

A guide to installing solar panels on houses and flats under permitted development

by Steve Speed

Key Points:

- Solar panels constitute “development”, and therefore require planning permission.
- However, for **most** houses and flats, it is possible to install solar panels under “permitted development” legislation **without** an application for planning permission. The **main** three criteria that must be met are as follows:
 - The solar panels can not project from the roof slope by more than 20cm.
 - The solar panels can not be higher than the main ridge-line.
 - In a conservation area, the solar panels can not be on a front or side wall (but can be on any roof slope).

Legislation:

- The “General Permitted Development Order 1995” [GPDO] contains a number of sections, from Part 1 to Part 40, each containing a number of Classes of development for which it grants planning permission.
- **Part 40** of the GPDO, which came into force on 06/04/2008, deals with the installation of **microgeneration equipment on houses and flats**. This Part was introduced by a piece of legislation entitled: “The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008”.
- **Class A of this Part 40** permits the installation of **solar panels on houses and flats**, subject to various limitations and conditions, and the full text of this Class is shown below:

Class A

Permitted development:

A. The installation, alteration or replacement of solar PV or solar thermal equipment on:

- (a) a dwellinghouse; or
- (b) a building situated within the curtilage of a dwellinghouse.

Development not permitted:

A.1. Development is not permitted by Class A, in the case of solar PV or solar thermal equipment installed on an existing wall or roof of a dwellinghouse or a building within its curtilage if:

- (a) the solar PV or solar thermal equipment would protrude more than 200 millimetres beyond the plane of the wall or the roof slope when measured from the perpendicular with the external surface of the wall or roof slope;
- (b) it would result in the highest part of the solar PV or solar thermal equipment being higher than the highest part of the roof (excluding any chimney);
- (c) in the case of land within a conservation area or which is a World Heritage Site, the solar PV or solar thermal equipment would be installed:
 - (i) on a wall forming the principal or side elevation of the dwellinghouse and would be visible from a highway; or
 - (ii) on a wall of a building within the curtilage of the dwellinghouse and would be visible from a highway; or
- (d) the solar PV or solar thermal equipment would be installed on a building within the curtilage of the dwellinghouse if the dwellinghouse is a listed building.

Conditions:

A.2. Development is permitted by Class A subject to the following conditions:

- (a) solar PV or solar thermal equipment installed on a building shall, so far as practicable, be sited so as to minimise its effect on the external appearance of the building;
- (b) solar PV or solar thermal equipment shall, so far as practicable, be sited so as to minimise its effect on the amenity of the area; and
- (c) solar PV or solar thermal equipment no longer needed for microgeneration shall be removed as soon as reasonably practicable.

Informal summary of the above legislation:

- **A.1(a):** This restricts the protrusion of solar panels (e.g. their projection from the roof slope) to a maximum of 20cm.
- **A.1(b):** This means that no part of the solar panels can be higher than the main ridge-line of the property. (see Note 2 below).
- **A.1(c):** This means that, for most properties in a **conservation area**, solar panels can't be on the front or side walls. Hence for such properties they would need to be either on the rear wall, or on the front, side, or rear roof slopes. (see Note 3 below).

(For properties **outside** of a conservation area, the above limitation does not apply, and hence for such properties solar panels can be on any wall or roof slope).

- **A.1(d):** This prevents the installation of solar panels on listed buildings.
- **Conditions:** These try to avoid situations in which people install their solar panels in very unreasonable locations.

Some more technical notes about the above legislation:

- **Note 1:** Part 40, Class A only applies to a “dwellinghouse”. At the end of Part 40, there is a definition of “dwellinghouse” which refers to houses **and** flats; hence Part 40 gives permitted development rights with respect to domestic microgeneration equipment to both houses **and** flats. However, it is very important to note that this particular definition of “dwellinghouse” is only relevant to this particular Part, and does **not** apply to the other Parts of the GPDO. For example, Part 1 of the GPDO, which allows works such as extensions, alterations, etc, also only applies to a “dwellinghouse”. However, for the purposes of Part 1, an alternative definition of “dwellinghouse” is used, which refers to houses but **not** flats; hence Part 1 gives permitted development rights with respect to extensions, alterations, etc, to houses but **not** flats.
- **Note 2:** Although limitation A.1(b) states that solar panels can not be higher than the “highest part of the roof”, it is important to realise that caselaw has established that for most properties the phrase “highest part of the roof” applies to the main ridge-line, and does **not** apply to raised parapet walls or chimneys. Hence, this limitation effectively means that no part of the solar panels can be higher than the **main ridge-line** of the property.
- **Note 3:** In the version of the legislation available on the government website, limitation A.1(c) contains the phrase “or roof slope”, which implies that, for most properties in a conservation area, solar panels are not allowed on a front or side roof slope. However, this phrase “or roof slope” was subsequently deleted by the “The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008”. As shown by the amended version of the legislation in this guide, Part 40, Class A **does** allow solar panels in a conservation area on a front or side roof slope.
- **Note 4:** Although the piece of legislation that introduced Part 40 is titled “2008”, please note that this was an amendment to the 1995 legislation. As such, the new Part 40 is technically Schedule 2, Part 40, of the “Town and Country Planning (General Permitted Development) Order **1995** (as amended)”.

General Guidance:

- Not all houses and flats benefit from permitted development rights. For example, it is possible for a property to have its permitted development rights removed by a condition on a planning permission, or removed by an Article 4 Direction.
- Although works that are “permitted development” do **not** require an application for planning permission, if someone undertaking such works wants confirmation that the works would definitely be permitted development, they can make an **optional** application to the Council’s Planning Department for a Certificate of Lawful Development. Such an application can be made before undertaking such works (proposed) or after undertaking such works (existing). It is strongly recommended that people apply for such a Certificate of Lawful Development before undertaking substantial works. This is because a certificate gives “peace of mind” that the proposed works would definitely be lawful, and can be an important document during any future sale of the property.
- Please note that this is an introductory guide, and should **not** be used as a definitive source of legal information. The assessment of whether works would be permitted development should always be made against the full legislation itself, rather than against any guidance document. Please also note that this guide only covers planning legislation, and does **not** make any comment on any other legislation that might be applicable. Finally, please note that this guide was written in Feb 2010, and relates to legislation that, as with any legislation, may be subject to change in the future.
- The GPDO is government legislation, and government guidance is provided on www.planningportal.gov.uk