

2013 No. 1868

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2013

<i>Made</i> - - - -	<i>24th July 2013</i>
<i>Laid before Parliament</i>	<i>26th July 2013</i>
<i>Coming into force</i> - -	<i>21st August 2013</i>

The Secretary of State, in exercise of the powers conferred by sections 59, 60, 61 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) (No. 2) (England) Order 2013 and shall come into force on 21st August 2013.

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

Amendments in relation to electronic communications

2.—(1) Class A of Part 24 of Schedule 2 (development by electronic communications operators) to the Town and Country Planning (General Permitted Development) Order 1995(b) is amended as follows.

(2) After paragraph A.1(b) insert—

“(ba) in the case of the alteration or replacement of an existing mast (other than on a building or other structure, on article 1(5) land or on any land which is, or is within, a site of special scientific interest)—

(i) the mast, excluding any antenna, would when altered or replaced—

(aa) exceed a height of 20 metres above ground level;

(bb) at any given height exceed the width of the existing mast at the same height by more than one third; or

(ii) where antenna support structures are altered or replaced, the combined width of the mast and any antenna support structures would exceed the combined width of the existing mast and any antenna support structures by more than one third;”

(a) 1990 c. 8, section 60 was amended by section 4 of the Growth and Infrastructure Act 2013 (c. 27), and there are other amendments not relevant to this Order. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously 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). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

(b) S.I. 1995/418. Relevant amendments were made by S.I.s 2001/2718, 2003/2155, 2004/945 and 2013/1101.

- (3) In paragraph A.1(e) (height of masts), after “paragraphs A.1(a), (b),” insert “(ba),”.
- (4) In paragraph A.1(g)(ii) (size of dish antennas below 15 metres), for “1.5 metres” substitute “4.5 metres”.
- (5) For paragraph A.1(g)(iii) (number of antenna systems below 15 metres), substitute—
- “(iii) in the case of antennas other than dish antennas, the development (other than the installation, alteration or replacement of one small antenna or a maximum of two small cell antennas) would result in the presence on the building or structure of—
 - (aa) more than three antenna systems; or
 - (bb) any antenna system operated by more than three electronic communications code operators; or”
- (6) In paragraph A.1(h)(i) (size of dish antennas at or above 15 metres), for “3.5 metres” substitute “10 metres”.
- (7) For paragraph A.1(h)(ii) (number of antenna systems at or above 15 metres), substitute—
- “(ii) in the case of antennas other than dish antennas, the development (other than the installation, alteration or replacement of a maximum of two small antennas or two small cell antennas) would result in the presence on the building or structure of—
 - (aa) more than five antenna systems; or
 - (bb) any antenna system operated by more than three electronic communications code operators; or”
- (8) In paragraph A.1(i) (antenna development on article 1(5) land or on a site of special scientific interest)—
- (a) omit “(other than the installation, alteration or replacement of one small antenna on a dwellinghouse or within the curtilage of a dwellinghouse)”;
 - (b) at the end, add “or is allowed by paragraphs (ia), (m), (n), or (p)”.
- (9) After paragraph A.1(i), insert—
- “(ia) in the case of the installation of an additional antenna on existing electronic communications apparatus on a building or structure (including a mast) on article 1(5) land—
 - (i) in the case of dish antennas, the size of any additional dishes would exceed 0.6 metres, and the number of additional dishes on the building or structure would exceed three; or
 - (ii) in the case of antennas other than dish antennas, any additional antennas would exceed 3 metres in height, and the number of additional antennas on the building or structure would exceed three;”
- (10) In paragraph A.1(l)(ii) (size of radio equipment housing), before “development”, in each place it occurs, insert “cumulative volume of such”.
- (11) In paragraph A.1(l)(iii) (size of radio equipment housing on article 1(5) land or on a site of special scientific interest), before “development”, in the first place it occurs, omit “the” and insert “any single”.
- (12) At the end of paragraph A.1, add—
- “(p) in the case of the installation, alteration or replacement of a small cell antenna on a building or structure which is not a dwellinghouse or within the curtilage of a dwellinghouse—
 - (i) the building or structure is on any land which is, or is within, a site of special scientific interest; or
 - (ii) the development would result in the presence on the building or structure of more than two such antennas.”

(13) For paragraph A.2(4) (prior approval), substitute—

“(4) Subject to paragraph (4A), class A development—

- (a) on article 1(5) land or land which is, or is within, a site of special scientific interest, or
- (b) on any other land and consisting of the construction, installation, alteration or replacement of—
 - (i) a mast;
 - (ii) an antenna on a building or structure (other than a mast) where the antenna (including any supporting structure) would exceed the height of the building or structure at the point where it is installed or to be installed by 6 metres or more;
 - (iii) a public call box;
 - (iv) radio equipment housing, where the volume of any single development is in excess of 2.5 cubic metres,

is permitted subject, except in case of emergency, to the conditions set out in A.3.”

(14) After paragraph A.3(8), insert—

“(8A) The agreement in writing referred to in paragraph (8) requires no special form of writing, and in particular there is no requirement on the developer to submit a new application for prior approval in the case of minor amendments to the details submitted with the application for prior approval.”

(15) In paragraph A.4 (interpretation)—

(a) for the definition of “antenna system”, substitute—

““antenna system” means a set of antennas installed on a building or structure and operated in accordance with the electronic communications code;”

(b) in the definition of “development ancillary to radio equipment housing”, at the end add—

“; and except on any land which is, or is within, a site of special scientific interest includes—

- (i) security equipment;
- (ii) perimeter walls and fences; and
- (iii) handrails, steps and ramps;”

(c) in the appropriate place, insert—

““electronic communications apparatus”, “electronic communications code” and “electronic communications service” have the same meaning as in the Communications Act 2003(a);”

““existing electronic communications apparatus” means electronic communications apparatus which is already sending or receiving electronic communications;”

““existing mast” means a mast with attached electronic communications apparatus which existed and was sending or receiving electronic communications at 3rd May 2013;”

““small cell antenna” means an antenna which—

- (i) operates on a point to multi-point or area basis in connection with an electronic communications service;
- (ii) may be variously referred to as a femtocell, picocell, metrocell or microcell antenna;
- (iii) does not, in any two dimensional measurement, have a surface area exceeding 5,000 square centimetres; and

(a) 2003 c. 21.

(iv) does not have a volume exceeding 50,000 cubic centimetres, and any calculation for the purposes of (iii) and (iv) shall include any power supply unit or casing, but shall exclude any mounting, fixing, bracket or other support structure;”

(16) After paragraph A.4 (interpretation), add—

“**A.4A.** Where Class A permits the installation, alteration or replacement of any electronic communications apparatus, the permission extends to any—

- (a) casing or covering;
- (b) mounting, fixing, bracket or other support structure;
- (c) perimeter walls or fences;
- (d) handrails, steps or ramps; or
- (e) security equipment;

reasonably required for the purposes of the electronic communications apparatus.

A.4B. Nothing in paragraph A.4A extends the permission in Class A to include the installation, alteration or replacement of anything mentioned in paragraph A.4A(a) to (e) on any land which is, or is within, a site of special scientific interest if the inclusion of such an item would not have been permitted by Class A, as read without reference to paragraph A.4A.”

Signed by authority of the Secretary of State for Communities and Local Government

24th July 2013

Hanham
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends, in England, Class A of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418) (“the 1995 Order”). Class A sets out permitted development rights in relation to certain development by electronic communications code operators, with the effect that such development is granted planning permission without the need for a planning application. Class A often imposes limitations and conditions on the grant of planning permission. For example, some of the permissions do not apply on categories of land identified in article 1(5) of, and Part 2 of Schedule 1 to, the 1995 Order (National Parks, areas of outstanding natural beauty, conservation areas, countryside areas of natural beauty and amenity, the Broads, World Heritage Sites). Other permissions may be subject to the approval of the local planning authority on siting and appearance, a process referred to as “prior approval”.

Article 2(2) inserts a new provision to allow existing freestanding masts to be altered or replaced to become masts up to 20 metres high and up to a third wider than the existing mast, but not on article 1(5) land nor on a site of special scientific interest, and subject to prior approval on other land by virtue of paragraph A.2(4) of Class A. On width, at any given height the new or upgraded mast may be no more than a third wider than the original mast at the same height. Article 2(3) makes an amendment consequential on this provision.

Article 2(4) to (7) amend provisions in Class A to allow larger dish antennas and more antenna systems to be attached to certain buildings and structures. The new rules vary according to the height of the building or structure, with larger dishes and more antenna systems allowed above 15 metres.

Article 2(8) makes provision consequential on article 2(9) and (12).

Article 2(9) inserts a new provision to permit up to three additional dish antennas and three non-dish antennas, subject to size limits, to be attached to existing electronic communications apparatus attached to buildings or structures (including masts) on article 1(5) land. A definition added by article 2(15)(c) clarifies that the apparatus must already be operational, i.e. sending and receiving communications. This new permitted development right is excepted from the rules at paragraph A.1(i) of Class A which otherwise substantially limit the development of antenna on article 1(5) land.

Article 2(10) and (11) amend provisions to clarify that current size limits for radio equipment housing are in one case cumulative and in another case applicable to single development proposals. Article 2(14) makes a consequential amendment to paragraph A.2(4) of Class A.

Article 2(12) inserts a new provision to allow up to two of a new sort of antenna (“small cell antenna”) to be attached to buildings and other structures (other than dwellinghouses), as long as they are not on a site of special scientific interest. This development is permitted on article 1(5) land by virtue of an exception to the general rule at paragraph A.1(i) of Class A, but subject to prior approval by virtue of paragraph A.2(4) of Class A. Article 2(15)(c) inserts a new definition of “small cell antenna”, which includes size restrictions.

Article 2(13) inserts a new version of paragraph A.2(4) of Class A. Changes include: increasing the height at which antennas attached to buildings or structures (other than masts) are required to go through the prior approval process; clarifying that prior approval is only required when any single development of radio equipment housing has a volume in excess of 2.5 cubic metres; and removing the need for prior approval for development ancillary to radio equipment housing. Article 2(14) inserts a new provision into the prior approval procedures at paragraph A.3 of Class A, to clarify that where minor amendments to development proposed in a prior approval application are agreed between the developer and the local planning authority, a new application for prior approval is not required.

Article 2(15) makes consequential amendments to definitions.

Article 2(16) inserts a new provision which clarifies that where Class A gives planning permission for the development of electronic communications apparatus, that permission extends to certain development ancillary to and reasonably required for the purpose of that apparatus. The “reasonably required” test ensures that such ancillary development relates to the particular apparatus being developed and is not for the purpose of future anticipated development. This interpretative provision does not extend to development on a site of special scientific interest.

An impact assessment has been prepared in relation to this Order. It has been placed in the library of each House of Parliament and copies may be obtained from the Planning Directorate, Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU or on the website <https://www.gov.uk/government/organisations/department-for-communities-and-local-government>

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