

2011 No. 2056

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011

Made - - - - *30th August 2011*

Laid before Parliament *6th September 2011*

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by sections 59, 60, 61 and 333(7) of the Town and Country Planning Act 1990(a), makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011 and shall come into force—

- (a) for all purposes other than those of article 2(4), on 1st October 2011, and
- (b) for the purposes of article 2(4), with effect from 1st December 2011.

(2) This Order applies in relation to England only.

Amendment of the Town and Country Planning (General Permitted Development) Order 1995

2.—(1) The Town and Country Planning (General Permitted Development) Order 1995(b) is amended as follows.

(2) In Part 2 of Schedule 2 (minor operations), after Class C insert—

“Class D

Permitted development

D. The installation, alteration or replacement, within an area lawfully used for off-street parking, of an electrical outlet mounted on a wall for recharging electric vehicles.

Development not permitted

D.1 Development is not permitted by Class D if the outlet and its casing would—

(a) 1990c.8; to which there are amendments not relevant to this Order. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order; S.I. 1999/672; see the entry in article 2 of and Schedule 1 to the Town and Country Planning Act 1990 (c.8). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.

(b) S.I. 1995/418. Relevant amendments were made by S.I. 2008/675.

- (a) exceed 0.2 cubic metres;
- (b) face onto and be within two metres of a highway;
- (c) be within a site designated as a scheduled monument; or
- (d) be within the curtilage of a listed building.

Conditions

D.2 Development is permitted by Class D subject to the conditions that when no longer needed as a charging point for electric vehicles—

- (a) the development shall be removed as soon as reasonably practicable; and
- (b) the wall on which the development was mounted or into which the development was set shall, as soon as reasonably practicable, and so far as reasonably practicable, be reinstated to its condition before that development was carried out.

Class E

Permitted development

E. The installation, alteration or replacement, within an area lawfully used for off-street parking, of an upstand with an electrical outlet mounted on it for recharging electric vehicles.

Development not permitted

E.1 Development is not permitted by Class E if the upstand and the outlet would—

- (a) exceed 1.6 metres in height from the level of the surface used for the parking of vehicles;
- (b) be within two metres of a highway;
- (c) be within a site designated as a scheduled monument;
- (d) be within the curtilage of a listed building; or
- (e) result in more than one upstand being provided for each parking space.

Conditions

E.2 Development is permitted by Class E subject to the conditions that when the development is no longer needed as a charging point for electric vehicles—

- (a) the development shall be removed as soon as reasonably practicable; and
- (b) the land on which the development was mounted or into which the development was set shall, as soon as reasonably practicable, and so far as reasonably practicable, be reinstated to its condition before that development was carried out.”

(3) In Part 12 of Schedule 2 (development by local authorities), for Class A substitute—

“Class A

Permitted development

A The erection or construction and the maintenance, improvement or other alteration by a local authority or by an urban development corporation of—

- (a) **any small ancillary building, works or equipment on land belonging to or maintained by them required for the purposes of any function exercised by them on that land otherwise than as statutory undertakers;**
- (b) **lamp standards, information kiosks, passenger shelters, public shelters and seats, telephone boxes, fire alarms, public drinking fountains, horse troughs,**

refuse bins or baskets, barriers for the control of people waiting to enter public service vehicles, electric vehicle charging points and any associated infrastructure, and similar structures or works required in connection with the operation of any public service administered by them.

Interpretation of Class A

A.1 For the purposes of Class A “urban development corporation” has the same meaning as in Part 16 of the Local Government, Planning and Land Act 1980(a) (urban development).

A.2 The reference in Class A to any small ancillary building, works or equipment is a reference to any ancillary building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity.”.

(4) For Part 40 of Schedule 2 (installation of domestic microgeneration equipment) substitute Part 40 as set out in the Schedule to this Order.

Signed by authority of the Secretary of State for Communities and Local Government

Greg Clark

Minister of State

30th August 2011

Department for Communities and Local Government

SCHEDULE

Article 2(4)

“Part 40

INSTALLATION OF DOMESTIC MICROGENERATION EQUIPMENT

Class A

Permitted development

A. The installation, alteration or replacement of solar PV or solar thermal equipment on—

- (a) a dwellinghouse or a block of flats; or**
- (b) a building situated within the curtilage of a dwellinghouse or a block of flats.**

Development not permitted

A.1. Development is not permitted by Class A if—

- (a) the solar PV or solar thermal equipment would protrude more than 200 millimetres beyond the plane of the wall or the roof slope when measured from the perpendicular with the external surface of the wall or roof slope;
- (b) it would result in the highest part of the solar PV or solar thermal equipment being higher than the highest part of the roof (excluding any chimney);
- (c) in the case of land within a conservation area or which is a World Heritage Site, the solar PV or solar thermal equipment would be installed on a wall which fronts a highway;
- (d) the solar PV or solar thermal equipment would be installed on a site designated as a scheduled monument; or

(a) 1980 c. 65.

- (e) the solar PV or solar thermal equipment would be installed on a building within the curtilage of the dwellinghouse or block of flats if the dwellinghouse or block of flats is a listed building.

Conditions

A.2. Development is permitted by Class A subject to the following conditions—

- (a) solar PV or solar thermal equipment shall, so far as practicable, be sited so as to minimise its effect on the external appearance of the building;
- (b) solar PV or solar thermal equipment shall, so far as practicable, be sited so as to minimise its effect on the amenity of the area; and
- (c) solar PV or solar thermal equipment no longer needed for microgeneration shall be removed as soon as reasonably practicable.

Class B

Permitted development

B. The installation, alteration or replacement of stand alone solar within the curtilage of a dwellinghouse or a block of flats.

Development not permitted

B.1. Development is not permitted by Class B if—

- (a) in the case of the installation of stand alone solar, the development would result in the presence within the curtilage of more than one stand alone solar;
- (b) any part of the stand alone solar—
 - (i) would exceed four metres in height;
 - (ii) would, in the case of land within a conservation area or which is a World Heritage Site, be installed so that it is nearer to any highway which bounds the curtilage than the part of the dwellinghouse or block of flats which is nearest to that highway;
 - (iii) would be installed within five metres of the boundary of the curtilage;
 - (iv) would be installed within the curtilage of a listed building; or
 - (v) would be installed on a site designated as a scheduled monument; or
- (c) the surface area of the solar panels forming part of the stand alone solar would exceed nine square metres or any dimension of its array (including any housing) would exceed three metres.

Conditions

B.2. Development is permitted by Class B subject to the following conditions—

- (a) stand alone solar shall, so far as practicable, be sited so as to minimise its effect on the amenity of the area; and
- (b) stand alone solar which is no longer needed for microgeneration shall be removed as soon as reasonably practicable.

Class C

Permitted development

C. The installation, alteration or replacement of a ground source heat pump within the curtilage of a dwellinghouse or a block of flats.

Class D

Permitted development

D. The installation, alteration or replacement of a water source heat pump within the curtilage of a dwellinghouse or a block of flats.

Class E

Permitted development

E. The installation, alteration or replacement of a flue, forming part of a biomass heating system, on a dwellinghouse or a block of flats.

Development not permitted

E.1 Development is not permitted by Class E if—

- (a) the height of the flue would exceed the highest part of the roof by one metre or more; or
- (b) in the case of land within a conservation area or which is a World Heritage Site, the flue would be installed on a wall or roof slope which fronts a highway.

Class F

Permitted development

F. The installation, alteration or replacement of a flue, forming part of a combined heat and power system, on a dwellinghouse or a block of flats.

Development not permitted

F.1 Development is not permitted by Class F if—

- (a) the height of the flue would exceed the highest part of the roof by one metre or more; or
- (b) in the case of land within a conservation area or which is a World Heritage Site, the flue would be installed on a wall or roof slope which fronts a highway.

Class G

Permitted Development

G. The installation, alteration or replacement of an air source heat pump—

- (a) **on a dwellinghouse or a block of flats; or**
- (b) **within the curtilage of a dwellinghouse or a block of flats, including on a building within that curtilage.**

Development not permitted

G.1 Development is not permitted by Class G unless the air source heat pump complies with the MCS Planning Standards or equivalent standards.

G.2. Development is not permitted by Class G if—

- (a) in the case of the installation of an air source heat pump, the development would result in the presence of more than one air source heat pump on the same building or within the curtilage of the building or block of flats;
- (b) in the case of the installation of an air source heat pump, a wind turbine is installed on the same building or within the curtilage of the dwellinghouse or block of flats;

- (c) in the case of the installation of an air source heat pump, a stand alone turbine is installed within the curtilage of the dwellinghouse or block of flats;
- (d) the volume of the air source heat pump's outdoor compressor unit (including any housing) would exceed 0.6 cubic metres;
- (e) any part of the air source heat pump would be installed within one metre of the boundary of the curtilage of the dwellinghouse or block of flats;
- (f) the air source heat pump would be installed on a pitched roof;
- (g) the air source heat pump would be installed on a flat roof where it would be within one metre of the external edge of that roof;
- (h) the air source heat pump would be installed on a site designated as a scheduled monument;
- (i) the air source heat pump would be installed on a building or on land within the curtilage of the dwellinghouse or the block of flats if the dwellinghouse or the block of flats is a listed building;
- (j) in the case of land within a conservation area or which is a World Heritage Site the air source heat pump—
 - (i) would be installed on a wall or a roof which fronts a highway; or
 - (ii) would be installed so that it is nearer to any highway which bounds the curtilage than the part of the dwellinghouse or block of flats which is nearest to that highway; or
- (k) in the case of land, other than land within a conservation area or which is a World Heritage Site, the air source heat pump would be installed on a wall of a dwellinghouse or block of flats if—
 - (i) that wall fronts a highway; and
 - (ii) the air source heat pump would be installed on any part of that wall which is above the level of the ground storey.

Conditions

G.3. Development is permitted by Class G subject to the following conditions—

- (a) the air source heat pump shall be used solely for heating purposes;
- (b) the air source heat pump shall, so far as practicable, be sited so as to minimise its effect on the external appearance of the building;
- (c) the air source heat pump shall, so far as practicable, be sited so as to minimise its effect on the amenity of the area; and
- (d) the air source heat pump when no longer needed for microgeneration shall be removed as soon as reasonably practicable.

Class H

Permitted Development

H. The installation, alteration or replacement of a wind turbine on—

- (a) a detached dwellinghouse; or
- (b) a detached building situated within the curtilage of a dwellinghouse or a block of flats.

Development not permitted

H.1. Development is not permitted by Class H unless the wind turbine complies with the MCS Planning Standards or equivalent standards.

H.2 Development is not permitted by Class H if—

- (a) in the case of the installation of a wind turbine the development would result in the presence of more than one wind turbine on the same building or within the curtilage;
- (b) in the case of the installation of a wind turbine, a stand alone wind turbine is installed within the curtilage of the dwellinghouse or the block of flats;
- (c) in the case of the installation of a wind turbine, an air source heat pump is installed on the same building or within its curtilage;
- (d) the highest part of the wind turbine (including blades) would either—
 - (i) protrude more than three metres above the highest part of the roof (excluding the chimney); or
 - (ii) exceed more than 15 metres in height, whichever is the lesser;
- (e) the distance between ground level and the lowest part of any blade of the wind turbine would be less than five metres;
- (f) any part of the wind turbine (including blades) would be positioned so that it would be within five metres of any boundary of the curtilage of the dwellinghouse or the block of flats;
- (g) the swept area of any blade of the wind turbine would exceed 3.8 square metres;
- (h) the wind turbine would be installed on safeguarded land;
- (i) the wind turbine would be installed on a site designated as a scheduled monument;
- (j) the wind turbine would be installed within the curtilage of a building which is a listed building;
- (k) in the case of land within a conservation area, the wind turbine would be installed on a wall or roof slope of—
 - (i) the detached dwellinghouse; or
 - (ii) a building within the curtilage of the dwellinghouse or block of flats, which fronts a highway; or
- (l) the wind turbine would be installed on article 1(5) land other than land within a conservation area.

Conditions

H.3. Development is permitted by Class H subject to the following conditions—

- (a) the blades of the wind turbine shall be made of non reflective materials;
- (b) the wind turbine shall, so far as practicable, be sited so as to minimise its effect on the external appearance of the building;
- (c) the wind turbine shall, so far as practicable, be sited so as to minimise its effect on the amenity of the area; and
- (d) the wind turbine when no longer needed for microgeneration shall be removed as soon as reasonably practicable.

Class I

Permitted Development

I. The installation, alteration or replacement of a stand alone wind turbine within the curtilage of a dwellinghouse or a block of flats.

Development not permitted

I.1. Development is not permitted by Class I unless the stand alone wind turbine complies with the MCS Planning Standards or equivalent standards.

I.2 Development is not permitted by Class I if—

- (a) in the case of the installation of a stand alone wind turbine, the development would result in the presence of more than one stand alone wind turbine within the curtilage of the dwellinghouse or block of flats;
- (b) in the case of the installation of a stand alone wind turbine, a wind turbine is installed on the dwellinghouse or on a building within the curtilage of the dwellinghouse or the block of flats;
- (c) in the case of the installation of a stand alone wind turbine, an air source heat pump is installed on the dwellinghouse or block of flats or within the curtilage of the dwellinghouse or block of flats;
- (d) the highest part of the stand alone wind turbine would exceed 11.1 metres in height;
- (e) the distance between ground level and the lowest part of any blade of the stand alone wind turbine would be less than five metres;
- (f) any part of the stand alone wind turbine (including blades) would be located in a position which is less than a distance equivalent to the overall height (including blades) of the stand alone wind turbine plus 10 % of its height when measured from any point along the boundary of the curtilage;
- (g) the swept area of any blade of the stand alone wind turbine exceeds 3.8 square metres;
- (h) the stand alone wind turbine would be installed on safeguarded land;
- (i) the stand alone wind turbine would be installed on a site designated as a scheduled monument;
- (j) the stand alone wind turbine would be installed within the curtilage of a building which is a listed building;
- (k) in the case of land within a conservation area, the stand alone wind turbine would be installed so that it is nearer to any highway which bounds the curtilage than the part of the dwellinghouse or block of flats which is nearest to that highway; or
- (l) the stand alone wind turbine would be installed on article 1(5) land other than land within a conservation area.

Conditions

I.3. Development is permitted by Class I subject to the following conditions—

- (a) the blades of the stand alone wind turbine shall be made of non reflective materials;
- (b) the stand alone wind turbine shall, so far as practicable, be sited so as to minimise its effect on the amenity of the area; and
- (c) the stand alone wind turbine when no longer needed for microgeneration shall be removed as soon as reasonably practicable.

Interpretation of Part 40

J. For the purposes of Part 40—

“aerodrome”—

- (a) means any area of land or water designed, equipped, set apart, or commonly used for affording facilities for the landing and departure of aircraft; and

- (b) includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically; but
- (c) does not include any area the use of which for affording facilities for the landing and departure of aircraft has been abandoned and has not been resumed;

“block of flats” means a building which consists wholly of flats;

“detached dwellinghouse” or “detached building” means a dwellinghouse or building, as the case may be, which does not share a party wall with a neighbouring building;

“microgeneration” has the same meaning as in section 82(6) of the Energy Act

2004(a);

“MSC Planning Standards” means the product and installation standards for air source heat pumps and wind turbines specified in Microgeneration Certification Scheme MCS 020(b);

“safeguarded land” means land which—

- (a) is necessary to be safeguarded for aviation or defence purposes; and
- (b) has been notified as such, in writing, to the Secretary of State by an aerodrome operator, NATS (EN ROUTE) PLC or the Secretary of State for Defence for the purposes of this Part;

“solar PV” means solar photovoltaics;

“stand alone solar” means solar PV or solar thermal equipment which is not installed on a building;

“stand alone wind turbine” means a wind turbine which is not fixed to a building.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Part 40 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418). This Part confers permitted development rights for the installation of certain microgeneration equipment on a dwellinghouse or within its curtilage. Some of these rights also apply to a block of flats. Where permitted development rights apply, no specific application for planning permission is required.

Article 2(2) inserts new classes D and E into Part 2 of Schedule 2 (minor operations). These create permitted development rights for the installation, alteration or replacement of electric vehicle charging points in off-street car parks. Article 2(3) substitutes a new class A in Part 12 of Schedule 2 (development by local authorities). It provides new permitted development rights for a local authority or urban development corporation to erect or construct and maintain, improve or alter electric vehicle charging points and associated infrastructure.

Article 2(4) and the Schedule to this Order substitute a new Part 40 of Schedule 2 to the Order. The new Part 40 confers permitted development rights for the installation of specified types of microgeneration equipment on or within the curtilage of dwellinghouses or blocks of flats subject to certain criteria. It makes minor changes to Classes A to F of Part 40 and introduces three new classes of permitted development rights to install certain types of microgeneration equipment. These are the installation, alteration or replacement of an air source heat pump (Class G) a wind turbine mounted on a building (Class H) and a stand alone wind turbine (Class I). The rights to fix wind turbines to buildings apply only to equipment installed on a detached dwellinghouse or to a detached building within the curtilage of a dwellinghouse or block of flats.

(a) 2004 c.20.

(b) Issue 1.0 dated 19 August 2011 published by Gemserv Limited

An impact assessment has been prepared in relation to this Order. The assessment has been placed in the Library of each House of Parliament and copies may be obtained from the Department for Communities and Local Government, Bressenden Place, London, SW1E 5DU (Telephone 0303 44 41729).

This Order was notified in draft to the European Commission in accordance with 98/34/EC(a) as amended by Directive 98/48/EC(b).

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(b) OJ L217/18 vol 41 5 July 1998

STATUTORY INSTRUMENTS

2011 No. 2056

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