

2014 No. 142

TOWN AND COUNTRY PLANNING

The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2014

<i>Made</i>	- - - -	<i>28th May 2014</i>
<i>Laid before the Scottish Parliament</i>		<i>30th May 2014</i>
<i>Coming into force</i>	- -	<i>30th June 2014</i>

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 2014 and comes into force on 30th June 2014.

(2) 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 (13).

(2) In article 2(1) (interpretation) after the definition of “floor area” insert—

““historic battlefield” means a battlefield which is included in the inventory of battlefields compiled and maintained under section 32B of the Ancient Monuments and Archaeological Areas Act 1979(c);”.

(3) In article 3(9)(b) (permitted development) after “directed” insert “under regulation 5(10) or (11), 7(4) or 45 of the EIA Regulations”.

(4) After Part 2 (sundry minor operations) of Schedule 1 insert Parts 2A to 2E contained in the Schedule to this Order.

(5) In class 15 of Part 4 (temporary buildings and uses) of Schedule 1 omit “or an open air market”.

(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, 2007/209 and 2011/357.
(c) 1979 c.46.

- (6) In class 18 of Part 6 (agricultural buildings and operations) of Schedule 1—
- (a) after paragraph (1) insert—

“(1A) Development is not permitted by this class if, in the case of any development referred to in sub-paragraph (1)(a), the land is within a historic battlefield;”;
 - (b) at the start of paragraph (2) insert—

“Subject to paragraph (4)”.
- (7) In class 22 of Part 7 (forestry buildings and operations) of Schedule 1, after paragraph (1) insert—
- “(1A) Development is not permitted by this class if, in the case of any development referred to in sub-paragraph (1)(a), the land is within a historic battlefield.”
- (8) For class 25 in Part 8 (industrial and warehouse development) of Schedule 1, substitute—
- “Class 25—**
- (1) **The provision of a hard surface within the curtilage of an industrial building or warehouse to be used for the purposes of the undertaking concerned.**
 - (2) Development is not permitted by this class in the case of land within—
 - (a) a site of archaeological interest;
 - (b) a national scenic area;
 - (c) a historic garden or designed landscape;
 - (d) a historic battlefield;
 - (e) a conservation area;
 - (f) a National Park; or
 - (g) a World Heritage Site.
 - (3) Development is permitted by this class subject to the following conditions—
 - (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 industrial building or warehouse.”.
- (9) In the interpretation section of Part 8 (industrial and warehouse development) of Schedule 1—
- (a) for the definition of “industrial building” substitute—

““industrial building” means a building used for the carrying out of an industrial process (including the carrying out of research and development of products or processes) and includes a building used for the carrying out of such a process on land used as a dock, harbour or quay for the purposes of an industrial undertaking but does not include a building or land in or adjacent to land occupied with a mine;”;
 - (b) after the definition of “warehouse” insert—

“World Heritage Site” means land 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.”.
- (10) For class 30 in Part 12 (development by local authorities) of Schedule 1, substitute—
- “Class 30**
- (1) **The erection or construction and the maintenance, improvement or other alteration by a local authority of—**
 - (a) **any building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity on land belonging to or maintained by them, being building, works or equipment required for the purposes of any function exercised by them on that land otherwise than as statutory undertakers;**

(b) street furniture required in connection with the operation of any public service administered by them.”.

(11) In class 33 of Part 12 (development by local authorities) of Schedule 1—

- (a) for “planning authority” substitute “local authority”;
- (b) in paragraph (a) for “dwellinghouses” substitute “dwellings”;
- (c) in paragraph (c) for “£100,000” substitute “£250,000”;
- (d) after paragraph (c) insert—

“In this class “dwelling” means a dwellinghouse, a building containing one or more flats or a flat contained within such a building.”.

(12) In the interpretation section of Part 15 (mineral exploration) of Schedule 1, after the definition of “mineral exploration” insert—

““petroleum” has the same meaning as given in section 1 of the Petroleum Act 1998(a);”

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

- (a) in paragraph (1)(b), for “6 months” substitute “12 months”;
- (b) in paragraph (2)(a)—
 - (i) after “interest” insert “, historic battlefield”;
 - (ii) in head (ii) for “the dwellinghouse, neither of which faces on to a road” substitute “a building”;
 - (iii) omit “or” following head (ii);
 - (iv) for head (iii) substitute—
 - “(iii) involves the installation of telegraph poles, the replacement or alteration of existing telegraph poles, the installation of new overhead lines on such poles or is ancillary to such development; or
 - (iv) is development of or description of development which is permitted by virtue of paragraph (2)(c) or is ancillary to such development;”;
- (c) for paragraph (2)(c) substitute—
 - “(c) it involves the replacement or alteration of an existing mast which is ground based or the installation of apparatus on such a mast which results in—
 - (i) an increase in the overall height of the original structure of—
 - (aa) in the case of an existing mast where the overall size of the structure is 50 metres or less in height, more than 5 metres; or
 - (bb) in the case of an existing mast where the overall size of the structure is more than 50 metres in height, more than 15% of the original height of the structure;
 - (ii) an increase in the overall width of the structure (measured horizontally at the widest point of the original structure) of more than the greater of—
 - (aa) one metre; or
 - (bb) one third of the original width of the structure; or
 - (iii) a change in location of more than 4 metres from the location of the existing mast;”;
- (d) in paragraphs 2(f) and 2(g)(i), for “4 metres” substitute “6 metres”;

(a) 1998 c.17.

- (e) omit paragraph (2)(h);
- (f) in paragraph (2)(n), after “any” where it first appears insert “ground based”;
- (g) for paragraph (2)(q) substitute—
 - “(q) in the case of the installation, alteration or replacement of an antenna system on a building or other structure (excluding a ground based mast) where the development is to be located more than 15 metres above ground level—
 - (i) any individual antenna exceeds 6 metres in height or 1.3 metres when measured horizontally;
 - (ii) the development would result in there being more than 4 antenna systems (other than small antennas) on the building or structure; or
 - (iii) the antenna system and its supporting apparatus exceeds 6 metres in height;”;
- (h) for paragraph (2)(r) substitute—
 - “(r) in the case of the installation, alteration or replacement of an antenna system on a building or other structure (excluding a ground based mast) where the development is to be located fewer than 15 metres above ground level—
 - (i) any individual antenna exceeds 3 metres in height or 0.9 metres when measured horizontally;
 - (ii) the development would result in there being more than 4 antenna systems (other than small antennas) on the building or structure; or
 - (iii) the antenna system and its supporting apparatus exceeds 6 metres in height;”;
- (i) in the interpretation section—
 - (i) in paragraph (a) after the definition of “the 1984 Act” insert—
 - ““antenna system” means a set of antennas installed on a building or structure and operated in accordance with the electronic communications code;
 - “electronic communications apparatus”, “electronic communications service” and “electronic communications code” have the same meaning as in the Communications Act 2003(a);
 - “existing mast” means a mast with attached electronic communications apparatus;”;
 - (ii) for the definition of “small antenna” substitute—
 - ““small antenna” means an antenna which—
 - (a) operates on a point to multi-point or area basis in connection with an electronic communications service;
 - (b) may be variously referred to as a femtocell, picocell, metrocell or microcell antenna;
 - (c) does not, in any two dimensional measurement, have a surface area exceeding 5,000 square centimetres; and
 - (d) does not have a volume exceeding 50,000 cubic centimetres,
 and any calculation for the purposes of heads (c) and (d) is to include any power supply unit or casing, but excludes any mounting, fixing, bracket or other support structure;”;

(iii) after paragraph (a) insert—

“(aa) development which is ancillary to and reasonably required for the construction and subsequent use of equipment housing includes security equipment, perimeter walls and fences, and handrails, steps and ramps, except on any land which is, or is within, a site of special scientific interest.”

St Andrew’s House,
Edinburgh
28th May 2014

DEREK MACKAY
Authorised to sign by the Scottish Ministers

“PART 2A

SHOPS OR CATERING, FINANCIAL OR PROFESSIONAL SERVICES
ESTABLISHMENTS**Class 9A**

(1) **The extension or alteration of a shop or financial or professional services establishment.**

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

- (a) the gross floor space of the original building would be exceeded by more than—
 - (i) 25%; or
 - (ii) 100 square metres;whichever is the lesser;
- (b) the height of the building as extended or altered would exceed 4 metres;
- (c) any part of the development, other than an alteration, would be within 10 metres of any boundary of the curtilage of the premises;
- (d) the development would result in a reduction in the space available for the parking or turning of vehicles;
- (e) the development would consist of or include the construction or provision of a veranda, balcony or raised platform;
- (f) any part of the development would alter or extend beyond an existing shop or financial or professional services establishment front; or
- (g) the building as extended or altered is to be used for purposes other than that of the shop or financial or professional services establishment concerned.

(3) Development is not permitted by this class in the case of land within—

- (a) a site of archaeological interest;
- (b) a national scenic area;
- (c) a historic garden or designed landscape;
- (d) a historic battlefield;
- (e) a conservation area;
- (f) a National Park; or
- (g) a World Heritage Site.

(4) For the purposes of this class—

- (a) the erection of any additional building within the curtilage of another building, whether by virtue of this class or other use, and used in connection with it is to be treated as the extension of that building, and the additional building is not to be treated as an original building;
- (b) where two or more original buildings are within the same curtilage and are used for the same undertaking, they are to be treated as a single original building in making any measurement.

(5) In this class—

“raised platform” means a platform with a height greater than 300 millimetres;

“shop or financial or professional services establishment” means a building, or part of a building, used for any purpose within Class 1 or 2 to the Use Classes Order and

includes buildings with other uses in other parts as long as the other uses are not within the parts being altered or extended except for the purposes of an enclosed shopping centre or retail park; and

“World Heritage Site” means land 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.

Class 9B

(1) **The erection or construction of a trolley store within the curtilage of a shop.**

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

- (a) the gross floor space of the building or enclosure erected would exceed 20 square metres;
- (b) the height of the building or enclosure would exceed 3 metres; or
- (c) any part of the development would be within 20 metres of the curtilage of a building used for residential purposes.

(3) Development is not permitted by this class in the case of land within a conservation area.

(4) Development is permitted by this class subject to the condition that the building or enclosure is only used for the storage of shopping trolleys.

(5) In this class—

“enclosed shopping centre” means a building containing shops having frontages to an arcade or mall or other covered circulation area;

“retail park” means a group of 3 or more retail stores, at least one of which has a minimum internal floor area of 1,000 square metres and which—

- (a) are set apart from existing shopping centres but within an existing or proposed urban area;
- (b) sell primarily goods other than food; and
- (c) share one or more communal car parks;

“shop” means a building used for any purpose within class 1 of the Schedule to the Use Classes Order; and

“trolley store” means a building or enclosure designed to be used for the storage of shopping trolleys.

Interpretation of Part 2A

Any reference in Part 2A to 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 ground is not uniform, the level of the lowest part of the surface of the ground adjacent to it.

PART 2B

SCHOOLS, COLLEGES, UNIVERSITIES AND HOSPITAL BUILDINGS

Class 9C

(1) **The extension or alteration of—**

- (a) **a school, college, university or hospital building;**
- (b) **a nursing home or building used for the provision of care (other than a use within class 9 of the Use Classes Order).**

- (2) Development is not permitted by this class if—
- (a) the gross floor space of the original building would be exceeded by more than—
 - (i) 25%; or
 - (ii) 100 square metres;whichever is the lesser;
 - (b) the height of the building as extended or altered would exceed 4 metres;
 - (c) any part of the development, other than an alteration would be within 10 metres of any boundary of the curtilage of the premises;
 - (d) the development would result in a reduction in the space available for the parking or turning of vehicles;
 - (e) the development would result in any land used as a playing field when the development commenced being no longer capable of such use;
 - (f) the development would consist of or include the construction or provision of a veranda, balcony, or raised platform;
 - (g) the development would consist of or include the construction or provision of an incinerator;
 - (h) the development would constitute development of any of the classes specified in Schedule 2 (bad neighbour development); or
 - (i) the building as extended or altered is to be used for a purpose other than that of the undertaking concerned.
- (3) Development is not permitted by this class in the case of land within—
- (a) a site of archaeological interest;
 - (b) a national scenic area;
 - (c) a historic garden or designed landscape;
 - (d) a historic battlefield;
 - (e) a conservation area;
 - (f) a National Park; or
 - (g) a World Heritage Site.
- (4) For the purposes of this class—
- (a) any reference to 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 ground is not uniform, the level of the lowest part of the surface of the ground adjacent to it;
 - (b) “care” means personal care including the provision of appropriate help with physical and social needs or support including medical care and treatment; and
- “World Heritage Site” means land 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.

PART 2C

OFFICE BUILDINGS

Class 9D

- (1) **The extension or alteration of an office building.**

- (2) Development is not permitted by this class if—
- (a) the gross floor space of the original building would be exceeded by more than—
 - (i) 25%; or
 - (ii) 50 square metres;
 whichever is the lesser;
 - (b) the height of the building as altered or extended would exceed 4 metres;
 - (c) any part of the development would be within 10 metres of any boundary of the curtilage of the premises;
 - (d) the development would result in a reduction in the space available for the parking or turning of vehicles; or
 - (e) the development would consist of or include the construction or provision of a veranda, balcony or raised platform;
- (3) Development is not permitted by this class in the case of land within—
- (a) a site of archaeological interest;
 - (b) a national scenic area;
 - (c) a historic garden or designed landscape;
 - (d) a historic battlefield;
 - (e) a conservation area;
 - (f) a National Park; or
 - (g) a World Heritage Site.
- (4) For the purposes of this class—
- (a) any reference to 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 ground is not uniform, the level of the lowest part of the surface of the ground adjacent to it; and
 - (b) “World Heritage Site” means land 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.

PART 2D

RECHARGING ELECTRICAL OUTLETS

Class 9E

(1) 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.

(2) Development is not permitted by this class if the electrical outlet (including its casing) would—

- (a) exceed 0.5 cubic metres; or
- (b) face onto and be within 2 metres of a road.

(3) Development is not permitted by this class in the case of land within—

- (a) a site of archaeological interest;
- (b) a national scenic area;
- (c) a historic garden or designed landscape;
- (d) a historic battlefield;
- (e) a conservation area;

- (f) a National Park; or
 - (g) a World Heritage Site.
- (4) Development is permitted by this class subject to the conditions that—
- (a) any name plate of the charging point provider or the energy supplier on the outlet (including its casing) must be no longer than 70 centimetres;
 - (b) there must be no more than 2 name plates attached to the outlet (including its casing);
 - (c) where 2 name plates are attached to the outlet (including its casing), each name plate must be facing in opposite directions;
 - (d) any name plate must not be illuminated.
- (5) Development is permitted by this class subject to the conditions that when no longer needed as a charging point for electric vehicles—
- (a) the development must be removed as soon as reasonably practicable; and
 - (b) the wall on which the development was mounted or into which the development was set must, as soon as reasonably practicable, and so far as reasonably practicable, be reinstated to its condition before that development was carried out.

Class 9F

(1) 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.

(2) Development is not permitted by this class if the upstand and the outlet (including its casing) would—

- (a) exceed 1.6 metres in height from the level of the surface used for the parking of vehicles;
- (b) be within 2 metres of a road; or
- (c) result in more than one upstand being provided for each parking space.

(3) Development is not permitted by this class in the case of land within—

- (a) a site of archaeological interest;
- (b) a national scenic area;
- (c) a historic garden or designed landscape;
- (d) a historic battlefield;
- (e) a conservation area;
- (f) a National Park; or
- (g) a World Heritage Site.

(4) Development is permitted by this class subject to the conditions that—

- (a) any name plate of the charging point provider or the energy supplier on the upstand or outlet (including its casing) must be no longer than 70 centimetres;
- (b) there must be no more than 2 name plates attached to the upstand or outlet (including its casing);
- (c) where 2 name plates are attached to the upstand or outlet (including its casing), each name plate must be facing in opposite directions;
- (d) any name plate must not be illuminated.

(5) Development is permitted by this class subject to the conditions that when the development is no longer needed as a charging point for electric vehicles—

- (a) the development must be removed as soon as reasonably practicable; and

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

Interpretation of Part 2D

For the purposes of Part 2D—

“World Heritage Site” means land 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.

PART 2E

ACCESS RAMPS

Class 9G

(1) The erection, construction or alteration of any access ramp outside an external door of a non-domestic building.

(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 platforms 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 non-domestic building), fence, balustrade, handrail or other structure attached to it would exceed 1.5 metres; or
- (e) the development would result in a reduction in the space available for the parking or turning of vehicles.

(3) Development is not permitted by this class in the case of land within—

- (a) a site of archaeological interest;
- (b) a national scenic area;
- (c) a historic garden or designed landscape;
- (d) a historic battlefield;
- (e) a conservation area;
- (f) a National Park; or
- (g) a World Heritage Site.

(4) Development is permitted by this class subject to the condition that the materials used for the facing of the access ramp must be of similar appearance to those used in the construction of the facing of the existing non-domestic building.

(5) For the purposes of this class—

- (a) any reference to 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 ground is not uniform, the level of the lowest part of the surface of the ground adjacent to it;
- (b) “non domestic building” means a building other than a dwelling or a building containing a dwelling;

“dwelling” means a dwellinghouse, a building containing one or more flats or a flat contained within such a building.

“World Heritage Site” means land 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.”

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 makes changes to the classes of development which are currently permitted and introduces new classes of permitted development.

Article 2(3) clarifies what is meant by ‘direction’ in article 3(9)(b) of the principal Order.

Article 2(4) inserts new Parts 2A 2B, 2C, 2D and 2E into the Order. Part 2A inserts new classes 9A and 9B. New class 9A confers permitted development rights for the extension or alteration of a shop or financial or professional services establishments subject to certain criteria. New class 9B confers permitted development rights for the erection or construction of a trolley store within the curtilage of a shop subject to certain criteria. Part 2B introduces class 9C which creates permitted development rights for the extension or alteration of schools, colleges, universities or hospital buildings subject to certain restrictions.

Part 2C inserts new class 9D which creates permitted development rights for the extension or alteration of an office building subject to certain restrictions.

Part 2D inserts new classes 9E and 9F. These create permitted development rights for the installation, alteration or replacement of electric vehicle charging points in off-street car parks.

Part 2E inserts new class 9G conferring permitted development rights for the erection, construction or alteration of access ramps outside an external door of a non-domestic building subject to certain criteria.

Article 2(5) removes one of the exclusions from class 15 of Part 4. This creates permitted developments rights for temporary open air markets.

Articles 2(6) and (7) amend class 18 of Part 6 (agricultural buildings and operations) and class 22 of Part 7 (forestry buildings and operations) respectively to the effect that works for the erection, extension or alteration of a building are not permitted by the respective classes if the development would take place on land within a historic battlefield.

Article 2(8) substitutes a new class 25 in Part 8 (industrial and warehouse development). The new class introduces new restrictions and conditions to permitted development. The provision of a hard surface within the curtilage of an industrial building or warehouse is not permitted where the development would take place on land within the following - a site of archaeological interest, a national scenic area, historic garden or designed landscape, a historic battlefield, a conservation area, a National Park or a World Heritage Site. In addition the hard surface must be made of porous materials and provision must be made for water run-off to a porous surface.

Article 2(9) amends the definition of “industrial building” to capture buildings used for research and development of products or processes.

Article 2(10) substitutes class 30 of Part 12 (development by local authorities) to clarify minor developments by local authorities.

Article 2(11) makes changes to class 33 of Part 12 (developments by local authorities) to clarify the rights which apply to local authorities and what is meant by “dwellinghouse”. In addition, it increases the maximum cost limitation applicable to any development by local authorities from £100,000 to £250,000.

The amendments made by article 2(13) relate to development by telecommunications code system operators under class 67 of Part 20. They relax certain limitations on permitted development rights with regard to the replacement of unserviceable electronic communications apparatus, buildings in a designated area, telegraph poles and lines, ground based masts and apparatus and antenna.

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