

Annex E: Permitted Development Rights For Agriculture And Forestry

Taken from: 'The Countryside - Environmental Quality and Economic and Social Development (PPG 7)'

Permitted development rights for agricultural holdings

E1 Part 6 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 grants permitted development rights for a range of agricultural buildings and operations. Rights for erecting, extending or altering a building, and for excavations and engineering operations, are available to agricultural units of at least 5 hectares under Class A. More limited rights, including extensions and alterations adding not more than 10% to the content of the original building, are available to smaller units of at least 0.4 hectare under Class B.

E2 Class A rights are not available on separate parcels of land of less than 1 hectare, while Class B rights are not available on separate parcels of less than 0.4 hectare. Parcels may be separated from the rest of the unit by, for example, land in different ownership or a public road. The rights are subject to various other limitations and conditions, the most important of which are mentioned below.

E3 Under both Classes, development:

- must be on agricultural land, which means land in use for agriculture for the purposes of a trade or business, and excludes any dwelling house or garden;
- must be reasonably necessary for the purposes of agriculture within the unit. This condition does not require that a new building should necessarily accommodate an agricultural use already existing in the unit. Agricultural developments which are entirely self-contained and have no direct relationship with the rest of the unit may thus benefit from permitted development rights;
- must not give rise to, or alter or extend, a dwelling;
- must not be within 25 metres of the metalled part of a trunk or classified road.

E4 Under Class A:

- development giving rise to buildings, structures or works not designed for agricultural purposes is not permitted. The courts have held that this condition relates to the physical appearance and layout of a building, not its function;
- buildings, structures or works must not exceed 12 metres in height, or 3 metres within 3 kilometres of the perimeter of an aerodrome;
- the ground area of any works or structure (other than a fence) for accommodating livestock or any plant and machinery arising from engineering operations, or of any building erected or extended under this Class, must not exceed 465 square metres. The relevant calculation is: (i) the ground area of the proposed development; plus (ii) the ground area of any building (other than a dwelling), structure, works, plant, machinery, ponds or tanks which is (a) within the same agricultural unit, (b) less than 2 years old, and (c) within 90 metres of the proposed development. Hardstandings should be included in (i) only if they are for accommodating livestock, but in (ii) whether or not they are so used;
- there are restrictions on livestock units and stores for slurry and sewage sludge located near 'protected buildings' (see Annex C, paragraphs C2 and C3);

Annex E: Permitted Development Rights For Agriculture And Forestry

- development consisting of the significant extension or significant alteration of a building may be carried out only once. Any extension or alteration where the cubic content of the original building would be exceeded by more than 10%, or the height of the original building would be exceeded, is defined as "significant";
- local planning authorities may require their prior approval to be obtained for details of new buildings, significant extensions and alterations (or in National Parks and some adjoining areas - which are known in the General Permitted Development Order as Article 1(6) land - all extensions and alterations), farm roads, and certain excavations and waste deposits (see paragraphs E12 to E36).

E5 Subject to the completion of parliamentary procedures, if a building or extension erected under specified agricultural permitted development rights on or after 1 April 1997 permanently ceases to be used for agriculture within ten years of its substantial completion, and planning permission has not been granted authorising development for purposes other than agriculture within three years of the permanent cessation of its agricultural use, and there is no outstanding appeal, the building or extension must be removed unless the local planning authority has otherwise agreed. Local planning authorities should determine re-use applications promptly. Further advice is given in paragraph 3.7. The requirements do not apply to buildings or extensions in respect of which planning permission has been granted or deemed to be granted under Part III of the Town and Country Planning Act 1990.

E6 Class B rights are subject to the limitation that the external appearance of the premises must not be materially affected. There are similar limitations on developments for livestock and slurry/sewage sludge to those under Class A. Extensions and alterations to agricultural buildings:

- must not increase the height of the building;
- must not increase the cubic content of the original building by more than 10%;
- must not bring the ground area of the building to more than 465 square metres;
- on Article 1(6) land are subject to the same conditions concerning prior approval of details as extensions and alterations under Class A.

E7 Rights are also available under Class B for certain development in connection with private ways, for apparatus such as sewers and cables, for certain waste deposits, and - subject to limitations on area - for additional or replacement plant or machinery and for hard surfaces. The details of private ways are subject to the prior approval conditions on Article 1(6) land. Any plant or machinery must not exceed 12 metres in height (or 3 metres within 3 kilometres of the perimeter of an aerodrome), and in any case replacement plant and machinery must not exceed the height of what it replaces. Waste deposits must not materially increase the height of the land.

E8 Local planning authorities should consider including in their local plans policies for development on agricultural units of less than 5 hectares (in addition to the policies for agricultural development advised in paragraph 3.3).

E9 Fish farming for food can benefit from the permitted development rights available under Classes A and B. However, under Class A:

- on Article 1(6) land no rights are available for excavations or engineering operations connected with fish farming;
- elsewhere the placing or assembly of a fish tank (defined to include a cage or other structure for use in fish farming) in any waters is permitted subject to the prior approval conditions;

and under Class B:

- certain rights specific to fish farming are available in connection with repair and maintenance and installing equipment;

Annex E: Permitted Development Rights For Agriculture And Forestry

- development is not permitted if it involves the placing or assembly of a fish tank on land or in any waters, the construction of a fish pond, or an increase in the size of a fish tank or pond (except by removing silt).

E10 The definition of livestock in Classes A and B includes fish. Fish farm excavations which exceed 0.5 hectare, when added to other excavations and waste deposits on the unit, are subject to the prior approval conditions under Class A.

Permitted development rights for forestry

E11 Part 7 of Schedule 2 to the General Permitted Development Order grants certain permitted development rights for erecting, extending or altering a forestry building, for forming, altering or maintaining private ways, and for other operations (excluding engineering and mining). Development is not permitted for dwellings, or exceeding 3 metres in height within 3 kilometres of an aerodrome, or within 25 metres of a trunk or classified road.

The determination procedure

Introduction

E12 In certain cases, the permitted development rights for development on agricultural units of 5 hectares or more and for forestry cannot be exercised unless the farmer or other developer has applied to the local planning authority for a determination as to whether their prior approval will be required for certain details (General Permitted Development Order, Part 6, A.2(2) and (3)). The local planning authority have 28 days for initial consideration of the proposed development. Within this period they may decide whether or not it is necessary for them to give their prior approval to these details of development involving new agricultural and forestry buildings, significant extensions and alterations, agricultural and forestry roads, certain excavations or waste deposits, and the placing or assembly of fish tanks in any waters. In National Parks and certain adjoining areas ('Article 1(6) land'), all extensions and alterations to buildings are subject to this procedure and the placing or assembly of fish tanks in any waters requires a specific planning application to be made to the local planning authority.

E13 The permitted development rights for development on smaller agricultural units (between 0.4 hectares and 5 hectares) are not subject to the determination procedure, except on Article 1(6) land, where the procedure applies to extensions and alterations of buildings and the provision, rearrangement or replacement of roads.

E14 The determination procedure provides local planning authorities with a means of regulating, where necessary, important aspects of agricultural and forestry development for which full planning permission is not required by virtue of the General Permitted Development Order. They should also use it to verify that the intended development does benefit from permitted development rights, and does not require a planning application (see paragraphs 3.5 and 3.6 above). There is no scope to extend the 28 day determination procedure, nor should the discretionary second stage concerning the approval of certain details be triggered for irrelevant reasons. A local planning authority will therefore need to take a view during the initial stage as to whether Part 6 rights apply.

E15 Provided all the General Permitted Development Order requirements are met, the principle of whether the development should be permitted is not for consideration, and only in cases where the local planning authority considers that a specific proposal is likely to have a significant impact on its surroundings would the Secretary of State consider it necessary for the authority to require the formal submission of details for approval. By no means all the development proposals notified under the Order will have such an impact.

E16 In operating these controls as they relate to genuine permitted development, local authorities should always have full regard to the operational needs of the agricultural and forestry industries; to the need to avoid imposing any unnecessary or excessively costly requirements; and to the normal

Annex E: Permitted Development Rights For Agriculture And Forestry

considerations of reasonableness. However, they will also need to consider the effect of the development on the landscape in terms of visual amenity and the desirability of preserving ancient monuments and their settings, and sites of recognised nature conservation value. They should weigh these two sets of considerations. Long term conservation objectives will often be served best by ensuring that economic activity, including farming and forestry which are prominent in the rural landscape, is able to function successfully.

Handling

E17 The 28 day determination period runs from the date of receipt of the written description of the proposed development by the local planning authority. If the local planning authority give notice that prior approval is required they will then have the normal 8 week period from the receipt of the submitted details to issue their decision, or such longer period as may be agreed in writing (see Article 21 of the Town and Country Planning (General Development Procedure) Order 1995. Development undertaken in breach of the conditions imposed by the Order or by the local planning authority may be the subject of enforcement action.

E18 The Secretary of State attaches great importance to the prompt and efficient handling of applications for determination and of any subsequent submissions of details for approval under the provisions of the General Permitted Development Order. Undue delays can have serious consequences for agricultural and forestry businesses, which are more dependent than most on seasonal and market considerations. The procedures adopted by authorities should be straightforward, simple, and easily understood. Delegation of decisions to officers will help to achieve prompt and efficient handling, and should be extended as far as possible. Authorities should use their discretion over consulting parish councils and other groups about particular proposals, having regard to the need to reach decisions within the required timescales. Requests for more time from consultees should not be used as a reason for requiring the submission of details.

E19 Authorities should prepare forms which developers can use to apply for determination, along the lines of the example in the Appendix. This will help to minimise the number of cases in which submission of details may be necessary. Authorities should acknowledge the receipt of the written description, giving the date of receipt. Where the authority do not propose to require the submission of details, it would be helpful and courteous to inform the developer as soon as possible, to avoid any unnecessary delay or uncertainty.

E20 There will often be scope for informal negotiations with the developer, as an alternative or preliminary to requiring a formal submission of details. Developers for their part may find it useful to provide more than the minimum information required by the Order when informing authorities of their proposals, if this is readily available. For example, a sketch showing the proposed elevation of a building may clarify the effect of the proposal. If, as a result of discussions, the developer's original proposal is modified by agreement, he or she is not required to re-submit it formally to the authority in order to comply with the terms of the General Permitted Development Order condition, but the authority should give their written approval to the modification to make it clear that the developer has authority to proceed with the modified proposals.

E21 Planning authorities should generally be able to deal with applications on the basis of their experience and the information provided. Where authorities do not have the necessary expertise to consider the operational requirements of the agricultural or forestry enterprise, they may need to seek a technical appraisal. Where this is necessary they should aim to do this within the 28 day period, and not simply call for details on a precautionary basis. Extending the decision period may hamper business operations unreasonably.

Scope of controls

E22 The arrangements do not impose full planning controls over the developments to which they apply - those developments remain "permitted development" under the General Permitted Development Order. The principle of development will not be relevant providing the Order conditions

Annex E: Permitted Development Rights For Agriculture And Forestry

are satisfied, nor will other planning issues. When details are submitted for approval under the terms of the Order, the objective should be to consider the effect of the development upon the landscape in terms of visual amenity, as well as the desirability of preserving ancient monuments and their settings, known archaeological sites, listed buildings and their settings, and sites of recognised nature conservation value (i.e. Sites of Special Scientific Interest and Local Nature Reserves). Details should be regarded in much the same light as applications for approval of reserved matters following the grant of outline planning permission. Subject to the normal criteria governing the use of conditions in planning permission, conditions may be imposed when approval is given. (DOE Circular 11/95 gives further advice in this respect.) Developers required to submit details for approval will have the right of appeal to the Secretary of State if approval is refused or is granted subject to conditions with which they disagree, or if notice of a decision on the details submitted is not given within the period for a decision (normally eight weeks). There is no right of appeal against the decision of a local planning authority to require approval of details. No compensation is payable under Section 108 of the Town and Country Planning Act 1990 if approval of submitted details is withheld by the planning authority.

E23 Special considerations apply to forestry roads. Usually a new road will be to assist new planting or timber harvesting, which in nearly all cases are the subject of a Woodland Grant Scheme or felling licence application to the Forestry Authority. These applications are subject to consultation with local authorities and other bodies, in accordance with revised procedures that came into effect in August 1996. The Forestry Authority will be pleased to advise further. Applicants should set out any roading proposals in their application. If there is an objection from a local authority which cannot be resolved, the Forestry Authority will not approve an application without reference to Ministers. In addition, landowners have an obligation to undertake environmental assessments of potentially damaging operations, and the Forestry Authority can require an environmental statement. These procedures ensure that the environmental acceptability of new roads and the siting and landscaping of the woodland are considered together. The Forestry Authority will produce guidance on the design of forest roads. The Secretary of State would not expect local planning authorities to exercise their right to call for full details of roads which had been included in a Plan of Operations approved by the Forestry Commission after consultation on the full details with the authority. The Secretary of State would expect normally to allow appeals against refusal of permission for details in such circumstances.

Siting, design and appearance

E24 Local planning authorities may concern themselves with:

- the siting, design and external appearance of a proposed new agricultural or forestry building and its relationship to its surroundings;
- the siting and means of construction of roads;
- the siting of those excavations or waste deposits which individually or collectively exceed 0.5 hectare within the unit; and
- the siting and appearance of fish tanks (cages).

E25 To ensure consistency of decision-taking, and to help applicants, local planning authorities should consider preparing guidelines on the principles which they would wish to be taken into account when details of such buildings' design, materials and siting are being prepared. Guidelines are an aid to communication, both with developers and with the agricultural buildings industry. The guidelines should identify where possible the situations or circumstances in which authorities would normally require the submission of details. They should preserve the scope for flexibility of approach; and note that the combination of siting, design and colour can particularly influence the degree of intrusion. Guidelines should not need to cover forest road construction, as guidance on the design and construction of forest roads is available from the Forestry Authority.

Annex E: Permitted Development Rights For Agriculture And Forestry

E26 In preparing guidelines, authorities should consult those with an interest, for example local farming and conservation interests and MAFF. Continuing liaison with building designers and contractors will be important. Many farmers seek planning and design advice from building contractors, and such advice ought to reflect the policies and practices of the local planning authority. Planning authorities' attention is drawn to British Standard BS5502 Buildings and Structures for Agriculture, Part 20 Code of Practice for general design considerations, which gives information on matters referred to in this guidance, together with reference to choice of colours, and their use. Local planning authorities may find the following advice helpful in preparing guidelines.

Siting

E27 The siting of a new agricultural or forestry building, road, excavation or waste deposit, or fish tank can have a considerable impact on the site and the surrounding landscape. Developments should be assimilated into the landscape without compromising the functions they are intended to serve. New buildings should normally form part of a group rather than stand in isolation, and relate to existing buildings in size and colour. (New buildings of modern design may sometimes best be separated from a group of traditional buildings to avoid visual conflict.) Sites on skylines should be avoided if possible. To reduce their visual impact buildings should be blended into the landscape or, on sloping sites, set into the slope if that can be achieved without disproportionate cost.

E28 While a well-sited building or road may benefit from some additional screening, the visual impact of a poorly situated one cannot easily be reduced. In some cases a minor repositioning or realignment can considerably improve the proposals. In others, a site elsewhere on the agricultural land would be preferable if this can be achieved without imposing undue operational or constructional difficulties. The options for siting of agricultural buildings and private ways will be influenced by their functional relationship to other buildings and services, so that alternatives may be limited. Where constructional problems emerge after proposals have been notified or approved, authorities will need to take a flexible approach to requests for approval of departures from the original proposals.

E29 The siting of new agricultural or forestry buildings adjacent (but not too close) to existing woods may help to assimilate them into the landscape. Suitable woodland management is required to maintain this effect. Elsewhere judicious tree planting and external works may enhance new buildings. The aim should not be to hide a building from sight, but rather to soften a hard outline, break up a prominent silhouette, and help 'anchor' a new building to the surrounding landscape. Any new planting should reflect the vegetation type already existing in the locality, or be part of an approved Woodland Grant Scheme application.

Design and appearance

E30 In exercising control over the design and external appearance of proposed developments, local planning authorities should have regard to the guidance in PPG1.

E31 The choice of design and materials, and the relationships of texture and colour to existing development, local traditions, and the landscape, can be important considerations for both agricultural and forestry buildings and roads. For example, a single large building may have a greater impact on the countryside than one or more smaller buildings, which can be more easily incorporated into an existing group and provide greater flexibility, although the function of the building will be material to shaping its form. Roof overhang reduces apparent scale, as does the use of different materials for roof and walls. Well-designed features such as rainwater downpipes and gutters, ventilators, eaves and gable overhang emphasise the shape of a building.

E32 The colours chosen should be compatible with the rural setting, not to camouflage the building, but to allow it to relate to existing buildings. Careful choice of colour reduces the apparent scale of a large agricultural building (eg if the roof of a building is coloured darker than the walls, its visual impact on its surroundings is reduced). The use of reflective materials should be avoided.

Annex E: Permitted Development Rights For Agriculture And Forestry

E33 Guidelines may include information on local building design. Traditional building styles may be important in devising local design criteria for modern buildings. It will normally be appropriate to use traditional or sympathetic materials for developments taking place in the setting of a listed building or in a conservation area.

E34 Alterations and extensions should not pose the same difficulty as new buildings, but similar considerations concerning design and appearance should be taken into account. Materials similar to the original should normally be used.

E35 Although choices of design and materials may be constrained by operational needs, the standardisation of modern agricultural buildings and economic considerations, it should be possible to reconcile proposals for development with the need to conserve and wherever possible enhance the landscape.

Crown development

E36 Development by the Forestry Commission (including the Forestry Authority and Forest Enterprise) is Crown development. In carrying out developments the Commission and other Crown developers will follow the procedure for notifying local planning authorities described in DOE Circular 18/84.