

**2007 No. 406**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2007**

<i>Made</i> - - - -	<i>15th February 2007</i>
<i>Laid before Parliament</i>	<i>19th February 2007</i>
<i>Coming into force</i> - -	<i>20th February 2007</i>

The Secretary of State, in exercise of the powers conferred by sections 59, 60, and 333(7) of the Town and Country Planning Act 1990(a), makes the following Order:

**Citation, commencement and application**

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2007 and shall come into force on 20th February 2007.

(2) This Order applies in relation to England only.

**Amendment of Order**

2.—(1) The Town and Country Planning (General Permitted Development) Order 1995(b) shall be amended in accordance with paragraph (2) of this article.

(2) After Part 38 of Schedule 2 add—

**“PART 39**

**TEMPORARY PROTECTION OF POULTRY AND OTHER CAPTIVE BIRDS**

**Class A**

**Permitted development**

**A.** The erection of a building where that is necessary for the purpose of housing poultry or other captive birds to protect them from avian influenza.

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(a) 1990 c.8, to which there are amendments not relevant to this Order. The functions of the Secretary of State under sections 59,60 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).

(b) S.I. 1995/418; relevant amending instruments are S.I. 2006/221 and 2006/1282.

## **Development not permitted**

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

- (a) the development would affect a listed building or its setting;
- (b) the height of the building would exceed 12 metres;
- (c) where the development is within three kilometres of an aerodrome, the height of the building would exceed three metres;
- (d) the area of ground which would be covered by the building would exceed 465 square metres;
- (e) where development permitted by Class A is carried out more than once on land in the occupation of a particular person, the aggregate of the area of ground covered by any such development would exceed 465 square metres;
- (f) where the development consists of the extension of a building, the area of ground covered by the building as extended would exceed the area of ground covered by the existing building by more than 50 per cent.

## **Conditions**

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

- (a) the development shall not be used for any purpose other than to house poultry or other captive birds to protect them from avian influenza;
- (b) the developer shall, as soon as practicable, and in any event no later than 14 days, after commencing development, serve the relevant notice on the local planning authority; and
- (c) on or before the relevant date—
  - (i) any building permitted by Class A shall be removed from the land; and
  - (ii) the land shall be restored to its condition before the development took place, or restored to such other condition as may be agreed in writing between the local planning authority and the developer.

## **Interpretation of Class A**

### **A.3.** For the purposes of Class A—

“approved body” means a body approved in accordance with Article 2(1)(c) of Directive 92/65/EEC<sup>(a)</sup> laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(1) to Directive 90/425/EEC<sup>(b)</sup>;

“avian influenza” means an infection of poultry or other captive birds caused by any influenza A virus of the subtypes H5 or H7 or with an intravenous pathogenicity index in six week old chickens greater than 1.2;

“other captive bird” means a bird kept in captivity which is not poultry and includes a bird kept as a pet; for shows, races, exhibitions or competitions; for breeding; for sale; or for use by an approved body;

“poultry” means birds reared or kept in captivity for the production of meat or eggs for consumption, for the production of other products, for restocking supplies of game or for the purposes of any breeding programme for the production of such categories of birds;

“relevant date” means—

- (a) 19th February 2008; or

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(a) OJ L 268, 14.9.1992, p. 54–72.

(b) OJ L 224, 18.8.1990, p. 29–41.

- (b) the date on which the use of the building permitted by Class A ceases to be necessary for the purposes of protecting poultry or other captive birds from avian influenza,

whichever is the earlier;

“relevant notice” means a notice signed and dated by or on behalf of the developer and containing—

- (a) the name of the developer;
- (b) the address or location of the development (including a site plan and grid reference);
- (c) the name and address of the owner and occupier of the land on which the development is being carried out (if not the developer);
- (d) a description of the development (including the type of poultry or other captive birds to be protected); and
- (e) the date on which the development commenced.”.

Signed by authority of the Secretary of State

15th February 2007

*Kay Andrews*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

## EXPLANATORY NOTE

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

This Order adds a new Part 39 to Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995. Part 39 grants planning permission in respect of the erection of buildings necessary for the purposes of housing poultry and other captive birds to protect them from avian influenza. Where Part 39 applies, no specific application for planning permission is needed. Planning permission is granted by Part 39 subject to conditions requiring the developer to notify the local planning authority within 14 days of commencing development and to remove the development once the need for it has ended or by 19th February 2008 whichever is the sooner.

A regulatory impact assessment has been prepared in relation to this Order. The assessment has been placed in the Library of each House of Parliament and copies may be obtained from Asma Mouden, Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU (Telephone 020 7944 3934).

**£3.00**

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