
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 35

The Town and Country Planning (General
Permitted Development and Use Classes)
(Scotland) Miscellaneous Amendment Order 2023

Part 2

Amendment of the Town and Country Planning (General
Permitted Development) (Scotland) Order 1992

Amendment of schedule 1 – hospitality uses and solar canopies for recharging vehicles

7.—(1) After Part 2G (pedal cycle storage) insert—

“Part 2H

Hospitality uses - outdoor servery provision

Class

9L.—(1) Development consisting of—

- (a) a change of use of part of a public road adjacent to relevant premises for the purposes of selling or serving food or drink supplied from those premises or consuming good or drink supplied from those premises, and
- (b) placing furniture for use in connection with such purposes.

Conditions

(2) Development is permitted by this class subject to the condition that no furniture may be placed in a public road so as to cause an obstruction unless consent has first been obtained from the relevant roads authority under section 59 of the Roads (Scotland) Act 1984⁽¹⁾.

Interpretation

(3) In this class—

“furniture” means—

- (a) counters or stalls for selling or serving food or drink,
- (b) tables, counters or shelves on which food or drink can be placed,
- (c) chairs, benches or other forms of seating,

- (d) umbrellas, ramps, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink,
 - (e) decking structures for the purpose of creating a level surface on which items mentioned in sub-paragraphs (a) to (d) can be placed,
- “relevant premises” means a premises—
- (a) used for a purpose specified in class 3 (food and drink) of the schedule of the Use Classes Order,
 - (b) used as a public house,
- “public road” has the meaning given in section 151 of the Roads (Scotland) Act 1984.

Part 2I

Solar canopies, battery storage and equipment housing for recharging vehicles

Class

- 9M.—**(1) The installation, alteration or replacement within a qualifying parking area of—
- (a) a solar canopy,
 - (b) battery storage and equipment (including equipment housing) necessary for the operation of a solar canopy.

Limitations

- (2) Development is not permitted by this class—
- (a) if the development would—
 - (i) be within 5 metres of a road,
 - (ii) be within the curtilage of a dwellinghouse, or a building containing one or more flats,
 - (iii) be within 10 metres of the curtilage of a dwellinghouse or a building containing one or more flats,
 - (iv) be within 3 kilometres of the perimeter of an aerodrome or technical site,
 - (b) if a solar canopy would exceed 4 metres in height from the level of the surface used for the parking of vehicles,
 - (c) if any battery storage unit or piece of equipment (other than a solar canopy)—
 - (i) would exceed 29 cubic metres,
 - (ii) would exceed 3 metres in height from the level of the surface used for the parking of vehicles,
 - (d) in the case of land within—
 - (i) a site of archaeological interest,
 - (ii) a national scenic area,
 - (iii) a historic garden or designed landscape,
 - (iv) a historic battlefield,
 - (v) a conservation area
 - (vi) a National Park,

- (vii) a World Heritage Site,
- (viii) the curtilage of a listed building,
- (e) where the development would take place—
 - (i) on the roof of a building, or
 - (ii) on the top level of an open top multi-storey car park.

Conditions

- (3) Development is permitted by this class subject to the conditions that when the development is no longer needed for the purposes of charging 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 be reinstated—
 - (i) as soon as reasonably practicable, and so far as reasonably practicable, to its condition before that development was carried out, or
 - (ii) in accordance with a restoration plan agreed in writing with the planning authority.
- (4) Development is permitted by this class subject to the condition that any lighting or illumination forming part of the development—
 - (a) is directed towards the surface used for the parking of vehicles, and
 - (b) only illuminates the immediate area of the development.

Interpretation

- (5) In this class—
 - “qualifying parking area” means an area which—
 - (a) has as its primary use lawful off-street parking, and
 - (b) has a hard surface,
 - “solar canopy” means a canopy structure which—
 - (a) is open on three or more sides,
 - (b) supports solar photovoltaics for the purposes of the generation of electricity from solar energy,
 - (c) has as its primary use the recharging of vehicles, and
 - (d) is designed to allow one or more vehicles to be parked underneath it,
 - “technical site” means—
 - (a) any area within which is sited or is proposed to be sited equipment operated by or on behalf of NATS Holdings Limited, any of its subsidiaries or such other person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000 for the provision of air traffic services, particulars of which have been furnished by the Scottish Ministers or the Civil Aviation Authority to the planning authority or authorities for the area in which it is situated, or
 - (b) any area within which is sited or is proposed to be sited equipment operated by or on behalf of the Secretary of State for Defence for the provision of air traffic services, particulars of which have been furnished by the Secretary of State for Defence to the planning authority or authorities for the area in which it is situated,

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

“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.”.