

STATUTORY INSTRUMENTS

2008 No. 2362

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008

<i>Made</i>	- - - -	<i>4th September 2008</i>
<i>Laid before Parliament</i>		<i>10th September 2008</i>
<i>Coming into force</i>	- -	<i>1st October 2008</i>

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(1), makes the following Order:

Citation, commencement, interpretation and application

1.— This Order may be cited as the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 and shall come into force on 1st October 2008.

- (1) In this Order “the 1995 Order” means the Town and Country Planning (General Permitted Development) Order 1995(2).
- (2) This Order applies in relation to England only.

World Heritage Sites

2.— The 1995 Order is amended in accordance with this article.

(1) In article 1(2) (citation, commencement and interpretation)—

- (a) in the definition of “the Use Classes Order” for “.” substitute “; and”; and
- (b) after the definition of “the Use Classes Order” insert—

““World Heritage Site” means a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage.”.

(2) In Part 2 (article 1(5) land) of Schedule 1—

- (a) at the end of paragraph (e) for “.” substitute “; and”; and
- (b) after paragraph (e) insert—
“(f) a World Heritage Site.”.

(3) In paragraph G.1 of Part 40 (installation of domestic microgeneration equipment) of Schedule 2—

- (a) in the definition of “stand alone solar” for “;” substitute “.”; and

(1) 1990 c.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 1999, S.I. 1999/672: *see* the entry in Schedule 1 for the Town and Country Planning Act 1990 (c.8) as substituted by article 4 of, and Schedule 3 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253). 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.

(2) S.I. 1995/418. Relevant amendments were made by S.I. 2005/2935 and S.I. 2008/675.

- (b) omit the definition of “World Heritage Site”.

Development within the curtilage of a dwellinghouse

3. In Schedule 2 to the 1995 Order, for Part 1 (development within the curtilage of a dwellinghouse) substitute the text set out in the Schedule to this Order.

Installation of Domestic Microgeneration Equipment

4. In paragraph A.1. of Part 40 (installation of domestic microgeneration equipment) of Schedule 2 to the 1995 Order, omit “or roof slope” from sub-paragraphs (c)(i) and (c)(ii).

4th September 2008

Hazel Blears
One of Her Majesty’s Principal Secretaries of State
Department for Communities and Local Government

SCHEDULE Article 3

“PART 1

DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

Class A

Permitted development

A. The enlargement, improvement or other alteration of a dwellinghouse.

Development not permitted

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

- (a) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
- (b) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;
- (c) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;
- (d) the enlarged part of the dwellinghouse would extend beyond a wall which—
 - (i) fronts a highway, and
 - (ii) forms either the principal elevation or a side elevation of the original dwellinghouse;
- (e) the enlarged part of the dwellinghouse would have a single storey and—
 - (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
 - (ii) exceed 4 metres in height;
- (f) the enlarged part of the dwellinghouse would have more than one storey and—
 - (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or
 - (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;
- (g) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;
- (h) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—
 - (i) exceed 4 metres in height,
 - (ii) have more than one storey, or
 - (ii) have a width greater than half the width of the original dwellinghouse; or
- (i) it would consist of or include—
 - (i) the construction or provision of a veranda, balcony or raised platform,
 - (ii) the installation, alteration or replacement of a microwave antenna,

- (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
- (iv) an alteration to any part of the roof of the dwellinghouse.

A.2 In the case of a dwellinghouse on article 1(5) land, development is not permitted by Class A if—

- (a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;
- (b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
- (c) the enlarged part of the dwellinghouse would have more than one storey and extend beyond the rear wall of the original dwellinghouse.

Conditions

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

- (a) the materials used in any exterior work (other than materials used in the construction of a conservatory) shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- (b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse shall be—
 - (i) obscure-glazed, and
 - (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and
- (c) where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part shall, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

Class B

Permitted development

B. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Development not permitted

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

- (a) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;
- (b) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;
- (c) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than—
 - (i) 40 cubic metres in the case of a terrace house, or
 - (ii) 50 cubic metres in any other case;
- (d) it would consist of or include—
 - (i) the construction or provision of a veranda, balcony or raised platform, or
 - (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or
- (e) the dwellinghouse is on article 1(5) land.

Conditions

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

- (a) the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- (b) other than in the case of a hip-to-gable enlargement, the edge of the enlargement closest to the eaves of the original roof shall, so far as practicable, be not less than 20 centimetres from the eaves of the original roof; and
- (c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse shall be—
 - (i) obscure-glazed, and
 - (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Interpretation of Class B

B.3 For the purposes of Class B “resulting roof space” means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.

Class C

Permitted development

C. Any other alteration to the roof of a dwellinghouse.

Development not permitted

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

- (a) the alteration would protrude more than 150 millimetres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof;
- (b) it would result in the highest part of the alteration being higher than the highest part of the original roof; or
- (c) it would consist of or include—
 - (i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
 - (ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.

Conditions

C.2 Development is permitted by Class C subject to the condition that any window located on a roof slope forming a side elevation of the dwellinghouse shall be—

- (a) obscure-glazed; and
- (b) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Class D

Permitted development

D. The erection or construction of a porch outside any external door of a dwellinghouse.

Development not permitted

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

- (a) the ground area (measured externally) of the structure would exceed 3 square metres;
- (b) any part of the structure would be more than 3 metres above ground level; or
- (c) any part of the structure would be within 2 metres of any boundary of the curtilage of the dwellinghouse with a highway.

Class E

Permitted development

E. The provision within the curtilage of the dwellinghouse of—

- (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or
- (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

Development not permitted

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

- (a) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
- (b) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;
- (c) the building would have more than one storey;
- (d) the height of the building, enclosure or container would exceed—
 - (i) 4 metres in the case of a building with a dual-pitched roof,
 - (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
 - (iii) 3 metres in any other case;
- (e) the height of the eaves of the building would exceed 2.5 metres;
- (f) the building, enclosure, pool or container would be situated within the curtilage of a listed building;
- (g) it would include the construction or provision of a veranda, balcony or raised platform;
- (h) it relates to a dwelling or a microwave antenna; or
- (i) the capacity of the container would exceed 3,500 litres.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within—

- (a) a World Heritage Site,
- (b) a National Park,
- (c) an area of outstanding natural beauty, or
- (d) the Broads,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

E.3 In the case of any land within the curtilage of the dwellinghouse which is article 1(5) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.

Interpretation of Class E

E.4 For the purposes of Class E, “purpose incidental to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

Class F

Permitted development

F. Development consisting of—

- (a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or
- (b) the replacement in whole or in part of such a surface.

Conditions

F.1 Development is permitted by Class F subject to the condition that where—

- (a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and
- (b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres,

either the hard surface shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

Class G

Permitted development

G. The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

Development not permitted

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

- (a) the height of the chimney, flue or soil and vent pipe would exceed the highest part of the roof by 1 metre or more; or
- (b) in the case of a dwellinghouse on article 1(5) land, the chimney, flue or soil and vent pipe would be installed on a wall or roof slope which—
 - (i) fronts a highway, and
 - (ii) forms either the principal elevation or a side elevation of the dwellinghouse.

Class H

Permitted development

H. The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse.

Development not permitted

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

- (a) it would result in the presence on the dwellinghouse or within its curtilage of—
 - (i) more than two antennas;
 - (ii) a single antenna exceeding 100 centimetres in length;

- (iii) two antennas which do not meet the relevant size criteria;
- (iv) an antenna installed on a chimney, where the length of the antenna would exceed 60 centimetres;
- (v) an antenna installed on a chimney, where the antenna would protrude above the chimney; or
- (vi) an antenna with a cubic capacity in excess of 35 litres;
- (b) in the case of an antenna to be installed on a roof without a chimney, the highest part of the antenna would be higher than the highest part of the roof;
- (c) in the case of an antenna to be installed on a roof with a chimney, the highest part of the antenna would be higher than the highest part of the chimney, or 60 centimetres measured from the highest part of the ridge tiles of the roof, whichever is the lower; or
- (d) in the case of article 1(5) land, it would consist of the installation of an antenna—
 - (i) on a chimney, wall or roof slope which faces onto, and is visible from, a highway;
 - (ii) in the Broads, on a chimney, wall or roof slope which faces onto, and is visible from, a waterway; or
 - (iii) on a building which exceeds 15 metres in height.

Conditions

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

- (a) an antenna installed on a building shall, so far as practicable, be sited so as to minimise its effect on the external appearance of the building; and
- (b) an antenna no longer needed for reception or transmission purposes shall be removed as soon as reasonably practicable.

Interpretation of Class H

H.3 The relevant size criteria for the purposes of paragraph H.1(a)(iii) are that:

- (a) only one of the antennas may exceed 60 centimetres in length; and
- (b) any antenna which exceeds 60 centimetres in length must not exceed 100 centimetres in length.

H.4 The length of the antenna is to be measured in any linear direction, and shall exclude any projecting feed element, reinforcing rim, mounting or brackets.

Interpretation of Part 1

I. For the purposes of Part 1—

“raised” in relation to a platform means a platform with a height greater than 300 millimetres; and

“terrace house” means a dwellinghouse situated in a row of three or more dwellinghouses used or designed for use as single dwellings, where—

- (a) it shares a party wall with, or has a main wall adjoining the main wall of, the dwellinghouse on either side; or
- (b) if it is at the end of a row, it shares a party wall with or has a main wall adjoining the main wall of a dwellinghouse which fulfils the requirements of sub-paragraph (a).”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning (General Permitted Development) Order 1995 (“the 1995 Order”). The 1995 Order confers permitted development rights in respect of certain development. Where such rights apply, no specific application for planning permission is needed.

Article 2 adds World Heritage Sites to the list of land in Part 2 of Schedule 1 to the 1995 Order (known as “article 1(5) land”). The 1995 Order confers a more restricted set of permitted development rights in relation to article 1(5) land. Articles 2(2) and 2(4) make consequential amendments.

Article 3 and the Schedule substitute a new Part 1 of Schedule 2 to the 1995 Order. Part 1 of Schedule 2 confers permitted development rights in relation to development within the curtilage of a dwellinghouse. The new Part 1 of Schedule 2 makes changes to the permitted development rights in relation to the enlargement, improvement or alteration of a dwellinghouse (Class A); the enlargement of a dwellinghouse consisting of an addition or alteration to its roof (Class B); any other alteration to the roof of a dwellinghouse (Class C); the provision within the curtilage of any building, enclosure, pool or container (Class E); and the provision within the curtilage of a hard surface (Class F). The previous Class G (erection or provision within the curtilage of a container) is subsumed within the new Class E. A new Class G confers permitted development rights in relation to the installation, alteration or replacement of a chimney, flue or soil and vent pipe. Classes D (erection or construction of a porch) and H (installation, alteration or replacement of a microwave antenna) are unchanged.

Article 4 amends the restrictions in Class A of Part 40 of Schedule 2 to the 1995 Order on the installation of solar photovoltaics or solar thermal equipment on a dwellinghouse or a building within its curtilage.

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 020 7944 8716).