
STATUTORY INSTRUMENTS

1992 No. 2450

**TOWN AND COUNTRY PLANNING,
ENGLAND AND WALES**

**The Town and Country Planning General
Development (Amendment) (No. 6) Order 1992**

<i>Made</i>	- - - -	<i>14th October 1992</i>
<i>Laid before Parliament</i>		<i>23rd October 1992</i>
<i>Coming into force</i>		
<i>For the purposes of articles 2, 3 and 6</i>		<i>13th November 1992</i>
<i>For all other purposes</i>		<i>4th January 1993</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 59, 60, 61(1), 74(1) and 333(7) of the Town and Country Planning Act 1990(1) and all other powers enabling them in that behalf, hereby make the following Order—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Town and Country Planning General Development (Amendment) (No. 6) Order 1992 and shall come into force for the purposes of articles 2, 3 and 6 on 13th November 1992 and for all other purposes on 4th January 1993.

(2) In this Order “the 1988 Order” means the Town and Country Planning General Development Order 1988(2).

British Coal mining development

2. In Part 20 of Schedule 2 to the 1988 Order—

(a) for Class A, substitute—

(1) 1990 c. 8.
(2) S.I.1988/1813; a relevant amending instrument is S.I. 1991/1536.

“Class A

Permitted development

A. Development by the British Coal Corporation, their lessees or licencees, in a mine started before 1st July 1948, consisting of—

- (a) the winning and working underground of coal or coal- related minerals in a designated seam area; or**
- (b) the carrying out of development underground which is required in order to gain access to and work coal or coal-related minerals in a designated seam area.**

Development not permitted

A.1 Development is not permitted by Class A in a designated seam area after 30 September 1993 unless a seam plan for that area has, before that date, been deposited with the mineral planning authority.

Interpretation

A.2 For the purposes of Class A—

“designated seam area” means—

- (i) where no seam plan has been deposited with the mineral planning authority for a mine, land comprising the maximum extent of the coal seam or seams that can be worked from shafts or drifts existing at the mine at the date of the coming into force of this Class, without further development on an authorised site other than development permitted by Class B;

or

- (ii) where a seam plan has been so deposited, land identified in that seam plan in accordance with paragraph (a) of the definition of “seam plan”;

“coal-related minerals” means minerals other than coal referred to in paragraph 1(2) of Schedule 1 to the Coal Industry Nationalisation Act 1946⁽³⁾;

“seam plan” means a plan or plans on a scale of not less than 1 to 25,000 showing—

- (a) land comprising the maximum extent of the coal seam or seams that can be worked from shafts or drifts existing at a mine at the date of the coming into force of this Class, without further development on an authorised site other than development permitted by Class B;
- (b) any active access used in connection with the land referred to in paragraph (a);
- (c) the National Grid lines and reference numbers shown on Ordnance Survey maps;
- (d) a typical stratigraphic column showing the approximate depths of the coal seams referred to in paragraph (a).”;

- (b) omit Class D.

Mineral exploration

3. In Part 22 of Schedule 2 to the 1988 Order—

(3) 1946 c. 59.

- (a) in paragraph B delete “during a period not exceeding 4 months”;
- (b) in paragraph B.2(b), after “unless” insert “specified in detail in the notification referred to in paragraph B.1(b) or”;
- (c) after paragraph B.2(d) insert—
 - “(e) the development shall cease no later than a date 6 months after the elapse of the relevant period, unless the mineral planning authority have otherwise agreed in writing.”.

Development by telecommunications code system operators

- 4. For Part 24 of Schedule 2 to the 1988 Order substitute—

“PART 24

DEVELOPMENT BY TELECOMMUNICATIONS CODE SYSTEM OPERATORS

Class A

Permitted development

A. Development by or on behalf of a telecommunications code system operator for the purpose of the operator’s telecommunication system in, on, over or under land controlled by that operator or in accordance with his licence, consisting of—

- (a) **the installation, alteration or replacement of any telecommunication apparatus,**
- (b) **the use of land in an emergency for a period not exceeding 6 months to station and operate moveable telecommunication apparatus required for the replacement of unserviceable telecommunication apparatus, including the provision of moveable structures on the land for the purposes of that use, or**
- (c) **development ancillary to radio equipment housing.**

Development not permitted

A.1. Development is not permitted by Class A(a) if—

- (a) in the case of the installation of apparatus (other than on a building or other structure) the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level;
- (b) in the case of the alteration or replacement of apparatus already installed (other than on a building or other structure), the apparatus, excluding any antenna, would when altered or replaced exceed the height of the existing apparatus or a height of 15 metres above ground level, whichever is the greater;
- (c) in the case of the installation, alteration or replacement of apparatus on a building or other structure, the height of the apparatus (taken by itself) would exceed—
 - (i) 15 metres, where it is installed, or is to be installed, on a building or other structure which is 30 metres or more in height; or
 - (ii) 10 metres in any other case;
- (d) in the case of the installation, alteration or replacement of apparatus on a building or other structure, the highest part of the apparatus when installed, altered or replaced

- would exceed the height of the highest part of the building or structure by more than—
- (i) 10 metres, in the case of a building or structure which is 30 metres or more in height;
 - (ii) 8 metres, in the case of a building or structure which is more than 15 metres but less than 30 metres in height;
 - (iii) 6 metres in any other case;
- (e) in the case of the installation, alteration or replacement of any apparatus other than—
- (i) a mast,
 - (ii) an antenna,
 - (iii) a public call box,
 - (iv) any apparatus which does not project above the level of the surface of the ground, or
 - (v) radio equipment housing,
- the ground or base area of the structure would exceed 1.5 square metres;
- (f) in the case of the installation, alteration or replacement of an antenna on a building or structure (other than a dwelling- house or a mast) which is less than 15 metres in height; on a mast located on such a building or structure; or, where the antenna is to be located below a height of 15 metres above ground level, on a building or structure (other than a dwellinghouse or a mast) which is 15 metres or more in height—
- (i) the antenna is to be located on a wall or roof slope facing a highway which is within 20 metres of the building or structure on which the antenna is to be located;
 - (ii) in the case of dish antennas, the size of one dish would exceed 0.9 metres or the cumulative size of every such dish would exceed 1.5 metres, when measured in any dimension;
 - (iii) in the case of antennas other than dish antennas, the development would result in the presence on the building or structure of more than two antenna systems; or
 - (iv) the building or structure is a listed building or a scheduled ancient monument;
- (g) in the case of the installation, alteration or replacement of an antenna on a building or structure (other than a dwelling- house or a mast) which is 15 metres or more in height, or on a mast located on such a building or structure, where the antenna is located at a height of 15 metres or above, measured from ground level—
- (i) in the case of dish antennas, the size of one dish would exceed 1.3 metres or the cumulative size of every such dish would exceed 3.5 metres, when measured in any dimension;
 - (ii) in the case of antenna systems other than dish antennas the development would result in the presence on the building or structure of more than three antenna systems; or
 - (iii) the building or structure is a listed building or a scheduled ancient monument;
- (h) in the case of development of any article 1(5) land, it would consist of—
- (i) the installation or alteration of an antenna or of any apparatus which includes or is intended for the support of such an antenna; or

- (ii) the replacement of such an antenna or such apparatus by an antenna or apparatus which differs from that which is being replaced, unless the development is carried out in an emergency;
- (i) it would consist of the installation, alteration or replacement of system apparatus within the meaning of section 8(6) of the Road Traffic (Driver Licensing and Information Systems) Act 1989(4);
- (j) in the case of the installation of a mast, on a building or structure which is less than 15 metres in height, such a mast would be within 20 metres of a highway; or
- (k) in the case of the installation, alteration or replacement of radio equipment housing—
 - (i) the development is not ancillary to the use of any other telecommunication apparatus;
 - (ii) it would exceed 90 cubic metres or, if located on the roof of a building, it would exceed 30 cubic metres;
 - (iii) on any article 1(5) land, it would exceed 2 cubic metres, unless the development is carried out in an emergency.

Conditions

A.2.—(1) Class A(a) and Class A(c) development is permitted subject to the condition that any antenna or supporting apparatus, radio equipment housing or development ancillary to radio equipment housing constructed, installed, altered or replaced on a building in accordance with that permission shall, so far as is practicable, be sited so as to minimise its effect on the external appearance of the building.

(2) Class A(a) and Class A(c) development is permitted subject to the condition that any apparatus or structure provided in accordance with that permission shall be removed from the land, building or structure on which it is situated—

- (a) if such development was carried out on any article 1(5) land in an emergency, at the expiry of the relevant period, or
- (b) in any other case, as soon as reasonably practicable after it is no longer required for telecommunication purposes,

and such land, building or structure shall be restored to its condition before the development took place.

(3) Class A(b) development is permitted subject to the condition that any apparatus or structure provided in accordance with that permission shall at the expiry of the relevant period be removed from the land and the land restored to its condition before the development took place.

(4) Development on—

- (a) article 1(5) land (unless carried out in an emergency), or
- (b) any other land consisting of the construction, installation, alteration or replacement of a mast or a public call box, or of radio equipment housing with a volume in excess of 2 cubic metres, or of development ancillary to radio equipment housing,

is permitted by Class A subject to the following conditions—

- (i) prior to an application to the local planning authority in accordance with the following paragraphs, where the proposed development consists of the installation of a mast within 3 kilometres of an aerodrome, the developer shall

notify the Civil Aviation Authority or the Ministry of Defence, as appropriate, of the proposal;

- (ii) the developer shall, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting and appearance of the development;
- (iii) the application shall be accompanied—
 - (a) by a written description of the proposed development and a plan indicating its proposed location together with any fee required to be paid; and
 - (b) where the proposed development consists of the installation of a mast within 3 kilometres of an aerodrome, by evidence that the Civil Aviation Authority or the Ministry of Defence, as appropriate, has been notified of the proposal;
- (iv) the development shall not be begun before the occurrence of one of the following—
 - (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
 - (b) where the local planning authority gives the applicant notice that such prior approval is required, the giving of such approval to the applicant within 28 days following the date on which they received his application; or
 - (c) the expiry of 28 days following the date on which the local planning authority received the application, without the local planning authority making any determination as to whether such approval is required, notifying the applicant of their determination, or giving or refusing approval to the siting or appearance of the development;
 - (v) the development shall, except to the extent that the local planning authority otherwise agree in writing, be carried out—
 - (a) where prior approval is required, in accordance with the details approved;
 - (b) where prior approval is not required, in accordance with the details submitted with the application or otherwise agreed by the local planning authority;

and

- (vi) the development must be begun—
 - (a) where approval has been given by the local planning authority, not later than the expiration of five years beginning with the date on which approval was given;
 - (b) in any other case, not later than the expiration of five years beginning with the date on which the local planning authority were given the information referred to in subparagraph (iii).

(5) In a case of emergency, development on any article 1(5) land is permitted by Class A subject to the condition that the operator shall give written notice to the local planning authority of such development as soon as possible after the emergency begins.

Interpretation

A.3. For the purposes of this class—

“1984 Act” means the Telecommunications Act 1984(5);

“antenna system” means a set of antennas installed on a building or structure and operated by a single telecommunications code system operator in accordance with his licence;

“development ancillary to radio equipment housing” means the construction, installation, alteration or replacement of structures, equipment or means of access which are ancillary to and reasonably required for the purposes of radio equipment housing;

“development in accordance with a licence” means development carried out by an operator in pursuance of a right conferred on that operator under the telecommunications code, and in accordance with any conditions relating to the application of that code imposed by the terms of his licence;

“land controlled by an operator” means land occupied by the operator in right of a freehold interest or a leasehold interest under a lease granted for a term of not less than 10 years;

“mast” means a radio mast or a radio tower;

“relevant period” means a period which expires—

- (i) six months from the commencement of the construction, installation, alteration or replacement of any apparatus or structure permitted by Class A(a) or Class A(c) or from the commencement of the use permitted by Class A(b), as the case may be, or
- (ii) when the need for such apparatus, structure or use ceases, whichever occurs first;

“telecommunication apparatus” means any apparatus falling within the definition of that term in paragraph 1 of Schedule 2 to the 1984 Act, and includes radio equipment housing;

“the telecommunications code” means the code contained in Schedule 2 to the 1984 Act;

“telecommunications code system operator” means a person who has been granted a licence under section 7 of the 1984 Act which applies the telecommunications code to him in pursuance of section 10 of that Act;

“telecommunication system” has the meaning assigned to that term by section 4(1) of the 1984 Act.”.

Applications made under planning condition

5. In article 24 of the 1988 Order, after “other than an application for approval of reserved matters” insert “or an application for approval under Part 24 of Schedule 2”.

Transitionals

6.—(1) Notwithstanding the omission of Class D of Part 20 of Schedule 2 to the 1988 Order by article 2(b) of this Order—

- (a) that Class shall continue to apply in relation to operations which are being carried out at the date of the coming into force of this article; and
- (b) paragraph D.1.(b) of that Class shall continue to apply in relation to operations which have been completed at that date.

(2) Any notice which has been served under paragraph D.1.(a) of that Class at the date of the coming into force of this article shall be treated as if it were a notice served for the purposes of paragraph B.1.(b) of Part 22 of Schedule 2 to the 1988 Order in relation to any operations forming part of the development indicated in the notice which have not been begun at that date; and the relevant period referred to in paragraph B.1.(c) of that Part shall be treated as having elapsed at that date in relation to those operations.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

13th October 1992

Michael Howard
Secretary of State for the Environment

14th October 1992

David Hunt
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning General Development Order 1988. The main changes are—

1. amendments to Part 20 of Schedule 2 to the 1988 Order (British Coal mining development)—
 - (i) to limit development under Class A (underground development) to development in a designated seam area or development required in order to gain access to and work coal or coal-related minerals in a designated seam area. The designated seam area is to be identified in a plan deposited with the mineral planning authority before 30 September 1993;
 - (ii) repealing Class D (prospecting for coal workable by opencast methods), (article 2);
2. the alteration of Class B in Part 22 of Schedule 2 to the 1988 Order (mineral exploration) to allow development to be carried on for a period not exceeding 6 months unless the mineral planning authority have otherwise agreed (article 3);
3. the substitution of Part 24 of Schedule 2 to the 1988 Order (development by telecommunications code system operators). Part 24 as substituted—
 - (i) introduces permitted development rights for radio equipment housing and development ancillary to radio equipment housing;
 - (ii) amends restrictions on the number, size and location of antennas; and
 - (iii) imposes conditions in respect of development on article 1(5) land, and of certain other types of development, requiring developers to apply to the local planning authority for a determination as to whether prior approval is required to the siting and appearance of the development,(article 4).