991 or a restoration order under section 10, or
- (b) for the purpose of obtaining the permission of the Committee for the doing of anything specified in section 2, or in submitting any information or plan to the Committee under section 5, or in applying to the Committee for a preliminary declaration under section 8 of the Law –
 - (i) makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, or
 - (ii) produces or furnishes or causes or permits to be produced or furnished any information or plan which he knows to be false in a material particular,

is guilty of an offence and liable on conviction to a fine not exceeding level 4 on the Sark uniform scale, a term of imprisonment not exceeding one month or both.

Restoration orders.

10. (1) Where a person is convicted of an offence under section 9, being an offence consisting of a contravention of section 2 or 3, the Committee may apply to the Court for an order under this section (a "**restoration order**").

(2) A restoration order shall require the person convicted or any other person who, at the time of the application, is the owner or occupier of the land in relation to which the contravention took place to take such action specified in the order as the Court may consider necessary to remedy the contravention.

(3) A restoration order may specify a time limit within which the order is to be complied with.

(4) Without prejudice to the generality of the powers of the Court under this section, a restoration order may require –

- (a) the demolition, structural alteration, modification, reinstatement or rebuilding of a movable or immovable structure or any part thereof,
- (b) the re-siting or removal of a movable or other structure,
- (c) the rebuilding, in whole or in part, of a wall, hedge, bank or fence,
- (d) compliance with a notice served by the Committee under section 3(1),
- (e) compliance with any condition subject to which a

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permission was granted by the Committee under section 6,

- (f) the restoration of any land with such materials and in such manner as may be specified,
- (g) the restoration of any land to its former use and, pending restoration, the closure thereof and the cessation of any other use.

(5) Where a person contravenes a restoration order, the Committee may (without prejudice to the institution of criminal proceedings under section 9 in respect of the contravention) apply to the Court for an order authorising it to take such action specified in the order as the Court may consider necessary to implement the restoration order.

(6) The Court may, upon the hearing of an application under subsection (5) –

- (a) allow the respondent further time to comply with the restoration order,
- (b) direct that any expenses reasonably incurred by the Committee in implementing the restoration order shall be recoverable by the Committee as a civil debt from the respondent.

(7) Applications under this section shall be *inter partes*.

(8) Where the Court makes an order under subsection (5)

authorising the Committee to take action to implement a restoration order, no person shall without reasonable excuse (proof whereof shall lie on him) obstruct or hinder any person acting or purporting to act under the authority of or in the execution of the order.

[The tribunal.]

11. (1) The tribunal to hear an appeal under section 12(1) of the Law of 1991 shall consist of three persons drawn from a panel of five members which shall be appointed by Resolution of the Chief Pleas under the said section 12(1).

(2) The Chief Pleas shall, when appointing the members of the panel, designate one of them as chairman and another as deputy chairman thereof.

(3) The chairman or in his absence the deputy chairman of the panel shall –

(a) from the members of the panel, select the three members of the tribunal who are to hear an appeal, and

(b) appoint one of the three members so selected to chair the tribunal,

and for the avoidance of doubt the chairman or deputy chairman may so select or so appoint himself.

(4) Each member of the tribunal shall, subject to subsection (5), have one vote, and the decisions of the tribunal shall be taken by a simple majority.

(5) The person chairing the tribunal shall not have a vote except

where there is an equality of votes, in which case he shall have a casting vote.

(6) Subject to the above provisions, the tribunal shall determine its own procedure.]

NOTE

Section 11 was substituted by the Development Control (Sark) (Amendment) Ordinance, 2000, section 1, with effect from 27th July, 2000.

Interpretation.

12. (1) In this Ordinance, except where the context excludes –

"**contravention**" includes failure to comply and cognate expressions shall be construed accordingly,

"**Court**" means the Court of the Seneschal,

"**the Law of 1991**" means the Development Control (Sark) Law, 1991,

"**owner**", in relation to any land or immovable structure which is –

(a) subject to a vested right of usufruct, includes the usufructuary,

(b) held on trust, includes the trustees thereof,

"**plan**" includes any specification, elevation, site plan or drawing[,

"prescribed" means prescribed in writing by the Committee],

and any other expression to which a meaning is assigned by the Law of 1991 shall have that meaning.

(2) The Interpretation (Guernsey) Law, 1948^c shall apply to the interpretation of this Ordinance as it applies to the interpretation of a Guernsey enactment.

NOTE

In section 12, first, the punctuation and, second, the words in square brackets were, respectively, substituted and inserted by the Development Control (Sark) (Amendment) Ordinance, 2009, section 1(2), with effect from 30th September, 2009.

Citation.

13. This Ordinance may be cited as the Development Control (Sark) Ordinance, 1992.

NOTE

The Ordinance was made and came into operation on 22nd January, 1992.

^c Ordres en Conseil Vol. XIII, p. 355.