
LEGAL NOTICE No. 139

THE PHYSICAL PLANNING ACT

(No. 6 of 1996)

IN EXERCISE of the powers conferred by section 49 of the Physical Planning Act, the Minister for Lands and Settlement makes the following Order:—

THE PHYSICAL PLANNING ORDER, 1998

Short title.	1. This Order may be cited as the Physical Planning Order, 1998.
Application.	2. This Order shall apply to all land in the country to which section 2 of the Act applies.
Interpretation.	3. In this Order, unless the context otherwise requires— “Act” means the Physical Planning Act; “building” has the meaning assigned to it by section 3 of the Act; “Development” has the meaning assigned to it by section 3 of the Act. “erection” in relation to a building includes extension, alteration and re-erection; “highway authority” means a highway authority as defined in the Public Roads and Roads of Access Act; “land” has the meaning assigned to it by section 3 of the Act; “liaison committee” means a committee established under provisions of section 7 of the Act; “local authority” has the meaning assigned to it in the Local Government Act; “Minister” means the Minister for the time being responsible for physical planning; “owner” has the meaning assigned to it by section 3 of the Act; “statutory undertaker” means statutory bodies responsible under any law within the country and any other body which the Minister may by notice in the Gazette specify.
Cap. 399.	
C. p. 265.	
Grant of Permission.	4. All development in areas to which this Order applies shall require the grant of permission for the purpose of Part V of the Act.
Permitted development.	5. (1) Subject to the provisions of this Order, development of any class specified in the Schedule to this Order is permitted and may be undertaken upon land to which this order applies with the permission of the local authority or liaison committee: Provided that the permission granted by this Order in respect of any such class of development shall be subject to any condition or limitation imposed in the said Schedule. (2) Nothing in this paragraph or in the said Schedule to this Order shall be deemed to permit any development which is not in accordance with any condition imposed when permission is granted or deemed to be granted under Part V of the Act otherwise than by this Order.
Directions restricting permitted development.	6. (1) If the local authority or relevant liaison committee is satisfied that it is expedient that development of any of the classes specified in the Schedule to this Order shall not be carried out in any particular development of any of the said classes unless permission is granted on application in that behalf, the local authority or the relevant liaison committee may direct that the permission granted by Part I of the Schedule shall not apply to—

- (a) any development of all or any of the said classes in any particular area specified in the direction; or
- (b) any particular development, specified in the direction, falling within any of the said classes.

(2) (a) A direction in respect of any particular area under paragraph (a) of subparagraph (1) of this paragraph shall be given by notice by the local authority or relevant liaison committee and shall specify the effect of the direction and the name of a place where a copy thereof and a map defining the area to which it relates may be viewed at all normal hours of official business and such direction shall come into force on the date on which notice thereof is first published.

(3) Notice of any direction specifying any particular development under subparagraph (1) (b) shall be served by the local authority on the owner of the land affected, and any such direction shall come into force on the date on which notice thereof is served on the owner.

(4) No direction given or having effect under this paragraph shall have effect in relation to the carrying out in case of emergency of any development specified in the schedule to this Order, or unless such direction specifically so provides, to the carrying out by a statutory undertaker of the following—

- (a) maintenance of bridges, buildings and railway stations;
- (b) alteration and maintenance of railway tracks and provision and maintenance of track equipment, including signal boxes, signal apparatus and other appliances and works required in connection with the movement of traffic by rail;
- (c) maintenance of harbours, quays, wharves and canals;
- (d) provision and maintenance of mechanical apparatus or appliances required for the purpose of shipping or in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a harbour, quay or wharf;
- (e) any development required in connection with the improvement and maintenance or repair of water courses or drainage works, or sewers or sewage disposal works.

7. A person who proposes to carry out any developments on land or to make any change in the use of land or buildings and who wishes to have it determined whether the carrying out of those operations or the making of that change in the use of the land or buildings would constitute or involve development within the meaning of the Act and, if so, whether an application for permission in respect thereof is required under the Act having regard to this Order may apply to the local authority or liaison committee for determination.

Application
determination
whether permis-
sion is required.

8. (1) An application to the local authority or liaison committee for any permission or decision required under this Order, shall unless otherwise provided in this Order, be made in accordance with the provisions of the Physical Planning (Application for Development Permission) Regulations.

Application
for grant of
permission.

(2) Where an applicant so desires, an application (hereinafter called "an application in principle"), may be made under subparagraph (1) of this paragraph for permission for the use of any building or land or for erection of any building, and any approval thereof shall be subject to the subsequent approval of the local authority or liaison committee with respect to any matter relating to the siting, design or external appearance of the building, or the means of access thereto, in which case particulars and plans in regard to these matters shall not be required and permission may be granted subject as aforesaid (with or without other conditions) or refused:

Provided that—

- (a) where such permission is granted it shall be expressed to be granted under this subparagraph on an application in principle and the approval of the local authority or liaison committee shall be required with respect to the matters reserved in the permission before any development is commenced.
- (b) where the local authority or liaison committee is of the opinion that in the circumstances of the case the application for permission ought not to be considered separately from the siting, design or external appearance of the building, or the means of access thereto, the local authority or liaison committee shall within thirty (30) days from the receipt of the application in principle, serve notice on the applicant that the local authority or liaison committee is unable to consider such application, specifying the matters as to which the local authority or liaison committee requires further information for the purpose of arriving at a decision in respect of the proposed development and the applicant may either furnish the information so required (in which event the application shall be treated as if it had been received on the date when such information was furnished and had included such information).

SCHEDULE

r. (6)

PART I

The development specified in the first column is permitted subject to the conditions set against in the second column:

COLUMN (1)

COLUMN (2)

*Description of Development
Conditions*

*Class I—Development within the
cartilage of dwelling-house.*

The enlargement, improvement or other alterations of a dwelling-house materially affecting the external appearance of the building so long as the cubic content of the original dwelling house (as ascertained by external measurement) is not exceeded by more than 50 cubic metres or one-

1. The height of such buildings shall not exceed the height of original dwelling-house.
2. Standard conditions Nos. 1 and 2.

tenth whichever is the greater
subject to a maximum of 133 cubic
metres.

Class II—Sundry minor operations

1. The erection or construction of Standard condition Nos. 1 and 2.
gates, fences walls or construction
of enclosure not being within the
cartilage of a dwelling-house not
exceeding two metres in height
and the maintenance, improve-
ment or other alterations of such
gates, fences, walls or other means
of enclosure, except on the road
transaction.
2. The painting of the exterior Standard condition Nos. 1, 2
of any building or work other- and 3.
wise than for the purpose
of advertisement.

Class III—Changes of Use

1. Development consisting of a
change of use to:
 - (a) (i) Use of a light industrial
building defined by the Physical
Planning hand book.
 - (ii) Use of a general industrial
building as so defined;
 - (b) Use as any type of shop
except—
 - (i) a drive-in shop;
 - (ii) a fast foods shop;
 - (iii) a butcher shop;
 - (iv) a shop for the sale of pet
animals or birds,
 - (v) a shop for the sale of
motor vehicles from use
as any type of shop.

*Class IV—Temporary buildings
and uses*

1. The use of land for any
purpose for not more than
twenty-eight (28) days in
total in any calender year,
and the erection or
placing of movable on the
land for the purposes of
that use.

Class V—Development for industrial purposes

1. The deposit by an industrial undertaker if the waste material or refuse resulting from an industrial process on any land comprised in a site which was used for such deposit otherwise than in contravention or previous planning control, on the appointed day. Standard conditions Nos. 1 and 2.

Class VI—Repairs to roads and ways

The carrying out of works required for maintenance or improvement of roads or ways not under the control of a highway authority being works carried out on land within the existing limits of such roads or ways. Standard conditions Nos. 1 and 2.

Class VII—Rebuilding of existing buildings and plant

- The rebuilding, restoration or replacement of buildings, works or plant which were in existence on the appointed day.
1. The cubic content of the works or plant shall not be increased by more than ten per centum.
 2. There shall be no material alteration from the external appearance, as on the appointed day except with the approval of the local authority or liaison committee.

Class VIII—Development of local authority

1. The erection or construction and the maintenance, improvement or other alteration by a local authority of:
- (i) Such buildings, works and equipment as are required on land belonging to or maintained by them for the purposes of any related and appropriate functions exercised by them on that land; 3. Standard conditions Nos. 1, 2 and 3.
 - (ii) Lamp stands, fire alarms, public drinking fountains, street name plates, refuse bin or baskets, information kiosks, passenger shelters, public shelters and seats, barrier for the control of Standard condition Nos. 1, 2 and 3.

persons who are waiting to enter public vehicles and such other similar structures or works as may be required in connection with the operation of any public service.

2. The deposit by a local authority of waste material or refuse on any land comprised in a site which was used for that purpose otherwise than in contravention of planning permission. Standard condition Nos. 1 and 2.

PART II

STANDARD CONDITIONS

1. This permission shall not authorize any development which involves the formation laying out or material widening of a means of access to a main or district road as defined in the Roads and Road Traffic Act or a public street as defined in the Street Adoption Act.

2. No development shall be carried out which creates an obstruction to the view of persons using any road used by vehicular traffic at or near any bend, corner, junction or intersection of any roads so as to be likely to cause danger to such persons.

3. No part of any building shall project beyond any building line laid down for the holding or plot.

PART III

This part shall apply only to areas where there is an approved development plan.

Class IX—Conforming Development

- Where a layout or subdivision plan has been lawfully approved and any conditions contained in such approval have been fulfilled the erection in any zone of purpose for which the permission of the local authority is not normally required by the approved written document.
1. In residential use zones for the erection of dwelling-houses only, the subdivision of land shall not be less than approved plot sizes.
 2. The minister is satisfied that adequate provision for parking, loading and unloading of vehicles in the case of industrial and commercial buildings or uses has been made.
 3. The approval of the local authority to the external design appearance and materials in the case of commercial buildings and uses has been obtained.

4. If the development is likely to affect adversely any land in the area of any local authority or is likely to create or attract traffic which will result in a material increase in the volume of traffic entering or leaving a main road or using a level crossing over a railway the provisions of regulation 7 of Development Permission shall first be complied with.

Made on the 13th July, 1998.

N. K. NGALA,
Minister for Lands and Settlement.
