

The Building and Development Control (Alderney) (Amendment No. 2 and Fees) Ordinance, 2016

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 14th December, 2016 and in exercise of the powers conferred on them by sections 5(1)(b), 39(3) and 75 of the Building and Development Control (Alderney) Law, 2002^a and all other powers enabling them in that behalf, hereby order:-

Amendment of Law of 2002.

1. (1) The Building and Development Control (Alderney) Law, 2002 ("**the Law**") is amended as follows.

(2) In section 5 of the Law –

(a) in subsection (1)(a), immediately after "site plans)", insert "and, for the avoidance of doubt, statements or reports of assessments of environmental impacts and other effects,"

(b) in subsection (2)(a), immediately after "site plans," insert "and, for the avoidance of doubt, statements or reports of assessments of environmental impacts and other effects,"

(c) between subsection (2) and subsection (3), insert the following subsections –

"(2A) Subsection (2B) applies where the Committee –

(a) requires an applicant to supply a statement or report of the assessment of environmental impacts or other effects of the proposed development or other work, and

^a Order in Council No. XII of 2003; No. XV of 2004; amended by Alderney Ordinance No. III of 2007, No. III of 2014 and No. X of 2016.

(b) is of the opinion that the proposed development or other work –

(i) may have significant environmental impacts or other effects, or

(ii) is of such a scale, complexity or nature, or is likely to have such effects, that would require the services in subsection (2B)(a).

(2B) Where this subsection applies, the Committee may, subject to subsections (2C) –

(a) engage the services of an expert (not employed by the States of Alderney) to review and evaluate the assessment of the environmental impacts or other effects of the proposed development or other work, including to thoroughly review any environmental statement setting out the findings of such an assessment and make a written report to the Committee in relation to the application, and

(b) require the applicant –

(i) to pay any reasonable fees and charges for, and reasonable costs of, those services, and

(ii) to give the States security by bond or otherwise for the payment in subparagraph (i).

(2C) Before incurring any fees, charges or costs that may be charged to the applicant under subsection (2B)(b)(i), the Committee must –

- (a) consult the Director of Planning of the States of Guernsey (or the professional head of planning of the States of Guernsey, if known by a different designation), or any other person nominated in place of that person by resolution of the States of Alderney, as to whether the fees, charges and costs likely to be incurred are reasonable, and
 - (b) ask the applicant whether the applicant wishes to proceed with the application in light of the likely fees, charges and costs payable under subsection (2B)(b).", and
 - (d) in subsection (3), immediately after "(2)", insert "or (2B)(b)".
- (3) In section 6(5) –
- (a) delete "or" at the end of paragraph (ba), and
 - (b) between paragraphs (ba) and (c), insert the following paragraphs –
 - "(bb) if the applicant fails to indicate that the applicant wishes to proceed with the application, after being asked under section 5(2C)(b), or
 - (bc) if the applicant fails to pay any fee, charge or cost, or fails to give the States security by bond or otherwise for payment of any fee, charge or cost, where required by the Committee under section 5(2B)(b)."

Fees to accompany applications for permission to carry out development or other work.

2. An application, made on or after the 1st January, 2017, under section 5 of the Law for permission to carry out development or other work, referred to in the second column of the table set out in Schedule 1 to this Ordinance, shall be accompanied by the relevant fee, payable to the States, set out in the third column of that table or otherwise calculated by reference to that table, subject to the notes appearing in Schedule 1 after the table.

Fees to accompany applications for preliminary declarations.

3. An application, made on or after the 1st January, 2017, under section 10A of the Law for a preliminary declaration in relation to development or other work shall be accompanied by a fee equal to 50% of the fee calculated under section 2 for an application for permission to carry out the development or other work in question.

Fees to accompany deposit of full plans.

4. (1) Subject to subsection (2), a deposit of full plans deposited with the Committee, on or after the 1st January, 2017, under the building regulations in respect of building work or a material change of use referred to in the second column of the table set out in Schedule 2 to this Ordinance shall be accompanied by the relevant fee, payable to the States, set out in the third column of that table, subject to the notes appearing in Schedule 2 after the table.

(2) No fee is payable where -

- (a) building regulations provide for the Committee to accept, as evidence of compliance with building regulations, certificates to that effect by specified persons, and
- (b) any requirements of building regulations in that regard are met in relation to the building work or material change of use in question.

Refund of part of fee.

5. Where the Committee rejects plans deposited under the building regulations it

shall, as soon as reasonably practicable after such rejection, refund to the person by whom, or on whose behalf, such plans were deposited fifty per cent of the fee paid in accordance with section 4.

Consequential repeals.

6. The Building and Development Control (Alderney) (Amendment and Fees) Ordinance, 2014^b is repealed; but, for the avoidance of doubt, this repeal does not affect any amendments to, or repeal of, any other enactments by that Ordinance.

Interpretation.

7. (1) In this Ordinance, unless the context requires otherwise -

"**building**" where used in relation to a deposit of full plans under the building regulations has the meaning in section 43B of the Law,

"**building regulations**" means any regulations made, or having effect as if made, under section 39 of the Law,

"**building work**" has the meaning in the building regulations,

"**dwelling**" includes a dwelling-house and a flat,

"**enactment**" means any Law, Ordinance or subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**flat**" where used in relation to –

- (a) an application to carry out development or other work, means a self-contained dwelling comprising part of a building and lying wholly or partly above or below some other part of that

^b Alderney Ordinance No. III of 2014.

building, and

- (b) a deposit of full plans under the building regulations has the meaning in the building regulations,

"full plans" has the meaning in the building regulations,

"the Law": see section 1(1),

"material change of use" -

- (a) where used in relation to an application to carry out development or other work or an application for a preliminary declaration, is construed in accordance with section 76(3) of the Law, and
- (b) where used in relation to a deposit of full plans under the building regulations, has the meaning in the building regulations,

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

and other expressions have the same meaning as in the Law.

(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.

(3) The Interpretation (Guernsey) Law, 1948^c shall apply to the

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

interpretation of this Ordinance as it applies to the interpretation of an enactment in force in the Island of Guernsey.

Citation.

8. This Ordinance may be cited as the Building and Development Control (Alderney) (Amendment No. 2 and Fees) Ordinance, 2016.

Commencement.

9. This Ordinance shall come into force on the 1st January, 2017.

SCHEDULE 1

Section 2

TABLE OF FEES TO ACCOMPANY APPLICATIONS FOR PERMISSION TO CARRY OUT DEVELOPMENT OR OTHER WORK

CATEGOR Y	DEVELOPMENT OR OTHER WORK TO WHICH APPLICATION RELATES	FEE £
1	The erection of a dwelling or the material change of use of a building to create a dwelling including any associated works.	
A	for each dwelling-house erected or created	650
B	for each flat erected or created	325
2	The erection of a building, or the extension to a building, not falling within category 1 or 4, in relation to, or within the curtilage of, a dwelling-house, including any associated works.	
A	for each building or extension of less than 20 square metres in floor area	140
B	for each building or extension of 20 square metres or more in floor area	£140 for the first 20 square metres and £35 for each additional 10 square metres and for any additional part remaining of less than 10 square metres
3	The erection of a building, or the extension to a building, not falling within category 4, other than in relation to a dwelling-house or within the	

	curtilage of a dwelling-house, including any associated works.	
A	for each building or extension of less than 20 square metres in floor area	175
B	for each building or extension of 20 square metres or more in floor area	£175 for the first 20 square metres and £50 for each additional 10 square metres and for any additional part remaining of less than 10 square metres
4	For the carrying out of any minor or temporary development or other work not falling within category 5 and not involving a structural alteration to a building, for all such development or works	45
5	For a material change of use of a building or other land other than a material change of use to create a dwelling.	175
6	For the carrying out of any development or other work not falling within any other category in this Table.	
A	in respect of a site of 0.1 of a hectare ($\frac{1}{4}$ of an acre) in area or less	150
B	in respect of a site exceeding 0.1 of a hectare ($\frac{1}{4}$ of an acre) in area but not exceeding 0.4 of a hectare (1 acre) in area	350
C	in respect of a site exceeding 0.4 of a hectare (1 acre) in area, for each additional 0.4 of a hectare (1 acre) and for any additional part remaining of less	£350 for the first 0.4 of a hectare and £350 for each

	than 0.4 of a hectare (1 acre)	additional 0.4 of a hectare and for any additional part remaining of less than 0.4 of a hectare
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NOTES TO THE TABLE OF FEES

Retrospective applications.

1. Where an application is made in respect of development or other work which has been carried out without permission or in breach of any previous permission, including any condition of approval, the fee payable, to the extent that such application relates to such development or work, is double that otherwise payable in accordance with this Schedule.

Proposed development within more than one sub-category.

2. Where the application includes development or other work falling within more than one sub-category of the fees table then, subject to the other notes to this Schedule, the fee payable is calculated by adding the fees for each relevant sub-category together.

Demolition and associated works.

3. Despite paragraph 2 -

- (a) where a category or sub-category of development or other work is described as including works associated with that development or work a separate fee is not payable in respect of those associated works where they also fall within another category or sub-category to the Table, and
- (b) where demolition is necessary to carry out other development or work falling within any category of this Table no additional fee is payable in respect of that demolition.

Interpretation.

4. In this schedule -

"**associated works**" means any works which can reasonably be regarded as necessary in order to carry out the description of development or other work in question and related terms shall be construed accordingly, and

"**floor area**" means the gross aggregate of the area of all new floors created or formed by the development or other work, measured internally (from the eaves in the case of additional floor area in a roofspace), including any floor area covered by internal walls or partitions.

SCHEDULE 2

Section 4(1)

TABLE OF FEES TO ACCOMPANY DEPOSIT OF PLANS UNDER THE BUILDING REGULATIONS

CATEGORY	BUILDING WORK OR MATERIAL CHANGE OF USE TO WHICH PLANS RELATE	FEE £
1	The creation of a new dwelling, by its erection or by a material change of use of a building, including any associated building work.	
A	for each dwelling-house created	500
B	for each flat created	400
2	The – (a) erection or material change of use of a building, or (b) extension or other material alteration to a building, not falling within category 1 including any associated building work.	
A	of less than 20 square metres in floor area	200
B	of 20 square metres or more, but less than 50 square metres, in floor area	250
C	of 50 square metres or more, but less than 100 square metres, in floor area	300
D	of 100 square metres or more, but less than 250 square metres, in floor area	350
E	of more than 250 square metres in floor area	500
F	for the erection of a garage, carport, conservatory or sun lounge	120

	within the curtilage of a dwelling, for each such garage, carport, conservatory or sun lounge	
3.	The carrying out of any specified building work not carried out as part of building work falling within any other category in this Table.	
A	for the provision or alteration of a drainage system, including the installation of a cesspit, for any number of such drainage systems	100
B	for the erection of a retaining wall, for any number of such walls	100
C	for building work involving the underpinning of a building, for any number of such buildings underpinned	150
D	for the installation of a swimming pool or spa (including any plant room, pool room or other room required in relation to such swimming pool), for any number of such pools or spas	120
E	for the construction of a road, for any number of such roads	120
F	for the demolition of a building, for any number of buildings demolished	100
G	for the provision or material alteration of a controlled service or fitting not falling within any other sub-category to this category, for any number of the same	50
H	for the replacement of existing windows or external doors within an existing aperture, for any number of such windows or external doors	75
I	for the material alteration of a building, other than an alteration falling within any other sub-category in this Table, where the estimated cost of the building work is less than £10,000, for each of the same	120
J	for the alteration of a building, other than an alteration falling within any other sub-category in this Table, where the estimated cost of the building work is £10,000 or more, for each of the same	300

NOTES TO THE TABLE OF FEES

Retrospective applications.

1. Where a deposit of full plans is made in respect of building work or a material change of use which has been carried out without approval of plans required under the building regulations the fee payable, to the extent that such plans relate to such work or change of use, is double that otherwise payable in accordance with this Schedule.

Building work or a material change of use in more than one sub-category.

2. (1) Where the deposit of full plans is made in respect of more than one sub-category of building work or material change of use listed in the Table, the fee payable is, subject to the following provisions of this Schedule, the aggregate of all the fees payable in respect of the building work or material change of use in question.

(2) Despite subparagraph (2) -

(a) where a category or sub-category of building work or material change of use is described as including works associated with that building work or material change of use a separate fee is not payable in respect of those associated building works where they also fall within another category or sub-category of the Table, and

(b) where demolition is necessary to carry out building work falling within any category of this Table no additional fee is payable in respect of that demolition.

Alterations to previously approved plans.

3. A deposit of full plans that seeks to revise previously approved plans is charged at the rate applicable to the revision. For example, a deposit of full plans to alter the internal layout of a dwelling as shown on previously approved full plans would be charged as for an alteration falling under category 2.

Category 2.

4. (1) Where a deposit of full plans relates to building work falling within

category 2A to E in relation to –

- (a) more than one extension to the same building the fee shall be calculated by aggregating the floor area of all extensions created or formed by the building work or material change of use,
- (b) more than one building, a separate fee is payable in respect of each building.

(2) The building work specified in category 2F is charged under that category and not under the appropriate general category for an extension of the appropriate floor space in 2A to E.

Interpretation of Schedule.

5. In this Schedule, unless the context requires otherwise -

"associated building work" means any building work which can reasonably be regarded as necessary to carry out the description of building work or material change of use in question and related terms shall be construed accordingly,

"estimated cost" means such reasonable amount as may be charged by a person in business to carry out the work in question,

"retaining wall" means a wall built to support a mass of earth, soil or rocks on one side of it where the difference in level supported is greater than 450 millimetres, and

"controlled service or fitting", "conservatory", "demolition", "extension", "floor area", "material alteration" and "sun lounge" have the same meanings as in the building regulations.