

2011 No. 357

TOWN AND COUNTRY PLANNING

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

Made - - - - - *12th October 2011*

Laid before the Scottish Parliament *14th October 2011*

Coming into force in accordance with article 1(2) and (3)

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011.

(2) With the exception of those articles mentioned in paragraph (3), this Order comes into force on 21st November 2011.

(3) Articles 2(2)(b), (4), (5), (7) to (9) and (11) and 3 come into force on 6th February 2012.

(4) In this Order “the 1992 Order” means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(b).

Amendment of the 1992 Order

2.—(1) The 1992 Order is amended in accordance with paragraphs (2) to (12).

(2) In article 2 (interpretation)—

(a) in paragraph (1) omit the definition of “Procedure Order”; and

(b) in paragraph (2) for “Any” substitute “Except where a contrary intention appears, any”.

(3) After article 7 insert—

“Notification of an application for a determination under class 70

7A.—(1) A planning authority must give notice in accordance with this article that an application for a determination made under sub-paragraph (3)(b)(i) of class 70 (a building operation consisting of the demolition of a building) of Schedule 1 has been made.

(a) 1997 c.8. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.I. 1992/223; relevantly amended by S.I. 1992/1078 and 2084, 1994/3294, 1996/3023 and 2003/2155 and S.S.I. 2001/266, 2004/32, 2006/270 and 2007/209.

(2) Notice under paragraph (1) is to be given where there are premises situated on the neighbouring land to which the notice can be sent to the owner, lessee or occupier of such premises, by sending a notice addressed to “the Owner, Lessee or Occupier” to such premises.

(3) The notice to be given in accordance with paragraph (2) must—

- (a) state the date on which the notice is sent;
- (b) state the name of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent;
- (c) include any reference number given to the application by the planning authority;
- (d) include a description of the demolition to which the application relates;
- (e) include the postal address of the land to which the demolition relates, or if the land in question has no postal address, a description of the location of the land;
- (f) state how the application and other documents submitted in connection with it may be inspected;
- (g) state that representations may be made to the planning authority regarding the method of demolition and proposed restoration of the site; and
- (h) include information as to how and by which date (being a date not earlier than 14 days after the date on which the notice is sent) such representations may be made.

(4) In this article “neighbouring land” means an area or plot of land which, or part of which, is conterminous with or within 20 metres of the boundary of the land for which the development is proposed.”.

(4) For Part I (development within the curtilage of a dwellinghouse) of Schedule 1 substitute Parts 1 and 1ZA in the Schedule to this Order.

(5) In Part 1A (installation of domestic microgeneration equipment) of Schedule 1—

- (a) omit classes 6A and 6B (solar PV or solar thermal equipment); and
- (b) in the interpretation section, omit the definitions of “free-standing solar” and “solar PV”.

(6) In the interpretation section of Part 1B of Schedule 1, after the definitions of “significant extension” and “significant alteration” insert—

““solar PV” means solar photovoltaics;”.

(7) In class 7 (gates, fences, walls or other means of enclosure) of Part 2 of Schedule 1, at the end of sub-paragraph (2)(d) insert—

“or

- (e) it would be development described in class 3E(1)”.

(8) In class 8 (means of access) of Part 2 of Schedule 1, for “Class 7” substitute “classes 3E or 7”.

(9) In class 9 (the stone cleaning or painting of the exterior of any building or works) of Part 2 of Schedule 1, after sub-paragraph (2)(c) insert—

“or

- (d) it would be development described in class 2B(1)”.

(10) In class 67 (development by telecommunications code operators) of Part 20 of Schedule 1—

- (a) in paragraph (1) after “controlled by that operator” insert “or in accordance with the electronic communications code;” and
- (b) in sub-paragraph (6)(d) for “telecommunications purposes” substitute “electronic communication purposes”.

(11) In class 68 (microwave antenna) of Part 21 of Schedule 1, after paragraph (2)(a) insert—

“(aa) the development is permitted by class 4A(1);”.

(12) In class 70 (a building operation consisting of the demolition of a building) of Part 23 of Schedule 1—

- (a) in sub-paragraph (3)(b) after “demolition” where it first appears insert “is demolition of a qualifying building,”;
- (b) in sub-paragraph (3)(b)(ii) omit “, a certificate stating that neighbour notification procedure has been carried out in accordance with sub-paragraph (iii) below”;
- (c) omit sub-paragraph (3)(b)(iii); and
- (d) in the interpretation section, after the definition of “excluded demolition” insert—
 - ““qualifying building” means—
 - (a) a dwellinghouse;
 - (b) a building containing one or more flatted dwellings; or
 - (c) a building having a mutual wall with, or having a main wall adjoining the main wall of a dwellinghouse or a building containing one or more flatted dwellings,but for the purposes of this definition—
 - (i) a building is not to be regarded as a dwellinghouse or as containing one or more flatted dwellings if use as a dwelling is ancillary to any non-residential use of that building or other buildings on the same site; and
 - (ii) each house in a pair of semi-detached houses and every house in a row of terrace houses (whether or not, in either case, the house is in residential use) is to be regarded as a building.”.

Transitional provision and saving provision

3.—(1) Classes 1A to 1D, 2A, 2B, 3A to 3E and 4A of Parts 1 and 1ZA of Schedule 1 to the 1992 Order, as substituted by article 2 of this Order, do not apply to any development initiated^(a) before 6th February 2012 and completed before 31st August 2012, and the provisions of Part 1 of Schedule 1 to the 1992 Order shall continue to have effect with regard to such development as they did immediately before 6th February 2012.

(2) Development described in classes 1A(1), 1B(1), 1C(1), 1D(1), 2A(1), 2B(1), 3A(1), 3B(1), 3C(1), 3D(1), 3E(1) and 4A(1) of Parts 1 and 1ZA of Schedule 1 to the 1992 Order, as substituted by article 2 of this Order, is not permitted where—

- (a) immediately before 6th February 2012 article 3 of the 1992 Order did not apply to that development by virtue of a direction made under article 4 of that Order; and
- (b) that direction has not subsequently been cancelled by the Scottish Ministers or the planning authority under article 6 of the 1992 Order.

AILEEN CAMPBELL

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
12th October 2011

(a) Section 27 of the Town and Country Planning (Scotland) Act 1967 describes when development is initiated.

“PART 1

DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

Enlargement of a dwellinghouse

Class 1A.—(1) Any enlargement of a dwellinghouse by way of a single storey ground floor extension, including any alteration to the roof required for the purpose of the enlargement.

(2) Development is not permitted by this class if—

- (a) any part of the development would be forward of a wall forming part of the principal elevation or side elevation where that elevation fronts a road;
- (b) any part of the development would be within 1 metre of the boundary of the curtilage of the dwellinghouse and it would extend beyond the line of the wall forming part of the rear elevation that is nearest that boundary by more than—
 - (i) 3 metres in the case of a terrace house; or
 - (ii) 4 metres in any other case;
- (c) the height of the eaves of the development would exceed 3 metres;
- (d) any part of the development would exceed 4 metres in height;
- (e) as a result of the development the area of ground covered by the resulting dwellinghouse would be more than twice the area of ground covered by the original dwellinghouse;
- (f) as a result of the development the area of ground covered by development within the front or rear curtilage of the dwellinghouse (excluding the original dwellinghouse and any hard surface or deck) would exceed 50% of the area of the front or rear curtilage respectively (excluding the ground area of the original dwellinghouse and any hard surface or deck); or
- (g) it would be within a conservation area.

Class 1B.—(1) Any enlargement of a dwellinghouse by way of a ground floor extension consisting of more than one storey, including any alteration to the roof required for the purpose of the enlargement.

(2) Development is not permitted by this class if—

- (a) any part of the development would be forward of a wall forming part of the principal elevation or side elevation where that elevation fronts a road;
- (b) any part of the development would be within 10 metres of the boundary of the curtilage of the dwellinghouse;
- (c) as a result of the development the height of the dwellinghouse would exceed the height of the existing dwellinghouse, when measured at the highest part of the roof and excluding any chimney;
- (d) as a result of the development the area of ground covered by the resulting dwellinghouse would be more than twice the area of ground covered by the original dwellinghouse;
- (e) as a result of the development the area of ground covered by development within the front or rear curtilage of the dwellinghouse (excluding the original dwellinghouse and any hard surface or deck) would exceed 50% of the area of the

front or rear curtilage respectively (excluding the ground area of the original dwellinghouse and any hard surface or deck); or

- (f) it would be within a conservation area.

Class 1C.—(1) The erection, construction or alteration of any porch outside any external door of a dwellinghouse.

(2) Development is not permitted by this class if—

- (a) its footprint would exceed 3 square metres;
- (b) any part of it would be within 2 metres of a boundary between the curtilage of the dwellinghouse and a road;
- (c) any part of the development would exceed 3 metres in height; or
- (d) it would be within a conservation area.

Class 1D.—(1) Any enlargement of a dwellinghouse by way of an addition or alteration to its roof.

(2) Development is not permitted by this class if—

- (a) it would be on a roof plane forming part of the principal elevation or side elevation where that elevation fronts a road;
- (b) it would be on a roof plane and would be within 10 metres of the boundary of the curtilage of the dwellinghouse which that roof plane fronts;
- (c) as a result of the development the height of the dwellinghouse would exceed the height of the existing dwellinghouse, when measured at the highest part of the roof and excluding any chimney;
- (d) its width would exceed half the total width of the roof plane, measured at the eaves line, of the dwellinghouse;
- (e) any part of the development would be within 0.3 metres of any edge of the roof plane of the dwellinghouse; or
- (f) it would be within a conservation area.

Improvements or alterations to a dwellinghouse which are not enlargements

Class 2A.—(1) The erection, construction or alteration of any access ramp outside an external door of a dwellinghouse.

(2) Development is not permitted by this class if—

- (a) the combined length of all flights forming part of the access ramp would exceed 5 metres;
- (b) the combined length of all flights and landings forming part of the access ramp would exceed 9 metres;
- (c) any part of the ramp would exceed 0.4 metres in height;
- (d) the combined height of the ramp and any wall (excluding any external wall of the dwellinghouse), fence, balustrade, handrail or other structure attached to it would exceed 1.5 metres; or
- (e) it would be within a conservation area or within the curtilage of a listed building.

Class 2B.—(1) Any improvement, addition or other alteration to the external appearance of a dwellinghouse that is not an enlargement.

(2) Development is not permitted by this class if—

- (a) it would protrude more than 1 metre from the outer surface of an external wall, roof plane, roof ridge or chimney of the dwellinghouse;
- (b) it would be a wind turbine;
- (c) it would be a balcony;

- (d) it would be on the roof and would result in a raised platform or terrace;
- (e) it would be within a conservation area; or
- (f) it would be development described in class 2A(1), 3B(1), 6C(1), 6F(1), 6H(1) or 72(1).

(3) Development is permitted by this class subject to the condition that the materials used for any roof covering must be as similar in appearance to the existing roof covering as is reasonably practicable.

Other development within the curtilage of a dwellinghouse

Class 3A.—(1) The provision within the curtilage of a dwellinghouse of a building for any purpose incidental to the enjoyment of that dwellinghouse or the alteration, maintenance or improvement of such a building.

(2) Development is not permitted by this class if—

- (a) it consists of a dwelling;
- (b) any part of the development would be forward of a wall forming part of the principal elevation or side elevation where that elevation fronts a road;
- (c) the height of the eaves would exceed 3 metres;
- (d) any part of the development would exceed 4 metres in height;
- (e) any part of the development within 1 metre of the boundary of the curtilage of the dwellinghouse would exceed 2.5 metres in height;
- (f) as a result of the development the area of ground covered by development within the front or rear curtilage of the dwellinghouse (excluding the original dwellinghouse and any hard surface or deck) would exceed 50% of the area of the front or rear curtilage respectively (excluding the ground area of the original dwellinghouse and any hard surface or deck); or
- (g) in the case of land in a conservation area or within the curtilage of a listed building, the resulting building would have a footprint exceeding 4 square metres.

Class 3B.—(1) The carrying out of any building, engineering, installation or other operation within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of that dwellinghouse.

(2) Development is not permitted by this class if—

- (a) any part of the development would be forward of a wall forming part of the principal elevation or side elevation where that elevation fronts a road;
- (b) any resulting structure would exceed 3 metres in height;
- (c) as a result of the development the area of ground covered by development within the front or rear curtilage of the dwellinghouse (excluding the original dwellinghouse and any hard surface or deck) would exceed 50% of the area of the front or rear curtilage respectively (excluding the ground area of the original dwellinghouse and any hard surface or deck);
- (d) it would be within a conservation area or within the curtilage of a listed building;
or
- (e) it would be development described in class 3A(1), 3C(1), 3D(1), 3E(1), 6D, 6E, 6G(1), 6H(1) or 8.

Class 3C.—(1) The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of that dwellinghouse or the replacement in whole or in part of such a surface.

(2) Development is not permitted by this class if it would be within a conservation area or within the curtilage of a listed building.

(3) Development is permitted by this class subject to the condition that where the hard surface would be located between the dwellinghouse and a road bounding the curtilage of the dwellinghouse—

- (a) the hard surface must be made of porous materials; or
- (b) provision must 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 3D.—(1) The erection, construction, maintenance, improvement or alteration of any deck or other raised platform within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of that dwellinghouse.

(2) Development is not permitted by this class if—

- (a) any part of the development would be forward of a wall forming part of the principal elevation or side elevation where that elevation fronts a road;
- (b) the floor level of any part of the deck or platform would exceed 0.5 metres in height;
- (c) the combined height of the deck and any wall, fence, balustrade, handrail or other structure attached to it, would exceed 2.5 metres; or
- (d) in the case of land within a conservation area or within the curtilage of a listed building the deck or platform would have a footprint exceeding 4 square metres.

Class 3E.—(1) The erection, construction, maintenance, improvement or alteration of any gate, fence, wall or other means of enclosure any part of which would be within or would bound the curtilage of a dwellinghouse.

(2) Development is not permitted by this class if—

- (a) any part of the resulting gate, fence, wall or other means of enclosure would exceed 2 metres in height;
- (b) any part of the resulting gate, fence, wall or other means of enclosure would exceed one metre in height where it—
 - (i) fronts a road; or
 - (ii) extends beyond the line of the wall of the principal elevation or side elevation that is nearest a road;
- (c) it replaces or alters an existing gate, fence, wall or other means of enclosure and exceeds whichever is the greater of the original height or the heights described in sub-paragraphs (a) and (b);
- (d) it would be within a conservation area; or
- (e) it would be within, or bound, the curtilage of a listed building.

Interpretation of Part 1

For the purposes of Part 1—

“balcony” means a platform, enclosed by a wall or balustrade, projecting outward from the external wall of a building, with access from an upper floor window or door;

“bound” means to share a common boundary, and “bounding” is to be construed accordingly;

“enlargement” means any development that increases the internal volume of the original dwellinghouse, and includes a canopy or roof, with or without walls, which is attached to the dwellinghouse, but does not include a balcony;

“footprint” means an area of ground covered by development;

“front curtilage” means that part of the curtilage of the original dwellinghouse forward of the principal elevation;

“rear curtilage” means that part of the curtilage of the original dwellinghouse which is not the front curtilage;

“rear elevation” means the elevation of the original dwellinghouse that is opposite its principal elevation;

“resulting dwellinghouse” means the dwellinghouse as enlarged, taking into account any previous enlargement;

“side elevation” means the elevation of the original dwellinghouse linking the principal elevation with the rear elevation; and

“terrace house” means a dwellinghouse—

- (a) situated in a row of three or more buildings used, or designed for use, as single dwellinghouses; and
- (b) having a mutual wall with, or having a main wall adjoining the main wall of, the dwellinghouse (or building designed for use as a dwellinghouse) on either side of it,

but includes the dwellinghouses at each end of such a row of buildings as is referred to.

Any reference in Part 1 to—

- (a) height is a reference to height when measured from ground level, and ground level means the level of the surface of the ground immediately adjacent to the building or structure or, where the level of the surface of the ground is not uniform, the level of the lowest part of the surface of the ground adjacent to it;
- (b) the measurement of a dimension is a reference to the measurement of external dimensions; and
- (c) “the principal elevation” is a reference to the elevation of the original dwellinghouse which by virtue of its design or setting, or both, is the principal elevation.

PART 1ZA

DEVELOPMENT TO A BUILDING CONTAINING A FLAT

Class 4A.—(1) Any improvement or other alteration to the external appearance of a dwelling situated within a building containing one or more flats.

(2) Development is not permitted by this class if—

- (a) it would be an enlargement;
- (b) it would protrude more than 1 metre from the outer surface of an external wall, roof plane, roof ridge or chimney;
- (c) the dimensions of an existing window or door opening would be altered;
- (d) it would be a balcony;
- (e) it would be on the roof and would result in a raised platform or terrace;
- (f) it would be a wind turbine;
- (g) it would be within a conservation area or within the curtilage of a listed building; or
- (h) it would be development described in class 6C(1), 6F(1) or 6H(1) or 72(1).

(3) For the purposes of this class—

“balcony” means a platform, enclosed by a wall or balustrade, projecting outward from the external wall of a building, with access from an upper floor window or door;

“enlargement” means any development that increases the internal volume of the original building, and includes a canopy or roof, with or without walls, which is attached to the building but does not include a balcony;

a “window” or “door” includes its frame; and
the measurement of a dimension is a reference to the measurement of external
dimensions.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (“the principal Order”). Article 2 changes the classes of development which are permitted within the curtilage of a dwellinghouse and to certain buildings containing flats. Article 2 also amends the principal Order as it applies to demolition and telecommunications.

Article 2(4) substitutes Part 1 of the Schedule to the principal Order, which identifies the categories of development within the curtilage of a dwellinghouse which may be carried out without having to apply for planning permission. Article 2(4) also adds a new Part 1ZA to that Schedule, which identifies development which is permitted with respect to certain flats. The new classes of permitted development are subject to a number of limitations and conditions.

In Part 1 of the Schedule to the principal Order—

class 1A deals with single storey ground floor extensions, class 1B with other ground floor extensions, class 1C with porches and class 1D with roof extensions;

class 2A deals with access ramps and class 2B with other development on the roof or external walls of a dwellinghouse which does not increase its internal volume;

class 3A deals with ancillary buildings within the curtilage of a dwellinghouse and class 3B with other development required for a purpose incidental to the enjoyment of the dwellinghouse; class 3C with hard surfaces, class 3D with decks or other raised platforms and class 3E with gates, fences, walls and other means of enclosure.

In Part 1ZA of the Schedule to the principal Order class 4A deals with alterations to the external appearance of a dwelling within a building containing flats.

Article 2(2)(a), (3) and (12) amends the provisions of the principal Order which apply to permitted development for demolition of buildings.

Article 2(6) inserts a definition of “solar PV” into Part 1B of Schedule 1 to the principal Order.

Article 2(10) extends the development permitted under class 67 to include certain work to electronic communications apparatus carried out by an operator in accordance with the Electronic Communications Code.

Article 3 provides that the new classes of permitted development do not apply in respect of development started before 6th February 2012 and finished within 6 months of that date. It also saves directions made under article 4 of the 1992 Order, by providing that development rights permitted by article 3 of that Order will continue to have effect in the form they are in immediately before 6th February 2012.

A Business and Regulatory Impact Assessment has been prepared in relation to this Order and has been placed in the Scottish Parliament Information Centre. Copies can be obtained free of charge from the Scottish Government Planning Directorate, Area 2H, Victoria Quay, Edinburgh, EH6 6QQ.

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SCOTTISH STATUTORY INSTRUMENTS

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