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STATUTORY INSTRUMENTS

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**1991 No. 2805**

**TOWN AND COUNTRY PLANNING,  
ENGLAND AND WALES**

**The Town and Country Planning General  
Development (Amendment) (No. 3) Order 1991**

*Made* - - - - *11th December 1991*  
*Laid before Parliament* *12th December 1991*  
*Coming into force* - - *2nd January 1992*

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 59(1) and (2), 60, 61(1), 69, 74 and 333(7) of the Town and Country Planning Act 1990(1) and all other powers enabling them in that behalf, hereby make the following Order—

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Town and Country Planning General Development (Amendment) (No. 3) Order 1991 and shall come into force on 2nd January 1992.

(2) In this Order “the 1988 Order” means the Town and Country Planning General Development Order 1988(2).

**General provisions relating to applications**

2. In article 10 of the 1988 Order (general provisions relating to applications)—

(a) for paragraph (1) substitute—

“(1) Any application made under regulation 3 of the 1988 Regulations or article 8 or 9 above, shall be made—

(a) where the application relates to land in Greater London or a metropolitan county, to the local planning authority;

(b) where the application relates to land in neither Greater London nor a metropolitan county and—

(i) that land is in a National Park, or

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(1) 1990 c. 8; sections 69 and 74 are amended by the Planning and Compensation Act 1991 (c. 34); section 69 by section 32 and Schedule 7, paragraph 13, and section 74 by section 19.

(2) S.I.1988/1813; relevant amending instruments are S.I. 1989/603 and 1991/2268.

- (ii) the application relates to a county matter,  
to the county planning authority;
- (c) in any other case, to the district planning authority.”;
- (b) for paragraph (3) substitute—
  - “(3) Where an application is made to a county planning authority in accordance with paragraph (1), that authority shall, as soon as practicable, send a copy of the application and of any accompanying plans and drawings to the district planning authority.”;
- (c) after paragraph (4) insert—
  - “(5) In this article, “county matter” has the meaning given to that expression in paragraph (1) of Schedule 1 to the Town and Country Planning Act 1990.”.

### **Special provisions as to permission for development affecting certain existing and proposed highways**

3. In article 15 of the 1988 Order (special provisions as to permission for development affecting certain existing and proposed highways)—
- (a) in paragraph (1), for “On receipt of an application” substitute “Where an application is made to a local planning authority” and for the words after subparagraph (b)(iv) substitute “the local planning authority shall notify the Secretary of State by sending him a copy of the application and any accompanying plans and drawings”;
  - (b) in paragraph (2)(a) delete “relevant”;
  - (c) delete paragraphs (4) and (5).

### **Consultations before the grant of permission**

4. In article 18 of the 1988 Order (consultations before the grant of permissions)—

- (a) for paragraph (h) of the Table in paragraph (1), substitute—
  - “(h) Development involving—

#### **The local highway authority concerned**

- (i) the formation, laying out or alteration of any means of access to a highway (other than a trunk road); or

#### **The local highway authority concerned, and in the case of a road subject to a concession, the concessionaire**

- (ii) the construction of a highway or private means of access to premises affording access to a road in relation to which a toll order is in force”;
- (b) for paragraph (t) of the Table in paragraph (1), substitute—

#### **“The Council which gave, or is to be regarded as having given, the notice**

- (t) Development—
  - (i) in or likely to affect an area of special scientific interest of which notification has been given, or has effect as if given, to the local planning authority by the Nature Conservancy Council for England or the Countryside Council

- for Wales, in accordance with section 28 of the Wildlife and Countryside Act 1981<sup>(3)</sup>; or
- (ii) within an area which has been notified to the local planning authority by the Nature Conservancy Council for England or the Countryside Council for Wales, and which is within two kilometres of an area of special scientific interest of which notification has been given or has effect as if given as aforesaid”;
- (c) in paragraph (1), add as paragraph (x) of the Table—

*“The National Rivers Authority*

- (x) Development for the purposes of fish farming”;
- (d) after paragraph (1) insert—
- “(1A) In paragraph (1)(h) “concessionaire”, “road subject to a concession” and “toll order” have the same meaning as in Part I of the New Roads and Street Works Act 1991<sup>(4)</sup>.”.

#### **Notice to parish and community councils**

5. In article 21 of the 1988 Order (notice to parish and community councils)—
- (a) delete paragraphs (1) and (2);
- (b) in paragraph (3), for “Where the council” to “relevant authority” substitute—
- “Where the council of a parish or community are given information in relation to an application pursuant to paragraph 8(1) of Schedule 1 to the Town and Country Planning Act 1990, they shall, as soon as practicable, notify the local planning authority who are determining the application”;
- (c) in paragraph (4), for “to which paragraph (1) applies” substitute “in respect of which a parish or community are required to be given information”

#### **Register of applications**

6. In article 27 of the 1988 Order (register of applications)—
- (a) in paragraph (1), for the words following “means” substitute—
- “(i) in Greater London or a metropolitan county, the local planning authority (and references to the area of the local planning register authority are, in this case, to the area of the local planning authority);
- (ii) in relation to land in a National Park (except in a metropolitan county), the county planning authority (and references to the area of the local planning register authority are, in this case, to the area of the county planning authority within a National Park);
- (iii) in relation to any other land, the district planning authority (and references to the area of the local planning register authority are, in this case, to the area of the district planning authority, other than any part of their area falling within a National Park).”;
- (b) after paragraph (1) insert—

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<sup>(3)</sup> 1981 c. 69.  
<sup>(4)</sup> 1991 c. 22.

“(1A) Each local planning register authority shall keep, in two parts, a register of every application for planning permission relating to their area.

(1B) Part I of the register shall contain a copy of each such application, and a copy of any application for approval of reserved matters made in respect of an outline planning permission granted on such an application, made or sent to the local planning register authority and not finally disposed of, together with any accompanying plans and drawings.”;

(c) in paragraph (2), for the words preceding paragraph (a) substitute—

“Part II of the register shall contain, in respect of every application for planning permission relating to the local planning register authority’s area—”.

#### **Established use certificates**

7. In article 29 of the 1988 Order (established use certificates)—

- (a) in paragraph (8), for “and (2)” substitute “, (2) and (3)”;
- (b) delete paragraph (9).

#### **Temporary buildings and uses**

8. In Class B of Part 4 of Schedule 2 to the 1988 Order (temporary buildings and uses)—

- (a) at the end of paragraph B.1(a) delete “or”;
- (b) after paragraph B.1(b) insert—

“, or

(c) the land is, or is within, an area of special scientific interest and the use of the land is for—

- (i) a purpose referred to in paragraph B.2(b) or other motor sports;
- (ii) clay pigeon shooting;
- (iii) any war game.”;

(c) at the end of paragraph B.2 (interpretation of Class B) insert—

““War game” means an enacted, mock or imaginary battle conducted with weapons which are designed not to injure (including smoke bombs, or guns or grenades which fire or spray paint or are otherwise used to mark other participants), but excludes military activities or training exercises organised by or with the authority of the Secretary of State for Defence.”

#### **Agricultural buildings and operations**

9. In Schedule 2 of the 1988 Order, for Part 6 there shall be substituted the Part set out in the Schedule hereto.

#### **Forestry buildings and operations**

10. In Schedule 2 to the 1988 Order, in Part 7—

- (a) in paragraph A.2(1)(5) insert at the beginning, “Subject to paragraph (3),” and substitute “extension or alteration” for “significant extension or significant alteration”;

(b) add as paragraph A.2(3)—

“3. Paragraph (1) does not preclude the extension or alteration of a building if the building is not on Article 1(6) land except in the case of a significant extension or a significant alteration.”.

#### **Amendment of Schedule 3 to the 1988 Order**

11. In the form set out in Part I of Schedule 3 to the 1988 Order delete from “As this application relates” to “Planning Board\* for its decision\*”.

#### **Savings**

12. The amendments made to the 1988 Order by articles 2, 3, 4, 5, 7 and 11 of this Order shall not apply in relation to applications made before 2nd January 1992.

#### **Revocations**

13. Article 2 of the Town and Country Planning General Development (Amendment) (No. 2) Order 1991(6) is hereby revoked.

11th December 1991

*Michael Heseltine*  
Secretary of State for the Environment

11th December 1991

*David Hunt*  
Secretary of State for Wales

SCHEDULE

Article 9

NEW PART 6 TO SCHEDULE 2 TO THE 1988 ORDER

“PART 6

AGRICULTURAL BUILDINGS AND OPERATIONS

*Class A Development on units of 5 hectares or more*

**Permitted development**

**A. The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—,**

- (a) works for the erection, extension or alteration of a building; or**
- (b) any excavation or engineering operations,**

**which are reasonably necessary for the purposes of agriculture within that unit.**

Development not permitted

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

- (a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area;
- (b) it would consist of, or include, the erection, extension or alteration of a dwelling;
- (c) it would involve the provision of a building, structure or works not designed for agricultural purposes;
- (d) the ground area which would be covered by—
  - (i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or
  - (ii) any building erected or extended or altered by virtue of this Class, would exceed 465 square metres, calculated as described in paragraph D.2;
- (e) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;
- (f) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;
- (g) any part of the development would be within 25 metres of a metalled part of a trunk or classified road;
- (h) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building; or
- (i) it would involve excavations or engineering operations on or over article 1(6) land which are connected with fish farming.

## Conditions

**A.2.**—(1) Development is permitted by Class A subject to the following conditions—

- (a) where development is carried out within 400 metres of the curtilage of a protected building, any building, structure, excavation or works resulting from the development shall not be used for the accommodation of livestock except in the circumstances described in paragraph D.3 or for the storage of slurry or sewage sludge;
- (b) where the development involves—
  - (i) the extraction of any mineral from the land (including removal from any disused railway embankment); or
  - (ii) the removal of any mineral from a mineral-working deposit, the mineral shall not be moved off the unit;
- (c) waste materials shall not be brought on to the land from elsewhere for deposit except for use in works described in Class A(a) or in the creation of a hard surface and any materials so brought shall be incorporated forthwith into the building or works in question.

(2) Subject to paragraph (3), development consisting of—

- (i) the erection, extension or alteration of a building;
- (ii) the formation or alteration of a private way;
- (iii) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.4 below exceeds 0.5 hectare); or
- (iv) the placing or assembly of a tank in any waters,

is permitted by Class A subject to the following conditions—

- (a) the developer shall, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be;
- (b) the application shall be accompanied by a written description of the proposed development and of the materials to be used and a plan indicating the site together with any fee required to be paid;
- (c) the development shall not be begun before the occurrence of one of the following—
  - (i) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
  - (ii) where the local planning authority gives the applicant notice within 28 days following the date of receiving his application of their determination that such prior approval is required, the giving of such approval; or
  - (iii) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;
- (d) the development shall, except to the extent that the local planning authority otherwise agree in writing, be carried out—
  - (i) where prior approval is required, in accordance with the details approved;

- (ii) where prior approval is not required, in accordance with the details submitted with the application; and
- (e) the development shall be carried out—
  - (i) where approval has been given by the local planning authority, within a period of five years from the date on which approval was given;
  - (ii) in any other case, within a period of five years from the date on which the local planning authority were given the information referred to in sub-paragraph (b).
- (3) The conditions in paragraph (2) do not apply to the extension or alteration of a building if the building is not on article 1(6) land except in the case of a significant alteration or a significant extension.
- (4) Development consisting of the significant extension or the significant alteration of a building may only be carried out once by virtue of Class A(a).

### *Class B Development on units of less than 5 hectares*

#### Permitted development

#### **B. The carrying out on agricultural land comprised in an agricultural unit of not less than 0.4 but less than 5 hectares in area of development consisting of—**

- (a) **the extension or alteration of an agricultural building;**
- (b) **the installation of additional or replacement plant or machinery;**
- (c) **the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus;**
- (d) **the provision, rearrangement or replacement of a private way;**
- (e) **the creation of a hard surface;**
- (f) **the deposit of waste; or**
- (g) **the carrying out of any of the following operations in connection with fish farming, namely, repairing ponds and raceways; the installation of grading machinery, aeration equipment or flow meters and any associated channel; the dredging of ponds; and the replacement of tanks and nets,**

where the development is reasonably necessary for the purposes of agriculture within the unit.

#### Development not permitted

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

- (a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 0.4 hectare in area;
- (b) the external appearance of the premises would be materially affected;
- (c) any part of the development would be within 25 metres of a metalled part of a trunk or classified road;
- (d) it would consist of, or involve, the carrying out of any works to a building or structure used or to be used for the accommodation of livestock or the storage of slurry or sewage sludge where the building or structure is within 400 metres of the curtilage of a protected building; or
- (e) it would relate to fish farming and would involve the placing or assembly of a tank on land or in any waters or the construction of a pond in which fish may be kept or

an increase (otherwise than by the removal of silt) in the size of any tank or pond in which fish may be kept.

**B.2.** Development is not permitted by Class B(a) if—

- (a) the height of any building would be increased;
- (b) the cubic content of the original building would be increased by more than 10%;
- (c) any part of any new building would be more than 30 metres from the original building;
- (d) the development would involve the extension, alteration or provision of a dwelling;
- (e) any part of the development would be carried out within 5 metres of any boundary of the unit; or
- (f) the ground area of any building extended by virtue of this Class would exceed 465 square metres.

**B.3.** Development is not permitted by Class B(b) if—

- (a) the height of any additional plant or machinery within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;
- (b) the height of any additional plant or machinery not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;
- (c) the height of any replacement plant or machinery would exceed that of the plant or machinery being replaced; or
- (d) the area to be covered by the development would exceed 465 square metres calculated as described in paragraph D.2 below.

**B.4.** Development is not permitted by Class B(e) if the area to be covered by the development would exceed 465 square metres calculated as described in paragraph D.2 below.

Conditions

**B.5.** Development permitted by Class B and carried out within 400 metres of the curtilage of a protected building is subject to the condition that any building which is extended or altered, or any works resulting from the development, shall not be used for the accommodation of livestock except in the circumstances described in paragraph D.3 or for the storage of slurry or sewage sludge.

**B.6.** Development consisting of the extension or alteration of a building situated on article 1(6) land or the provision, rearrangement or replacement of a private way on such land is permitted subject to—

- (a) the condition that the developer shall, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and external appearance of the building as extended or altered or the siting and means of construction of the private way; and
- (b) the conditions set out in paragraphs A.2(2)(b) to (e) above.

**B.7.** Development is permitted by Class B(f) subject to the following conditions—

- (a) that waste materials are not brought on to the land from elsewhere for deposit unless they are for use in works described in Class B(a), (d) or (e) and are incorporated forthwith into the building or works in question; and
- (b) that the height of the surface of the land will not be materially increased by the deposit.

### ***Class C Mineral working for agricultural purposes***

#### **Permitted development**

**C. The winning and working on land held or occupied with land used for the purposes of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part.**

Development not permitted

**C.1.** Development is not permitted by Class C if any excavation would be made within 25 metres of a metalled part of a trunk or classified road.

Condition

**C.2.** Development is permitted by Class C subject to the condition that no mineral extracted during the course of the operation shall be moved to any place outside the land from which it was extracted, except to land which is held or occupied with that land and is used for the purposes of agriculture.

Interpretation of Part 6

#### **D.1. For the purposes of Part 6—**

“agricultural land” means land which, before development permitted by this Part is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse or garden;

“agricultural unit” means agricultural land which is occupied as a unit for the purposes of agriculture, including—

- (a) any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit, or
- (b) any dwelling on that land occupied by a farmworker;

“building” does not include anything resulting from engineering operations;

“fish farming” means the breeding, rearing or keeping of fish or shellfish (which includes any kind of crustacean and mollusc);

“livestock” includes fish or shellfish which are farmed;

“protected building” means any permanent building which is normally occupied by people or would be so occupied, if it were in use for purposes for which it is apt; but does not include—

- (i) a building within the agricultural unit;
- (ii) a building used for a purpose referred to in classes B3 to B7 (special industrial uses) of the Schedule to the Use Classes Order, or
- (iii) a dwelling or other building on another agricultural unit which is used for or in connection with agriculture;

“significant extension” and “significant alteration” mean any extension or alteration of the building where the cubic content of the original building would be exceeded by more than 10% or the height of the building as extended or altered would exceed the height of the original building; and

“tank” includes any cage and any other structure for use in fish farming.

#### **D.2. For the purposes of this Part—**

- (a) an area calculated as described in this paragraph comprises the ground area which would be covered by the proposed development, together with the ground area of any building (other than a dwelling), or any structure, works, plant, machinery or ponds or tanks within the same unit which are being provided or have been provided within the preceding two years and any part of which would be within 90 metres of the proposed development;
- (b) 400 metres is to be measured along the ground.

**D.3.** The circumstances referred to in paragraphs A.2(1)(a) and B.5 are that no other suitable building or structure, 400 metres or more from the curtilage of a protected building, is available to accommodate the livestock; and

- (a) that the need to accommodate it arises from—
  - (i) quarantine requirements;
  - (ii) an emergency due to another building or structure in which the livestock could otherwise be accommodated being unavailable because it has been damaged or destroyed by fire, flood or storm; or
- (b) in the case of animals normally kept out of doors they require temporary accommodation in a building or other structure—
  - (i) because they are sick or giving birth or newly born; or
  - (ii) to provide shelter against extreme weather conditions.

**D.4.** For the purposes of paragraph A.2(2)(iii) the relevant area is the area of the proposed excavation or the area on which it is proposed to deposit waste together with the aggregate of the areas of all other excavations within the unit which have not been filled and of all other parts of the unit on or under which waste has been deposited and has not been removed.

**D.5.** For the purposes of Class B—

- (a) the erection of any additional building within the curtilage of another building 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 in connection with the extension or alteration of either of them.

**D.6.** In Class C, “the purposes of agriculture” includes fertilising land used for the purposes of agriculture and the maintenance, improvement or alteration of any buildings, structures or works occupied or used for such purposes on land so used.”

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Town and Country Planning General Development Order 1988. The main changes are—

(1) an amendment to article 10 of the 1988 Order, to provide for applications to be made to the authority which will determine the application (previously applications which fell to be determined by a county planning authority had to be made to the district planning authority, which passed the application on to the county)—this change has necessitated consequential amendments to articles 15, 21, 27, 29 of, and Schedule 3 to, the 1988 Order (articles 2, 3, 5, 6, 7 and 11);

(2) the extension of consultation requirements to—

- (a) the construction of access to a road in respect of which a toll order is in force;
- (b) development in, likely to affect or, in certain cases, within two kilometres of, an area of special scientific interest; and
- (c) development for the purposes of fish farming;

(article 4);

(3) the restriction of permitted development rights in an area of special scientific interest if the use of the land is for certain motoring activities, clay pigeon shooting, or any war game (article 8);

(4) the substitution of Part 6 of Schedule 2 to the 1988 Order (agricultural buildings and operations). Part 6 as substituted gives permitted development rights (where the development is, or minerals are, as the case may be, reasonably necessary for the purposes of agriculture) in relation to—

- (a) certain building works and excavation or engineering operations on agricultural units of 5 hectares or more in area (Class A);
- (b) the extension or alteration of agricultural buildings, the installation of certain plant and machinery, the provision of sewers etc, and certain other works, on agricultural units of not less than 0.4 but less than 5 hectares in area (Class B); and
- (c) the winning and working of minerals on certain land (Class C);

(article 9 and Schedule).