



COUNTRY REPORT: UGANDA Environment within Planning Legislation

Emmanuel Kasimbazi*

Introduction

Physical planning is the spatial expression of the desired form of social and economic development. Its purpose is to establish and maintain a framework for a more balanced spatial development countrywide, through a rational arrangement of land uses in space, protection of the environment and their alignment with long-term government objectives for sustainable economic and social development. Physical planning offers several services including framework development planning and control, and development assessment. It specifically regulates development which is defined under section 1 of the *Physical Planning Act (2010)* to mean the 'making of any material change in the use or density of any buildings or land or the subdivision of any land and the erection of such buildings or works and the carrying out of such building operations'.

The *Physical Planning Act (2010)* repealed the *Town and Country Planning Act (1964)*. It establishes the National Physical Board and the district, urban and local physical planning committees. Their role is to make and approve physical development plans and applications for development permission and related matters in Uganda. As a law that regulates physical developments, it has implications for environmental regulation. The purpose of this report is to examine the implications of this new law for environmental regulation in Uganda.

* Associate Professor, School of Law, Makerere University, Uganda. Email: ekasimbazi@law.mak.ac.ug.

The Scope of Application of the Act

Section 3 states that the *Physical Planning Act* applies to the entire country in all respects of planning. This implies that all activities related to physical planning development in Uganda must be authorized by the National Physical Planning Board, District Physical Planning Committee, Urban Physical Planning Committees or Local Physical Planning Committees. This is a very important development in the law because land use planning and development plan approvals, previously done only in urban areas, will now become a standard practice across the country.

Institutional Framework for Physical Planning

The Act establishes an institutional framework to govern planning in Uganda. At the national level, section 4 establishes the National Physical Planning Board. The Board has functions that relate to environmental regulation. The first is to provide advice to Government on all matters relating to physical planning, broad physical planning policies, planning standards and the viability of any proposed subdivision of urban or agricultural land. Secondly, to provide advice to the Minister responsible for local government on the declaration of town councils, town boards or upgrading of urban authorities; and on the declaration of special planning areas. Thirdly, to study and give guidance and recommendations on issues relating to physical planning which transcend more than one local government for purposes of coordination and integration of physical development. Fourthly, to approve regional, urban or district physical development plans and recommend to the Minister national plans for approval. Fifthly, to cause physical development plans be prepared at national, regional, district, urban and sub-county levels. Sixthly, to evaluate the implementation of physical development plans; and to formulate draft planning policies, standards, guidelines and manuals for consideration by the Minister. Seventhly, to ensure the integration of physical planning within social and economic planning at the national and local levels. Eighthly, to exercise general supervisory powers over all lower planning committees; to provide guidance, set standards and take control and to foster coordination of physical planning related or interdisciplinary activities in the country so as to promote orderly and sustainable development human settlements in rural and urban areas. Lastly, to hear and determine appeals lodged by persons or local governments aggrieved by the decision of any physical planning committees;

and to determine and resolve physical planning matters referred to it by physical planning committees.

The Act sets up planning committees at the district, urban and local levels. At the district level, section 9 of the Act establishes the District Physical Planning Committee with the following functions: to cause to be prepared local physical development plans through its officers, agents, or any qualified planners; to recommend to the Board development applications for change of land use; to recommend to district council subdivision of land which may have a significant impact on the contiguous land or be in breach of any condition registered against a title deed in respect of such land; to approve development applications relating to housing estates, industrial location, schools, petrol stations, dumping sites or sewerage treatment, which may have injurious impact on the environment as well as applications in respect of land adjoining or within a reasonable vicinity of safeguard areas; to hear appeals by those aggrieved by decisions made by the district physical planner and lower local physical planning committees; to ensure the integration of physical planning into the three year integrated development plan of the district; and to exercise supervisory powers over all lower planning committees and to ensure integration of social, economic and environmental plans into the physical development plans.

At the urban planning level, section 11 of the Act establishes the Urban Physical Planning Committees which are mandated with the following functions: to cause to be prepared urban or local physical development plans and detailed plans; to recommend development applications to the Board for change of land use; to recommend to the urban council, subdivision of land which may have significant impact on contiguous land or in breach of any condition registered against a title deed in respect of such land; and to determine development applications relating to industrial location, dumping sites or sewerage treatment which may have injurious impact on the environment as well as applications in respect of land adjoining or within a reasonable vicinity of safe guarding areas and to hear and determine appeals made against decisions of the urban physical planner or subordinate local authorities.

At the local level, the Act recognizes that the sub-county councils shall constitute local physical planning committees with the following functions: initiate the

preparation of local physical development plans; recommend to the district physical planning committees the approval of local physical development plans; implement structure plans in close consultation with the district physical planner and implement in close consultation with the district physical planner, detailed plans and area actions plans which shall address the matters such as the treatment of a particular planning aspect like residential, transportation, water supply, sewerage, in part or as part of a long term plan; advisory or subdivision plans, indicating permitted subdivision, use and density development; and the assessment of immediate land requirements to accommodate specific population needs and detailed allocation of the land requirements to land uses taking into account compatibility of adjoining land uses and conforming to the existing physical development plan proposals for the area.

All three committees are specifically mandated to deal with environmentally-related issues such as dumping sites or sewerage treatment, which may have injurious impact on the environment. The inclusion of environmental issues within the mandate of the committees provides an opportunity for environmental regulation through physical planning.

Physical Development Planning and its Environmental Implications

The Act makes provisions that regulate physical development planning. Section 18 provides that physical development plans shall address the following: the national physical development plan; regional physical development plans; district development plans urban physical development plans; and local physical development plans. Section 19 requires that the national and regional physical development plans be prepared by the Board in respect of any area for the purpose of improving that area and providing for proper physical development. In the preparation of the national and regional physical development plan, the Board is required to take into account the securing of suitable provision for agricultural development, infrastructure, industrial development, environmental protection, natural resource management, urbanization, human settlements, conservation, tourism and matters such as population growth, distribution and movement, land potential including distribution of agricultural potential, the relative values, population and land imbalances, land tenure, land use and other natural resource endowments. The Board is also required to take into account employment and income distribution,

the labour force, potential of the informal sector and their locations, human settlements including distribution of existing services, growth, pattern of urbanization and cause of rural-urban migration and matters affecting more than one district which require central government coordination.

Section 24 empowers the Minister, on the recommendation of the Board and by statutory instrument, to declare an area with unique development potential or problems, a special planning area for the purposes of preparation of physical development plan.

Section 25 requires a district urban and sub-county physical committee to prepare a district urban physical development plan. Section 26 outlines what should be contained in the district, urban and local physical development plans. These plans have to contain the following: a topographical survey in respect of the area to which the plan relates, carried out in the prescribed manner; maps and descriptions as may be necessary to indicate the manner in which the land in the area may be used, a technical report on the conditions, resources and facilities in the area; a statement of policies and proposals with regard to the allocation of resources and the locations for development within the area; a description and analysis of the conditions of development in the area as may be necessary to explain and justify the statement of policies and proposals; relevant studies and reports concerning the physical development of the area; maps and plans showing the present and future land use and development in the area; and any other information as the Board and the Committee may deem necessary.

Section 28 provides that the district, urban and local physical development plans must be approved by the Board. Once they have been approved, they cannot be altered without the prior written authorization of the district physical planning committee.

Section 30 permits the modification of district and urban physical development plans by the district or urban physical planning committee with the approval of the relevant local government council. The proposals for modification are submitted to the board for alteration upon payment of the prescribed fee, where there are practical difficulties in the execution or enforcement of the approved plan or there has been a change of circumstances since the plan was approved. The section also permits a

local physical planning committee (with the approval of the local government council) to submit to the urban or district physical planning committee proposals for the amendment or modification of an approved local physical development plan.

Section 31 requires a land owner to use a qualified planner to prepare a local physical development plan to be submitted to the local physical planning committee for adoption with or without modification.

Section 32 provides that the local physical planning committees have the following powers: to prohibit or control the use and development of land and buildings in the interests of proper and orderly development of the area; control or prohibit the consolidation or subdivision of land and existing plots; to ensure the proper execution and implementation of approved local physical development plans; to initiate formulation of by-laws to regulate physical development; and to ensure the preservation of all land planned for open spaces, parks, urban forests and green belts, environmental areas, social and physical infrastructure and other public facilities, in accordance with the approved physical development plan. The powers are crucial for physical development in Uganda because the committees can prepare physical development plans, recommend plans for change of land use and approve development applications relating to housing, estates, industrial locations, schools, petrol stations, dumping sites and sewerage works. These are common physical planning activities in Uganda and their regulation is very crucial.

Section 33 prohibits any person carrying out any development within a planning area without development permission from a physical planning committee. It creates penalties for non-compliance with the provisions of the Act. Any person who contravenes the provisions of the Act commits an offence and is liable to a fine not exceeding forty-eight currency points or imprisonment not exceeding two years or both. According to the First Schedule of the Act, a currency point is equivalent to twenty thousand shillings. Thus a person who commits an offence under the Act can pay a maximum fine of nine hundred and sixty thousand Uganda Shillings.

Section 34 requires that an application for permit be made to the relevant local government, which shall forward it to the relevant physical planning committee. When the physical planning committee is considering a development application, it shall be bound by any approved relevant regional or local physical development plan, have

regard to the health, amenities and convenience of the community generally and proper planning and density of development and land use in the area, have regard to any comments received from the physical planner or authorities and in case of a leasehold, and consider any special conditions stipulated in the lease.

Section 37 provides that where a development application relates to matters that require an environmental impact assessment, the approving authority or physical committee may grant preliminary approval of the application subject to the applicant obtaining an environmental impact assessment certificate in accordance with the *National Environment Act*.

Section 40 provides that an application for development permission in areas where there is no approved plan shall be submitted to the local physical development committee for consideration. The committee may approve the application but where the application covers matters of a national character, the committee shall refer the application to the Board.

Section 46 provides for enforcement. A local physical planning committee is empowered to serve an enforcement notice on an owner, occupier or developer of land, where the committee is satisfied that the development of land has been or is being carried out without the required development permission; or that any of the conditions of development permission granted under the Act have not been complied with. Section 56 also empowers the Board (after consultation with the Commissioner in Charge of Antiquities) to serve on the owner or occupier of a building which in the opinion of the Board is of special architectural value or historic interest, an order prohibiting the demolition, alteration or extension of that building.

Conclusion

This new legislation has introduced environmentally-related regulation into physical planning which did not exist under the *Town and Country Planning Act* (1964). The Act requires authorities in the whole country to develop detailed plans for land use and enforce compliance according to physical planning development standards. Whilst the new law makes the whole country a planning area, it also recognises the special importance of urban areas that are very important for environmental regulation. The Act establishes appropriate institutional frameworks at the national,

urban and local levels. The establishment of physical planning committees at the local levels provides an opportunity to consider special physical planning development needs in rural areas. However, there are some challenges regarding the implementation of the new law because there are no guidelines for implementing the physical planning standards. The required approach to implementing the Act is therefore not known by the key stakeholders who are supposed to implement it. In addition, there are insufficient specialized and technical personnel to monitor implementation especially in relation to environmental standards. It is thus recommended that the content of the law be more widely communicated to the community and there be provision of funding and specialized training to ensure its effective implementation.