

2022 No. 278

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022

<i>Made</i> - - - -	<i>10th March 2022</i>
<i>Laid before Parliament</i>	<i>14th March 2022</i>
<i>Coming into force</i> - -	<i>4th April 2022</i>

The Secretary of State makes the following Order in exercise of the powers conferred by sections 59, 60, 61 and 333(7) of the Town and Country Planning Act 1990(a):

Citation, commencement and extent

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022 and comes into force on 4th April 2022.

(2) This Order extends to England and Wales.

Amendments to Schedule 2 (permitted development rights) to the Town and Country Planning (General Permitted Development) (England) Order 2015

2. Class A (electronic communications code operators) of Part 16 (communications) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015(b) is amended in accordance with articles 3 to 6.

Amendments to paragraph A.1 (development not permitted)

3.—(1) Paragraph A.1 is amended as follows.

(2) In sub-paragraph (1) (ground-based apparatus)—

(a) in paragraph (c)—

(i) in sub-paragraph (i), for “25” substitute “30”;

(ii) in sub-paragraph (ii), for “20” substitute “25”;

(b) immediately after paragraph (c)(ii), omit the “or”;

(c) for paragraph (d) substitute—

(a) 1990 c. 8. Amendments have been made to section 59 which are not relevant to this Order. Section 60 was amended by section 4(1) of the Growth and Infrastructure Act 2013 (c. 27) and section 152 of the Housing and Planning Act 2016 (c. 22).

(b) S.I. 2015/596, which has been amended by S.I. 2016/332, 2016/765, 2016/772, 2016/1040, 2016/1154, 2017/391, 2017/571, 2017/619, 2017/1011, 2017/1012, 2018/119, 2018/343, 2018/695, 2019/907, 2020/330, 2020/412, 2020/632, 2020/755, 2020/756, 2020/1243, 2020/1459, 2021/428, 2021/467 and 2021/814.

- “(d) in the case of the alteration or replacement of a mast, the height of the mast, excluding any antenna, would when altered or replaced exceed the greater of the height of the existing mast or a height of—
 - (i) 30 metres above ground level on unprotected land; or
 - (ii) 25 metres above ground level on article 2(3) land or land which is on a highway; or
- (e) in the case of the alteration or replacement of a mast—
 - (i) the mast is on any land which is, or is within, a site of special scientific interest; and
 - (ii) the mast would, when altered or replaced, exceed the original width of the mast by more than one third.”.
- (3) In sub-paragraph (2) (building-based apparatus), for paragraph (c) substitute—
 - “(c) in the case of the installation, alteration or replacement of a mast on a building which is—
 - (i) on article 2(3) land or land which is, or is within, a site of special scientific interest; and
 - (ii) less than 15 metres in height,
 the mast would be within 20 metres of the highway (unless the siting remains the same and the dimensions of the altered or replaced mast are no greater);”.
- (4) In paragraph (a)(iv) of sub-paragraph (4) (apparatus on masts on protected land), for “A.1(1)(d)(i)(bb)” substitute “A.1(1)(d)(ii)”.
- (5) In sub-paragraph (9) (radio equipment housing), in paragraph (c) omit “on any article 2(3) land, or”.
- (6) After sub-paragraph (9) insert—
 - “(9A) Sub-paragraph (9)(b) and (c) does not apply where the development is carried out within a permitted compound (and accordingly the development described in that sub-paragraph is permitted by Class A(a)).”.

Amendments to paragraph A.2 (conditions)

- 4.—(1) Paragraph A.2 is amended as follows.
- (2) In sub-paragraph (1)—
 - (a) for paragraph (a) substitute—
 - “(a) the siting and appearance of any—
 - (i) mast;
 - (ii) electronic communications apparatus installed, altered or replaced on a mast;
 - (iii) antenna or supporting apparatus;
 - (iv) radio equipment housing; or
 - (v) development ancillary to radio equipment housing,
 constructed, installed, altered or replaced on a building (other than a building which is a mast) are such that the effect of the development on the external appearance of that building is minimised, so far as practicable;”;
 - (b) for paragraph (b) substitute—
 - “(b) the siting and appearance of any—
 - (i) mast;
 - (ii) electronic communications apparatus installed, altered or replaced on a mast;
 - (iii) antenna or supporting apparatus;
 - (iv) radio equipment housing; or

- (v) development ancillary to radio equipment housing, which has been constructed, installed, altered or replaced in a manner which does not require prior approval under paragraph A.2(3) are such that the visual impact of the development on the surrounding area is minimised, so far as practicable;
 - (c) the siting and appearance of any development which is visible from a site which is—
 - (i) article 2(3) land;
 - (ii) a scheduled monument or a listed building;
 - (iii) the curtilage of a schedule monument or a listed building;
 - (iv) a World Heritage Site;
 - (v) a site designated by the Secretary of State under section 1 of the Protection of Wrecks Act 1973(a); or
 - (vi) land registered by Historic England in a register described in section 8C of the Historic Buildings and Ancient Monuments Act 1953(b),
 are such that the visual impact of the development on the site is minimised so far as practicable, taking into account the nature and purposes of the site;
 - (d) the siting of any development is such that it—
 - (i) does not prevent pedestrians from passing along a footway;
 - (ii) does not prevent access to premises adjoining a footway; and
 - (iii) is determined having regard to—
 - (aa) the needs of disabled people; and
 - (bb) the guidance document “Inclusive Mobility” issued by the Department for Transport in December 2021(c).”.
- (3) In sub-paragraph (3)—
- (a) immediately after paragraph (b), omit the “or”;
 - (b) in paragraph (c)—
 - (i) in sub-paragraph (i), at the end insert “, other than the installation of a mast on a building where the height of the mast (including any antenna and supporting apparatus) does not exceed the height of the highest part of the building by more than 6 metres”;
 - (ii) in sub-paragraph (ii)(bb), for “20” substitute “25”;
 - (iii) after sub-paragraph (ii) insert—
 - “(iia) the alteration or replacement of a mast which—
 - (aa) is less than one metre wide where the mast would, when altered or replaced, exceed the original width of the mast by two thirds; or
 - (bb) is one metre wide or wider where the mast would, when altered or replaced, exceed the original width of the mast by more than one half or 2 metres, whichever is the greater; or”;
 - (iv) in sub-paragraph (iii), after “single development” insert “, other than a single development within a permitted compound,”;

(a) 1973 c. 33.

(b) 1953 c. 49. Section 8C was inserted by paragraph 10 of Schedule 4 to the National Heritage Act 1983 (c. 47). Historic England is the informal name of the Historic Buildings and Monuments Commission for England, referred to in section 8C as “the Commission” (see section 9(1A) of the Historic Buildings and Ancient Monuments Act 1953 as inserted by paragraph 11(2) of Schedule 4 to the National Heritage Act 1983).

(c) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1044542/inclusive-mobility-a-guide-to-best-practice-on-access-to-pedestrian-and-transport-infrastructure.pdf a hard copy of which is available by written request to the Department of Transport at Great Minster House, 33 Horseferry Road, London, SW1P 4DR.

(c) at the end of paragraph (c)(iii) insert—

“;

(d) on a highway where that development consists of—

(i) the alteration or replacement of a mast which, when completed—

(aa) is taller than the mast which existed prior to such alteration or replacement; and

(bb) exceeds a height of 20 metres above ground level;

(ii) the alteration or replacement of a mast which—

(aa) is less than one metre wide where the mast would, when altered or replaced, exceed the original width of the mast by two thirds; or

(bb) is one metre wide or wider where the mast would, when altered or replaced, exceed the original width of the mast by more than one half or 2 metres, whichever is the greater; or

(e) which consists of the installation, alteration or replacement of a mast on a defence safeguarding area”.

(4) In sub-paragraph (4)—

(a) at the end of paragraph (a) omit “or”;

(b) in paragraph (b), omit “A.1(1)(d)(i)(bb),”;

(c) at the end of paragraph (b) insert—

“;

(c) the construction, installation, alteration or replacement of radio equipment housing—

(i) within a permitted compound; or

(ii) in any other location, where the volume of any single development does not exceed 2.5 cubic metres;

(d) the alteration or replacement of a mast which, when completed, is no taller than the taller of—

(i) the height of the mast prior to such alteration or replacement; or

(ii) 20 metres above ground level; or

(e) the alteration or replacement of a mast which—

(i) is less than one metre wide where the mast would, when altered or replaced, not exceed the original width of the mast by two thirds; or

(ii) is one metre wide or wider where the mast would, when altered or replaced, not exceed the original width of the mast by more than one half or 2 metres, whichever is the greater”.

(5) After sub-paragraph (5) insert—

“(5A) Except in case of emergency, Class A development which consists of the installation, alteration or replacement of a mast on a civil safeguarding area or a defence safeguarding area is permitted subject (in addition to any other condition imposed by this paragraph) to the conditions that—

(a) the developer notifies in writing—

(i) the Civil Aviation Authority, in respect of development on a civil safeguarding area;

(ii) the Secretary of State for Defence, in respect of development on a defence safeguarding area;

(iii) the operator of the civil safeguarding area (if the operator is not the Civil Aviation Authority) or defence safeguarding area (if the operator is not the Secretary of State for Defence); and

- (b) the development does not begin until the end of 28 days after the day the last notification required by paragraph (a) is given.

(5B) In case of emergency, Class A development which consists of the installation, alteration or replacement of a mast on a civil safeguarding area or a defence safeguarding area is permitted subject to the condition that the developer notifies the person mentioned in sub-paragraph (5A)(a)(i) to (iii) (as appropriate) as soon as practicable after the emergency begins.”.

Amendments to paragraph A.3 (prior approval)

5.—(1) Paragraph A.3 is amended as follows.

(2) Omit sub-paragraph (3).

(3) In sub-paragraph (5)(d)—

(a) for “sub-paragraph (3)” substitute “the condition in paragraph A.2(5A)”;

(b) for “aerodrome operator” substitute “operator of the civil safeguarding area or defence safeguarding area”.

(4) In sub-paragraph (6), after paragraph (a) insert—

“(ab) for development which is subject to the condition in paragraph A.2(5A), consult—

(i) the Civil Aviation Authority, in respect of development on a civil safeguarding area;

(ii) the Secretary of State for Defence, in respect of development on a defence safeguarding area;

(iii) the operator of the civil safeguarding area (if the operator is not the Civil Aviation Authority) or defence safeguarding area (if the operator is not the Secretary of State for Defence);”.

(5) In sub-paragraph (7), for the words from “must take into account” to the end substitute—

“must—

(a) take into account any representations made to them as a result of consultations or notices given under paragraph A.3; and

(b) not grant prior approval contrary to the advice of any person consulted in accordance with sub-paragraph (6)(ab)”.

Amendments to paragraph A.4 (interpretation of Class A)

6. In paragraph A.4—

(a) for the definition “aerodrome operator” substitute—

““aerodrome” has the meaning given by the Safeguarding Direction;”;

(b) after the definition of “antenna system” insert—

““civil safeguarding area” means the area identified on a safeguarding map issued by the Civil Aviation Authority in relation to an aerodrome or technical site;

“defence safeguarding area” means the area identified on a safeguarding map issued by the Secretary of State for Defence in relation to an aerodrome, a military explosives storage area or a technical site;”;

(c) after the definition of “electronic communications service” insert—

““footway” has the meaning given by section 329(1) (further provisions as to interpretation) of the Highways Act 1980(a);”;

(a) 1980 c. 66. There are amendments to section 329(1), but none are relevant to this instrument.

- (d) after the definition of “mast” insert—
- “military explosives storage area” has the meaning given by the Safeguarding Direction;
- “original width”, in relation to a mast, means the width of the mast approved by the most recent—
- (a) prior approval given in respect of the mast under this Class; or
 - (b) express grant of planning permission following an express application for planning permission in respect of the mast;”;
- (e) after the definition of “owner” insert—
- “permitted compound” means a compound which—
- (a) is no more than 100 square metres in area; and
 - (b) has a closed perimeter;”;
- (f) after the definition of “public call box” insert—
- “the Safeguarding Direction” means the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002(a);
- “safeguarding map” has the meaning given by the Safeguarding Direction;
- “single development”, in relation to radio equipment housing, means development in relation to a single, discrete unit of radio equipment housing (irrespective of when the development takes place);”;
- (g) for the definition of “small cell system” (including the “and” immediately after it) substitute—
- “small cell system” means low-power wireless network access equipment operating within a small range (irrespective of whether the underlying network topology is mobile or fixed), together with any ancillary apparatus, which—
- (a) operates on a point to multi-point or area basis in connection with an electronic communications service (as defined in section 32 of the Communications Act 2003(b));
 - (b) transmits at a power level of 10 watts equivalent isotopically radiated power or below;
 - (c) does not, in any two-dimensional measurement, have a surface area exceeding 5,000 square centimetres; and
 - (d) does not have a volume exceeding 50,000 cubic centimetres,
- and any calculation for the purposes of paragraph (c) or (d) includes any power supply unit or casing, but excludes any mounting, fixing, bracket or other support structure;
- “technical site” has the meaning given by the Safeguarding Direction;”;
- (h) at the end of the definition of “unprotected land” insert—
- “; and
- “width”, in relation to a mast, means the width of the mast at its widest point—
- (a) excluding any antenna; and
 - (b) including any antenna support structures,

(a) Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002, which is annexed to Joint Circular 01/2003 issued on 27th January 2003 by the Office of the Deputy Prime Minister and updated on 22nd December 2016. An electronic copy is available at <https://www.gov.uk/government/publications/safeguarding-aerodromes-technical-sites-and-military-explosives-storage-areas/the-town-and-country-planning-safeguarded-aerodromes-technical-sites-and-military-explosives-storage-areas-direction-2002> and a hard copy can be obtained from the Planning Directorate, Department for Levelling Up, Housing and Communities, 2 Marsham Street, London SW1P 4DF.

(b) 2003 c. 21. Section 32 has been amended by S.I. 2011/1210 and 2020/1419.

and “wide” is to be construed accordingly”.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

Stuart Andrew
Minister of State

10th March 2022

Department for Levelling Up, Housing and Communities

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Class A (electronic communications code operators) of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the GPDO”). The GPDO provides, for the purposes of section 59 of the Town and Country Planning Act 1990 (c. 8), for the granting of permission for certain classes of development without the requirement for a planning application to be made under Part 3 of that Act. The classes of permission, together with their accompanying conditions, limitations and restrictions, are set out in Schedule 2 to the GPDO.

Class A permits development, by or on behalf of electronic communications code operators, consisting of—

- (a) the installation, alteration or replacement of any electronic communications apparatus;
- (b) the use of land in an emergency to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications apparatus;
- (c) development ancillary to radio equipment housing.

The amendments made by this Order—

- (a) relax restrictions on development consisting of the installation, alteration or replacement of radio equipment housing and ground- and building-based masts by adjusting—
 - (i) limits on increases to the volume and dimensions of apparatus allowed under existing permitted development rights;
 - (ii) requirements to obtain prior approval for certain descriptions of such development;
- (b) introduce new conditions so that—
 - (i) the visual impact of certain descriptions of development is minimised as far as practicable;
 - (ii) the siting of certain descriptions of development does not prevent pedestrians passing along a footway; does not prevent access to premises; and is determined having regard to the needs disabled people and relevant guidance;
- (c) require that relevant authorities and operators are notified and, in some cases, consulted in respect of certain development on areas safeguarded in the interests of national security.

This Order makes further minor and consequential amendment to the GPDO.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

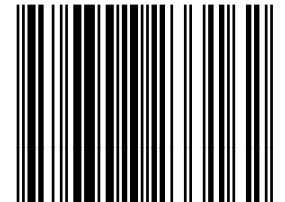
© Crown copyright 2022

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£6.90

<http://www.legislation.gov.uk/id/uksi/2022/278>

ISBN 978-0-34-823316-2



9 780348 233162