

S.I. No. 235/2008 — Planning and Development Regulations 2008.

S.I. No. 235 of 2008

PLANNING AND DEVELOPMENT REGULATIONS 2008.

Notice of the making of this Statutory Instrument was published in

“Iris Oifigiúil” of 4th July, 2008.

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by sections 4 and 262 of the Planning and Development Act 2000 (No. 30 of 2000), hereby makes the following Regulations:

Citation.

1. (1) These Regulations may be cited as the Planning and Development Regulations 2008.

(2) These Regulations and the Planning and Development Regulations 2001 to 2007 shall be construed as one and may be collectively cited as the Planning and Development Regulations 2001 to 2008.

Interpretation.

2. In these Regulations, except where the context otherwise requires, “the Regulations” means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

Amendment of Article 5.

3. Sub-article 1 of article 5 of the Regulations is amended by inserting after “betting office” the following:

“ ‘Biomass’ means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste”;

and by inserting after “childminding” the following:

“ ‘CHP’ has the meaning assigned to it by the Electricity Regulation Act 1999 ”;

and by inserting after “repository” the following:

“ ‘school’ has the meaning assigned to it by the Education Act 1998 .”.

Amendment of Article 92 of the Regulations.

4. Article 92 of the Regulations is substituted by the following article:

“92. In this Part—

‘application for approval’ means an application to the Board by a local authority for approval of proposed development to which section 175 of the Act applies;

‘sub-threshold development’ means development of a type set out in Schedule 5 which does not exceed a quantity, area or other limit specified in that Schedule in respect of the relevant class of development;

‘development’ includes any associated demolition works.”.

Amendment of Schedule 2 of the Regulations.

5. Part 1 of Schedule 2 of the Regulations is amended by the insertion after Class 20 of the following:

“

Column 1Description of Development	Column 2Conditions and Limitations
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CLASS 20A	The erection of a 1. No such mast shall be
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mast for mapping
meteorological conditions.

erected for a period
exceeding 15 months in any
24 month period.

2. The total mast height shall
not exceed 80 metres.

3. The mast shall be a
distance of not less than:(a)
the total structure height plus:
(i) 5 metres from any party
boundary, (ii) 20 metres from
any non-electrical overhead
cables, (iii) 20 metres from
any 38kV electricity
distribution lines, (iv) 30
metres from the centreline of
any electricity transmission
line of 110kV or more.(b) 5
kilometres from the nearest
airport or aerodrome, or any
communication, navigation
and surveillance facilities
designated by the Irish
Aviation Authority, save with
the consent in writing of the
Authority and compliance
with any condition relating to
the provision of aviation
obstacle warning lighting.

4. Not more than one such
mast shall be erected within
the site.

5. All mast components shall
have a matt, non-reflective
finish and the blade shall be
made of material that does
not deflect
telecommunications signals.

6. No sign, advertisement or
object, not required for the
functioning or safety of the
mast shall be attached to or
exhibited on the mast.

CLASS 20BThe erection on
land on which development
consisting of the construction

1. No such structure shall be
erected for a period
exceeding 5 years.2. The

of a school is to be carried out pursuant to a permission or outline permission under the Act of temporary on-site school structures.

gross floor area of such structure shall not exceed 50% of the gross floor area of the school to be constructed pursuant to the permission under the Act.3. No such structure shall be above the ground floor.4. Such structure shall comply with the Department of Education and Science Primary and Post Primary Technical Guidance Documents for the time being in force.

CLASS 20CTemporary use as a school of any structure formerly used as a school, hall, club, art gallery, museum, library, reading room, gymnasium or any structure normally used for religious instruction.

1.The use shall be discontinued after a period not exceeding 2 years. 2. Such structure shall comply with the Department of Education and Science Primary and Post Primary Technical Guidance Documents for the time being in force.

”

by the substitution of Class 50 with the following:

“

Column 1Description of Development

Column 2Conditions and Limitations

CLASS 50(a) The demolition of a building, or buildings, within the curtilage of— (i) a house, (ii) an industrial building, (iii) a business premises, or (iv) a farmyard complex.(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission

1. No such building or buildings shall abut on another building in separate ownership.2.The cumulative floor area of any such building, or buildings, shall not exceed: (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and (b) in all other cases, 100 square metres.3. No such demolition shall be carried out to facilitate development

for an extension or porch under the Act.

of any class prescribed for the purposes of section 176 of the Act.

”

and by the insertion after Class 55 of the following:

“

Column 1
Description of
Development

Column 2
Conditions and
Limitations

CLASS 56(a) The construction, erection or placing within the curtilage of an industrial building of a structure for the purposes of housing a (fully enclosed) Combined Heat and Power system.

1. The gross floor area of the structure shall not exceed 500 square meters.
2. No such structure shall exceed 10 metres in height, or 50 metres in length.
3. No such structure shall be within:
(a) 10 metres of any public road.
(b) 200 metres of the nearest habitable house or residential building or school, hospital, church or building used for public assembly (other than the house or building of the person providing the structure), save with the consent in writing of the owner, and, as appropriate, the occupier or person in charge thereof.

4. No such structure within 100 metres of any public road shall exceed 8 metres in height.

5. No such structure shall have more than 2 flues, neither of which shall exceed 20 metres in height from ground level.

6. The diameter of any flue shall not exceed 1 metre.

7. Noise levels must not exceed 43db(A) during normal operation, as measured at the nearest party boundary.

8. Not more than one such structure shall be erected. 9. The structure shall be used for the purposes of housing a Combined Heat and Power unit only.

(b) The construction, erection, or placing within the curtilage of a business premises, or a light industrial building, of a structure for the purposes of housing a (fully enclosed) Combined Heat and Power system.

1. The gross floor area of the structure shall not exceed 300 square metres. 2. No such structure shall exceed 8 metres in height, or 40 metres in length. 3. No such structure shall be within: (a) 10 metres of any public road. (b) 200 metres of the nearest habitable house or residential building or school, hospital, church or building used for public assembly (other than the house or building of the person providing the structure), save with the consent in writing of the owner, and, as appropriate, the occupier or person in charge thereof.

4. No such structure shall have more than 2 flues, neither of which shall exceed 16 metres in height from ground level.

5. The diameter of any flue shall not exceed 1 metre.

6. Noise levels must not exceed 43db(A) during normal operation, as measured at the nearest party boundary.

7. Not more than one such structure shall be erected

within the curtilage of such a premises or building.

8. The structure shall be used for the purposes of housing a Combined Heat and Power unit only.

(c) The construction, erection or placing within the curtilage of an industrial building or light industrial building, or business premises of a wind turbine.

1. The turbine shall not be erected on or attached to the premises or building or any other structure within the curtilage of the building or premises.
2. The total height of the turbine shall not exceed 20 metres.
3. The rotor diameter shall not exceed 8 metres.

4. The minimum clearance between the lower tip of the rotor and ground level shall not be less than 3 metres.

5. The supporting tower shall be a distance of not less than the total structure height (including the blade of the turbine at the highest point of its arc) plus:
(a) 5 metres from any party boundary,
(b) 5 metres from any non-electrical overhead cables,
(c) 20 metres from any 38kV electricity distribution line,
(d) 30 metres from the centreline of any electricity transmission line of 110kV or more.

6. The turbine shall not be located within 5 kilometres of the nearest airport or aerodrome, or any communication, navigation and surveillance facilities designated by the Irish Aviation Authority, save with the consent in writing of the Authority and compliance with any condition relating to the provision of aviation

obstacle warning lighting.

7. Noise levels must not exceed 43db(A) during normal operation, as measured from the nearest party boundary.

8. Not more than one turbine shall be erected within the curtilage of the premises or building.

9. All turbine components shall have a matt, non-reflective finish and the blade shall be made of material that does not deflect telecommunication signals.

10. No sign, advertisement or object, not required for the functioning or safety of the turbine shall be attached to or exhibited on the wind turbine.

11. The turbine shall not be located within an Architectural Conservation Area.

(d) The installation or erection on or within the curtilage of an industrial building, or any ancillary buildings within the curtilage of an industrial building, of solar panels (thermal collector or photo-voltaic).

1. The distance between the plane of the wall or a pitched roof and the panel shall not exceed 1 metre. 2. The distance between the plane of a flat roof and the panel shall not exceed 2 metres. 3. The solar panel shall be a minimum of 50cm from the edge of the wall or roof on which it is mounted.

4. The total aperture area of any wall mounted panel, or free-standing solar array shall not exceed 50 square metres.

5. Any equipment associated

with the panels, including water tanks, shall be located within the roof space of the building.

6. The height of a free-standing solar array shall not exceed 2 metres, at its highest point, above ground level.

7. No sign, advertisement or object, not required for the functioning or safety of the panel shall be attached to or exhibited on the panels.

(e) The installation or erection on a business premises or light industrial building, or any ancillary buildings within the curtilage of such premises or buildings, of solar thermal collector panels.

1. Such a solar panel may not be installed or erected on a wall of such a premises or building. 2. The total aperture area of any such panel, taken together with any other such panel previously placed on or within the said curtilage, shall not exceed 50 square metres or 50% of the total roof area, whichever is the lesser.

3. The distance between the plane of a pitched roof and the panel shall not exceed: (a) 50cm in the case of a light industrial building. (b) 15cm in the case of a business premises.

4. The distance between the plane of a flat roof and the panel shall not exceed: (a) 2 metres in the case of a light industrial building. (b) 1 metre in the case of a business premises.

5. The solar panel shall be a minimum of 50cm from the edge of the roof on which it is mounted, or 2 metres in the case of a flat roof.

6. Any equipment associated with the panels, including water tanks, shall be located within the roof space of the building.

7. The total aperture area of any free-standing solar array shall not exceed 25 square metres.

8. The height of a free-standing solar array shall not exceed 2 metres, at its highest point, above ground level.

9. A free-standing solar array shall not be located forward of the front wall of the building or premises.

10. No sign, advertisement or object, not required for the functioning or safety of the panel shall be attached to or exhibited on the panels.

(f) The installation or erection on a business premises or light industrial building, or any ancillary buildings within the curtilage of such premises or building, of photo-voltaic solar panels.

1. The total aperture area of any such panels, taken together with any other such panel previously placed on or within the said curtilage, shall not exceed 50 square metres or 50% of the total roof area, whichever is the lesser.

2. The distance between the plane of the wall and the panel shall not exceed 15cm.

3. The distance between the plane of a pitched roof and the panel shall not exceed: (a) 50cm in the case of a light industrial building.(b) 15cm in the case of a business premises.

4. The distance between the

plane of a flat roof and the panel shall not exceed:(a) 2 metres in the case of a light industrial building.(b) 1 metre in the case of a business premises.

5. The solar panel shall be a minimum of 50cm from the edge of the wall or pitched roof on which it is mounted, or 2 metres in the case of a flat roof.

6. The total aperture area of any wall mounted panel, or free-standing solar array shall not exceed 25 square metres.

7. Any equipment associated with the panels, including water tanks, shall be located within the roof space of the building.

8. The height of a free-standing solar array shall not exceed 2 metres, at its highest point, above ground level.

9. A free-standing solar array shall not be located forward of the front wall of the building or premises.

10. No sign, advertisement or object, not required for the functioning or safety of the turbine shall be attached to or exhibited on the panels.

(g) The installation on or within the curtilage of an industrial building, or any ancillary buildings within the curtilage of an industrial building, of a ground source heat pump system (horizontal and vertical) or air source heat pumps.

1. The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.2. The total area of any air source heat pumps shall not exceed 15 square metres.3. The air source heat pump shall be a minimum of

50cm from the edge of the wall or roof on which it is mounted.

4. Noise levels must not exceed 43db(A) during normal operation, as measured from the nearest party boundary.

5. Distances from party boundaries and from the foundations of any structure or building shall be maintained in line with the Sustainable Energy Ireland Renewable Energy Information Office Procurement Guidelines on Heat Pump Systems for the time being in force.

(h) The installation on or within the curtilage of a business premises or light industrial building, or any ancillary buildings within the curtilage of such a premises or building, of a ground source heat pump system (horizontal and vertical) or air source heat pumps.

1. The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.2. The total area of any air source heat pumps shall not exceed 10 square metres.3. No such structure shall be constructed, erected or placed forward of the front wall of the building.

4. The heat pump shall be a minimum of 50cm from the edge of the wall or roof on which it is mounted.

5. Noise levels must not exceed 43db(A) during normal operation, as measured from the nearest party boundary.

6. Distances from party boundaries and from the foundations of any structure or building shall be maintained in line with the Sustainable Energy Ireland

Renewable Energy
Information Office
Procurement Guidelines on
Heat Pump Systems for the
time being in force.

- (i) The provision as part of a heating system for an industrial building or light industrial building or business premises of a biomass boiler, including a boiler house, flues mounted on the boiler house, and over-ground fuel storage tank or structure.
1. The gross floor area of the boiler house shall not exceed 20 square metres.
 2. The capacity of such a fuel storage tank or structure shall not exceed 75 cubic metres.
 3. The height of a boiler house or such a fuel storage tank or structure shall not exceed 3 metres.
 4. The height of a flue mounted on a biomass unit shall not exceed 16 metres, measured from ground level.
 5. No more than 2 flues shall be erected.
 6. Not more than one such structure shall be erected within the curtilage of the site.
 7. The diameter of any flue shall not exceed 1 metre.
 8. The boiler house shall not be located within:
 - (a) 10 metres of any public road.
 - (b) 100 metres of the nearest habitable house or residential building or school, hospital, church or building used for public assembly (other than the house or building of the person providing the structure), save with the consent in writing of the owner, and, as appropriate, the occupier or person in charge thereof.
 9. Noise levels must not

exceed 43db(A) during normal operation, as measured from the nearest party boundary.

10. The fuel shall not include products derived from animal wastes or from wood containing dangerous substances.

CLASS 57The extension of a school, where the school has not been previously extended, by the construction or erection of an extension to the side or rear of the school.

1. The floor area of any such extension shall not exceed:(a) 160 square metres, or (b) 40% of the gross floor area of the school, whichever is the lesser.

2. No such structure shall be above the ground floor.

3. Any extension shall be a distance of not less than 2 metres from any party boundary.

4. Such structure shall comply with the Department of Education and Science Primary and Post Primary Technical Guidance Documents for the time being in force.

”

Further amendment of Schedule 2.

6. Part 3 of Schedule 2 of the Regulations is amended by the insertion after Class 17 of the following:

“

Column 1Description of Development

Column 2Conditions and Limitations

Renewable

Technologies CLASS 18(a)

The construction, erection or placing within an agricultural holding of a structure for the purposes of housing a (fully enclosed) Combined Heat and Power system.

1. The gross floor area of the structure shall not exceed 300 square metres. 2. No such structure shall exceed 8 metres in height, or 40 metres in length. 3. No such structure shall be within: (a) 10 metres of any public road. (b) 100 metres of the nearest habitable house (other than the house of the person providing the structure) or any other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner, and, as appropriate, the occupier or person in charge thereof.

4. No such structure shall have more than 2 flues, neither of which shall exceed 16 metres in height from ground level.

5. The diameter of any flue shall not exceed 1 metre.

6. Noise levels must not exceed 43db(A) during normal operation, as measured at the party boundary.

7. Not more than one such structure shall be erected within the agricultural holding.

8. The structure shall be used for the purposes of housing a Combined Heat and Power unit only.

(b) The construction, erection or placing within an agricultural holding of a wind turbine.

1. The turbine shall not be erected on or attached to a building or other structure. 2. The total height of the turbine

shall not exceed 20 metres.

3. The rotor diameter shall not exceed 8 metres.

4. The minimum clearance between the lower tip of the rotor and ground level shall not be less than 3 metres.

5. The supporting tower shall be a distance of not less than:

(a) one and a half times the total structure height (including the blade of the turbine at the highest point of its arc) plus 1 metre from any party boundary.

(b) The total structure height (including the blade of the turbine at the highest point of its arc) plus:

(i) 5 metres from any non-electrical overhead cables, (ii) 20 metres from any 38kV electricity distribution line, (iii) 30 metres from the centreline of any electricity transmission line of 110kV or more.

6. The turbine shall not be located within:

(a) 100 metres of an existing wind turbine.

(b) 5 kilometres of the nearest airport or aerodrome, or any communication, navigation and surveillance facilities designated by the Irish Aviation Authority, save with the consent in writing of the Authority and compliance

with any condition relating to the provision of aviation obstacle warning lighting.

7. Noise levels must not exceed 43db(A) during normal operation, as measured from the nearest habitable house.

8. Not more than one turbine shall be erected within the agricultural holding.

9. All turbine components shall have a matt, non-reflective finish and the blade shall be made of material that does not deflect telecommunication signals.

10. No sign, advertisement or object, not required for the functioning or safety of the turbine shall be attached to or exhibited on the wind turbine.

(c) The installation or erection on an agricultural structure, or within the curtilage of an agricultural holding, of solar panels (thermal collector or photovoltaic).

1. The total aperture area of any such panel, taken together with any other such panel previously placed on or within the said holding, shall not exceed 50 square metres or 50% of the total roof area, whichever is the lesser.

2. The distance between the plane of the wall and the panel shall not exceed 15cm.

3. The distance between the plane of a pitched roof and the panel shall not exceed 50cm.

4. The distance between the plane of a flat roof and the panel shall not exceed 2 metres.

5. The solar panel shall be a minimum of 50cm from the edge of the wall or roof on which it is mounted, or 2 metres in the case of a flat roof.

6. The total aperture area of any wall-mounted panel or free-standing solar array shall not exceed 25 square metres.

7. Any equipment associated with the panels, including water tanks, shall be located within the roof space of the building.

8. The height of a free-standing solar array shall not exceed 2 metres, at its highest point, above ground level.

9. No sign, advertisement or object, not required for the functioning or safety of the turbine shall be attached to or exhibited on the panels.

(d) The installation within an agricultural holding of a ground source heat pump system (horizontal and vertical) or air source heat pumps.

1. The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.

2. The total area of any air source heat pumps shall not exceed 10 square metres.

3. The air source heat pump shall be a minimum of 50cm from the edge of the wall or roof on which it is mounted.

4. Noise levels must not exceed 43db(A) during normal operation, as

measured from the nearest habitable house.

5. Distances from party boundaries and from the foundations of any structure or building shall be maintained in line with the Sustainable Energy Ireland Renewable Energy Information Office Procurement Guidelines on Heat Pump Systems for the time being in force.

(e) The provision as part of a heating system for an agricultural building of a biomass boiler, including a boiler house, flues mounted on the boiler house, and over-ground fuel storage tank or structure.

1. The gross floor space of the boiler house shall not exceed 20 square metres.
2. The capacity of the fuel storage tank or structure shall not exceed 75 cubic metres.
3. The height of a boiler house or fuel storage tank installed above ground level shall not exceed 3 metres.

4. The height of a flue mounted on a biomass unit shall not exceed 20 metres, measured from ground level.

5. No more than 2 flues shall be erected.

6. Not more than one such structure shall be erected within the agricultural holding.

7. The diameter of any flue shall not exceed 1 metre.

8. The boiler house shall not be located within:

(a) 10 metres of any public road,

(b) 100 metres of the nearest habitable house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.

9. Noise levels must not exceed 43db(A) during normal operation, as measured from the site boundary.

10. The fuel shall not include products derived from wood containing dangerous substances.

Temporary Structures and Uses CLASS 19 The erection of a mast for mapping meteorological conditions.

1. No such masts shall be erected for a period exceeding 15 months in any 24 month period.

2. The total mast height shall not exceed 80 metres.

3. The mast shall be a distance of not less than:

(a) the total structure height plus:

(i) 5 metres from any party boundary,

(ii) 20 metres from any non-electrical overhead cables,

(iii) 20 metres from any 38kV electricity distribution lines,

(iv) 30 metres from the centrelines of any electricity transmission lines of 110kV or more.

(b) 5 kilometres from the nearest airport or aerodrome, or any communication, navigation and surveillance facilities designated by the Irish Aviation Authority, save with the consent in writing of the Authority and compliance with any condition relating to the provision of aviation obstacle warning lighting.

4. Not more than one such mast shall be erected within the site.

5. All mast components shall have a matt, non-reflective finish and the blade shall be made of material that does not deflect telecommunications signals.

6. No sign, advertisement or object, not required for the functioning or safety of the mast shall be attached to or exhibited on the mast.

”

Amendment of Schedule 5 of the Regulations.

7. Part 2 of Schedule 5 of the Regulations is amended by the insertion after paragraph 10(d) of the following:

“(dd) All private roads which would exceed 2000 metres in length.”

and paragraph 13(b) of the following:

“(c) Any change or extension of development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, which would result in the demolition of structures, the demolition of which had not previously been authorised, and where such demolition would be likely to have significant effects on the environment, having regard to the criteria set out under Schedule 7.”

Amendment of Schedule 7 of the Regulations.

8. Paragraph 1 of Schedule 7 of the Regulations is substituted with the following:

“1. Characteristics of proposed development

The characteristics of proposed development, in particular:

- the size of the proposed development,
- the cumulation with other proposed development,
- the nature of any associated demolition works,
- the use of natural resources,
- the production of waste,
- pollution and nuisances,
- the risk of accidents, having regard to substances or technologies used.”



GIVEN under my Official Seal,

2 July 2008

JOHN GORMLEY, T.D.

Minister for the Environment, Heritage and Local Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

The purpose of these Regulations is to amend Schedule 2 of the Planning and Development Regulations 2001 to provide for exemptions in respect of renewable technologies for industrial buildings, business premises and agricultural holdings, and in respect of schools, demolition and private roads.

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