

2012 No. 1346 (W. 167)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Town and Country Planning
(General Permitted Development)
(Amendment) (Wales) Order 2012**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995⁽¹⁾ (“the 1995 Order”). Article 3 of and Schedule 2 to the 1995 Order confer permitted development rights in respect of certain development. Where such rights apply, no specific application for planning permission is needed.

Article 2(3) of this Order substitutes a new Part 40 of Schedule 2 to the 1995 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 flats subject to certain criteria. It amends Class A of Part 40 to introduce permitted development rights to install solar PV or solar thermal equipment on flat roofs. It introduces three new classes of permitted development rights to install an air source heat pump (Class G), a stand alone wind turbine (Class H) and an anemometry mast (Class I). Article 2(2) of this Order makes consequential amendments.

A regulatory impact assessment has been prepared in relation to this Order. Copies may be obtained from the Planning Division of the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

This Order was notified in draft to the European Commission in accordance with Directive 98/34/EC⁽²⁾ as amended by Directive 98/48/EC⁽³⁾.

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- (1) S.I. 1995/418. Relevant amendments were made by S.I. 2009/2193 (W.185).
(2) OJ L204/37 vol 41 21 July 1998.
(3) OJ L217/18 vol 41 5 August 1998.

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**The Town and Country Planning
(General Permitted Development)
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Made 19 May 2012

Laid before the National Assembly for Wales
22 May 2012

*Coming into force in accordance with article
1(1)*

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 59, 60, 61 and 333(7) of the Town and Country Planning Act 1990⁽¹⁾ and now exercisable by them⁽²⁾, make the following Order:

Title, commencement and application

1.—(1) The title of this Order is the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2012 and it comes into force on 18 June 2012.

(2) This Order applies in relation to Wales.

(1) 1990 c.8; to which there are amendments not relevant to this Order.

(2) The functions of the Secretary of State under sections 59, 60, 61 and 333(7) were, so far as exercisable in relation to Wales, 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). The functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32), the functions being relevant Assembly functions as defined in paragraph 30(2).

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

2.—(1) The Town and Country Planning (General Permitted Development) Order 1995⁽¹⁾ is amended in accordance with this article.

(2) In Part 1 of Schedule 2 (development within the curtilage of a dwellinghouse)—

(a) for paragraph A.1(i) substitute—

“(i) it would consist of or include the installation, alteration or replacement of an air source heat pump, solar PV, solar thermal equipment or a flue forming part of a biomass heating system or combined heat and power system.”
; and

(b) for paragraph C.1(i) substitute—

“(i) consist of or include the installation, alteration or replacement of an air source heat pump, solar PV, solar thermal equipment or a flue forming part of a biomass heating system or combined heat and power system; or”.

(3) For Part 40 of Schedule 2 (installation of domestic microgeneration equipment) substitute—

“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

(b) a building situated within the curtilage of a dwellinghouse.

Development not permitted

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

(1) S.I. 1995/418. Relevant amendments were made by S.I. 2009/2193 (W.185).

- (a) in the case of solar PV or solar thermal equipment installed on a wall or pitched roof—
 - (i) the solar PV or solar thermal equipment would protrude more than 20 centimetres 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; or
 - (ii) 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);
- (b) in the case of solar PV or solar thermal equipment installed on a flat roof—
 - (i) the solar PV or solar thermal equipment would be sited within 1 metre of the external edge of the roof; or
 - (ii) the solar PV or solar thermal equipment would protrude more than 1 metre above the plane of the roof;
- (c) in the case of land within a conservation area or a World Heritage Site, the solar PV or solar thermal equipment would be installed—
 - (i) on a wall forming the principal or side elevation of the dwellinghouse and which fronts a highway; or
 - (ii) on a wall of a building within the curtilage of the dwellinghouse and which fronts a highway;
- (d) the solar PV or solar thermal equipment would be installed on a building within the curtilage of the dwellinghouse if the dwellinghouse is a listed building; or
- (e) the solar PV or solar thermal equipment would be installed on a site designated as a scheduled monument.

Conditions

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

- (a) solar PV or solar thermal equipment must, 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 must, 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 or capable of microgeneration must 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.

Development not permitted

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

- (a) in the case of the installation of stand alone solar, it 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 be installed within five metres of the boundary of the curtilage of the dwellinghouse and would—
 - (aa) exceed two metres in height; or
 - (bb) be installed within five metres of a highway;
 - (iii) would, in the case of land within a conservation area or a World Heritage Site, be installed so that it is between a highway which bounds the curtilage and the dwellinghouse; or
 - (iv) would be installed within the curtilage of a listed building; 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 must, 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 or capable of microgeneration must 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.

Class D

Permitted development

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

Class E

Permitted development

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

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 a World Heritage Site, the flue would be installed on a wall or roof slope forming the principal or side elevation of the dwellinghouse and 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.

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 a World Heritage Site, the flue would be installed on a wall or roof slope forming the principal or side elevation of the dwellinghouse and 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**
- (b) within the curtilage of a dwellinghouse, 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, it would result in the presence of more than one air source heat pump on the dwellinghouse or within the curtilage of the dwellinghouse;
- (b) in the case of the installation of an air source heat pump, a stand alone wind turbine is installed within the curtilage of the dwellinghouse;
- (c) the volume of the air source heat pump's outdoor compressor unit (including any housing) would exceed one cubic metre;
- (d) any part of the air source heat pump would be installed within three metres of the boundary of the curtilage of the dwellinghouse;

- (e) the air source heat pump would be installed on a pitched roof;
- (f) the air source heat pump would be installed on a flat roof where it would be sited within one metre of the external edge of that roof;
- (g) the air source heat pump would be installed within the curtilage of the dwellinghouse if the dwellinghouse is a listed building;
- (h) the air source heat pump would be installed on a site designated as a scheduled monument; or
- (i) the air source heat pump would be installed on a wall or roof which fronts a highway.

Conditions

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

- (a) the air source heat pump must be used solely for heating purposes;
- (b) the air source heat pump must, 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 must, 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 or capable of microgeneration must be removed as soon as reasonably practicable.

Class H

Permitted development

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

Development not permitted

H.1 Development is not permitted by Class H unless the stand alone 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 stand alone wind turbine, it would result in

- the presence of more than one stand alone wind turbine within the curtilage of the dwellinghouse;
- (b) in the case of the installation of a stand alone wind turbine, an air source heat pump is installed on the dwellinghouse or within the curtilage of the dwellinghouse;
 - (c) the highest part of the stand alone wind turbine (including blades) would exceed 11.1 metres in height;
 - (d) the distance between ground level and the lowest part of any blade of the stand alone wind turbine would be less than 5 metres;
 - (e) any part of the stand alone wind turbine (including blades but excluding guy lines) 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;
 - (f) the swept area of the blades of the stand alone wind turbine exceeds 9.6 square metres;
 - (g) the stand alone wind turbine would be installed on safeguarded land;
 - (h) the stand alone wind turbine would be installed within the curtilage of a listed building;
 - (i) the stand alone wind turbine would be installed on a site designated as a scheduled monument;
 - (j) in the case of land within a conservation area, the stand alone wind turbine would be installed so that it is visible from a highway which bounds the curtilage of the dwellinghouse; or
 - (k) the stand alone wind turbine would be installed on land which is within an area of outstanding natural beauty, a World Heritage Site or a site of special scientific interest.

Conditions

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

- (a) the blades of the stand alone wind turbine must be made of non-reflective materials;

- (b) the stand alone wind turbine must, 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 or capable of microgeneration must be removed as soon as reasonably practicable.

Class I

Permitted Development

I. The temporary installation of an anemometry mast within the curtilage of a dwellinghouse.

Development not permitted

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

- (a) it would result in the presence of more than one anemometry mast within the curtilage of the dwellinghouse;
- (b) a stand alone wind turbine is installed within the curtilage of the dwellinghouse;
- (c) an air source heat pump is installed on the dwellinghouse or within the curtilage of the dwellinghouse;
- (d) the highest part of the anemometry mast (including apparatus fitted to the mast) would exceed 11.1 metres in height;
- (e) any part of the anemometry mast (including apparatus fitted to the mast but excluding guy lines) would be located in a position which is less than a distance equivalent to the overall height (including apparatus fitted to the mast) of the anemometry mast plus 10 % of its height when measured from any point along the boundary of the curtilage;
- (f) the anemometry mast would be installed on safeguarded land;
- (g) the anemometry mast would be installed within the curtilage of a listed building;
- (h) the anemometry mast would be installed on a site designated as a scheduled monument;
- (i) in the case of land within a conservation area, the anemometry

mast would be installed so that it is visible from a highway which bounds the curtilage of the dwellinghouse;

- (j) the anemometry mast would be installed on land which is within an area of outstanding natural beauty, a World Heritage Site or a site of special scientific interest; or
- (k) an anemometry mast has been installed within the curtilage of the dwellinghouse within the preceding 5 years.

Conditions

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

- (a) the anemometry mast must, so far as practicable, be sited so as to minimise its effect on the amenity of the area;
- (b) the developer must, within 7 days of commencing development, notify the local planning authority in writing of the development and its location; and
- (c) on or before the expiry of a period of twelve months beginning with the date on which the development began, the anemometry mast must be removed.

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;

“anemometry mast” means a mast installed for the purpose of measuring wind speeds and directions;

“dwellinghouse” includes a building which consists wholly of flats or which is used for the purposes of a dwellinghouse;

“microgeneration” has the same meaning as in section 82(6) of the Energy Act 2004⁽¹⁾;

“MSC Planning Standards” means the product and installation standards for air source heat pumps and wind turbines specified in Microgeneration Certification Scheme MCS 020⁽²⁾;

“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;

“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.”.

John Griffiths

Minister for Environment and Sustainable
Development, one of the Welsh Ministers

19 May 2012

(1) 2004 c.20.
(2) Issue 1.0 dated 19 August 2011 published by Gemserv Limited.