

## SCHEDULE 2

### Permitted development rights

## PART 16

### Communications

#### *Class A – electronic communications code operators*

#### **Permitted development**

**A. Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, over or under land controlled by that operator or in accordance with the electronic communications code, consisting of—**

- (a) ***the installation, alteration or replacement of any electronic communications apparatus,***
- (b) ***the use of land in an emergency for a period not exceeding 6 months to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications 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**

*Development not permitted: ground-based apparatus*

**A.1.—(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; or
- (c) in the case of the alteration or replacement of an existing mast (other than on a building or other structure, on article 2(3) 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.

*Development not permitted: building-based apparatus*

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

- (a) 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;
- (b) 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; or
  - (iii) 6 metres in any other case;
- (c) in the case of the installation, alteration or replacement of an antenna on a building or structure (other than 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 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 any dish would exceed 0.9 metres or the aggregate size of all of the dishes on the building, structure or mast would exceed 4.5 metres, when measured in any dimension;
  - (iii) in the case of antennas other than dish antennas, the development (other than the installation, alteration or replacement of 1 small antenna or a maximum of 2 small cell antennas) would result in the presence on the building or structure of—
    - (aa) more than 3 antenna systems; or
    - (bb) any antenna system operated by more than 3 electronic communications code operators; or
  - (iv) the building or structure is a listed building or a scheduled monument; or
- (d) in the case of the installation, alteration or replacement of an antenna on a building or structure (other than 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 any dish would exceed 1.3 metres or the aggregate size of all of the dishes on the building, structure or mast would exceed 10 metres, when measured in any dimension;
  - (ii) in the case of antennas other than dish antennas, the development (other than the installation, alteration or replacement of a maximum of 2 small antennas or 2 small cell antennas) would result in the presence on the building or structure of—
    - (aa) more than 5 antenna systems; or
    - (bb) any antenna system operated by more than 3 electronic communications code operators; or
  - (iii) the building or structure is a listed building or a scheduled monument.

*Development not permitted: apparatus on masts*

(3) Development is not permitted by Class A(a) if, in the case of the installation, alteration or replacement of apparatus (other than an antenna) on a mast, the height of the mast would, when the apparatus was installed, altered or replaced, exceed any relevant height limit specified in respect of

apparatus in paragraphs A.1(1)(a), (b) and (c), and A.1(2)(a) and (b), and for the purposes of applying the limit specified in paragraph A.1(2)(a), the words “(taken by itself)” in that paragraph are omitted.

*Development not permitted: ground or base area*

(4) Development is not permitted by Class A(a) if, in the case of the installation, alteration or replacement of any apparatus other than—

- (a) a mast;
- (b) an antenna;
- (c) a public call box;
- (d) any apparatus which does not project above the level of the surface of the ground; or
- (e) radio equipment housing,

the ground or base area of the structure would exceed 1.5 square metres.

*Development not permitted: antennas installed, replaced or altered on article 2(3) land or SSSIs*

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

- (a) in the case of development on any article 2(3) land or any land which is, or is within, a site of special scientific interest, 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 or is allowed by paragraphs A.1(5)(b), (9)(a), (9)(b) or (10)(b); or

- (b) 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 2(3) 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 3; 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 3.

*Development not permitted: driver information systems*

(6) Development is not permitted by Class A(a) if 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 (definitions of driver information systems etc.)(1).

*Development not permitted: apparatus near a highway*

(7) Development is not permitted by Class A(a) if, 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.

*Development not permitted: radio equipment housing*

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(1) 1989 c.22.

(8) Development is not permitted by Class A(a) if, in the case of the installation, alteration or replacement of radio equipment housing—

- (a) the development is not ancillary to the use of any other electronic communications apparatus;
- (b) the cumulative volume of such development would exceed 90 cubic metres or, if located on the roof of a building, the cumulative volume of such development would exceed 30 cubic metres; or
- (c) on any article 2(3) land, or on any land which is, or is within, a site of special scientific interest, any single development would exceed 2.5 cubic metres, unless the development is carried out in an emergency.

*Development not permitted: antennas installed, replaced or altered on a dwellinghouse*

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

- (a) in the case of the installation, alteration or replacement on a dwellinghouse or within the curtilage of a dwellinghouse of any electronic communications apparatus, that apparatus—
  - (i) is not a small antenna;
  - (ii) being a small antenna, would result in the presence on that dwellinghouse or within the curtilage of that dwellinghouse of more than 1 such antenna; or
  - (iii) being a small antenna, is to be located on a roof or on a chimney so that the highest part of the antenna would exceed in height the highest part of that roof or chimney respectively; or
- (b) in the case of the installation, alteration or replacement on article 2(3) land of a small antenna on a dwellinghouse or within the curtilage of a dwellinghouse, the antenna is to be located—
  - (i) on a chimney;
  - (ii) on a building which exceeds 15 metres in height;
  - (iii) on a wall or roof slope which fronts a highway; or
  - (iv) in the Broads, on a wall or roof slope which fronts a waterway.

*Development not permitted: antennas installed, replaced or altered not on a dwellinghouse*

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

- (a) in the case of the installation, alteration or replacement of a small antenna on a building which is not a dwellinghouse or within the curtilage of a dwellinghouse—
  - (i) the building is on article 2(3) land;
  - (ii) the building is less than 15 metres in height, and the development would result in the presence on that building of more than 1 such antenna; or
  - (iii) the building is 15 metres or more in height, and the development would result in the presence on that building of more than 2 such antennas; or
- (b) 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 2 such antennas.

## 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 is, so far as is practicable, 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 is removed from the land, building or structure on which it is situated—

- (a) if such development was carried out in an emergency on any article 2(3) land or on any land which is, or is within, a site of special scientific interest, 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 electronic communications purposes,

and such land, building or structure is restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.

(3) Class A(b) development is permitted subject to the condition that any apparatus or structure provided in accordance with that permission must, 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) Subject to sub-paragraph (5), Class A development—

- (a) on article 2(3) 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 (in which case only paragraph A.3(11) applies), to the conditions set out in paragraph A.3.

(5) The conditions set out in paragraph A.3 (prior approval) do not apply in relation to Class A development on any article 2(3) land which consists of the construction, installation, alteration or replacement of a telegraph pole, cabinet or line, in connection with the provision of fixed-line broadband, provided that the development is completed on or before 30th May 2018.

**A.3.**—(1) The developer must give notice of the proposed development to any person (other than the developer) who is an owner of the land to which the development relates, or a tenant, before making the application required by sub-paragraph (3)—

- (a) by serving a developer's notice on every such person whose name and address is known to the developer; and
- (b) where the developer has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by local advertisement.

(2) Where the proposed development consists of the installation of a mast within 3 kilometres of the perimeter of an aerodrome, the developer must notify the Civil Aviation Authority, the Secretary

of State for Defence or the aerodrome operator, as appropriate, before making the application required by sub-paragraph (3).

(3) Before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development.

(4) The application must 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;
- (b) by the developer's contact address, and the developer's email address if the developer is content to receive communications electronically;
- (c) where sub-paragraph (1) applies, by evidence that the requirements of sub-paragraph (1) have been satisfied; and
- (d) where sub-paragraph (2) applies, by evidence that the Civil Aviation Authority, the Secretary of State for Defence or the aerodrome operator, as the case may be, has been notified of the proposal.

(5) Subject to sub-paragraph (7)(c) and (d), upon receipt of the application under sub-paragraph (4) the local planning authority must—

- (a) for development which, in their opinion, falls within a category set out in the Table in Schedule 4 to the Procedure Order (consultations before the grant of permission), consult the authority or person mentioned in relation to that category, except where—
  - (i) the local planning authority are the authority so mentioned; or
  - (ii) the authority or person so mentioned has advised the local planning authority that they do not wish to be consulted,

and must give the consultees at least 14 days within which to comment;

- (b) in the case of development which does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated or which would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 (public rights of way)<sup>(2)</sup> applies, must give notice of the proposed development, in the appropriate form set out in Schedule 2 to the Procedure Order (notice of applications for planning permission)—

- (i) by site display in at least one place on or near the land to which the application relates for not less than 21 days, and

- (ii) by local advertisement;

- (c) in the case of development which does not fall within paragraph (b) but which involves development carried out on a site having an area of 1 hectare or more, must give notice of the proposed development, in the appropriate form set out in Schedule 2 to the Procedure Order—

- (i) by—

- (aa) site display in at least one place on or near the land to which the application relates for not less than 21 days, or

- (bb) serving notice on any adjoining owner or occupier, and

- (ii) by local advertisement;

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(2) 1981 c. 69. See in particular section 66 to which there are amendments not relevant to this Order.

- (d) in the case of development which does not fall within paragraph (b) or (c), must give notice of the proposed development, in the appropriate form set out in Schedule 2 to the Procedure Order—
  - (i) by site display in at least one place on or near the land to which the application relates for not less than 21 days, or
  - (ii) by serving the notice on any adjoining owner or occupier.
- (6) The local planning authority must take into account any representations made to them as a result of consultations or notices given under paragraph A.3, when determining the application made under sub-paragraph (3).
- (7) The development must not begin 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 written notice that such prior approval is required, the giving of that approval to the applicant, in writing, within a period of 56 days beginning with the date on which they received the applicant's application;
  - (c) where the local planning authority gives the applicant written notice that such prior approval is required, the expiry of a period of 56 days beginning with the date on which the local planning authority received the application under sub-paragraph (4) without the local planning authority notifying the applicant, in writing, that such approval is given or refused; or
  - (d) the expiry of a period of 56 days beginning with the date on which the local planning authority received the application without the local planning authority notifying the applicant, in writing, of their determination as to whether such prior approval is required.
- (8) The development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—
  - (a) where prior approval has been given as mentioned in sub-paragraph (7)(b) in accordance with the details approved;
  - (b) in any other case, in accordance with the details submitted with the application.
- (9) The agreement in writing referred to in sub-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.
- (10) The development must begin—
  - (a) where prior approval has been given as mentioned in sub-paragraph (7)(b), not later than the expiration of 5 years beginning with the date on which the approval was given;
  - (b) in any other case, not later than the expiration of 5 years beginning with the date on which the local planning authority were given the information referred to in sub-paragraph (4).
- (11) In a case of emergency, development is permitted by Class A subject to the condition that the operator must give written notice to the local planning authority of such development as soon as possible after the emergency begins.

## **Interpretation of Class A**

### **A.4. For the purposes of Class A—**

“aerodrome operator” means the person for the time being having the management of an aerodrome or, in relation to a particular aerodrome, the management of that aerodrome;

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

“developer’s notice” means a notice signed and dated by or on behalf of the developer and containing—

- (a) the name of the developer;
- (b) the address or location of the proposed development;
- (c) a description of the proposed development (including its siting and appearance and the height of any mast);
- (d) a statement that the developer will apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development;
- (e) the name and address of the local planning authority to whom the application will be made;
- (f) a statement that the application is available for public inspection at the offices of the local planning authority during usual office hours;
- (g) a statement that any person who wishes to make representations about the siting and appearance of the proposed development may do so in writing to the local planning authority;
- (h) the date by which any such representations should be received by the local planning authority, being a date not less than 14 days from the date of the notice; and
- (i) the address to which such representations should be made;

“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 the radio equipment housing, and except on any land which is, or is within, a site of special scientific interest includes—

- (a) security equipment;
- (b) perimeter walls and fences; and
- (c) handrails, steps and ramps;

“electronic communications apparatus”, “electronic communications code” and “electronic communications service” have the same meaning as in the Communications Act 2003(3);

“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;

“fixed-line broadband” means a service or connection (commonly referred to as being ‘always on’), via a fixed-line network, providing a bandwidth greater than narrowband;

“land controlled by the 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;

“narrowband” means a service or connection providing data speeds up to 128 k bit/s;

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(3) 2003 c. 21; there is a relevant amendment in S.I. 2011/1210. See in particular section 151 for the definition of “electronic communications apparatus”, section 106(1) for the definition of “electronic communications code” and section 32(2) for the definition of “electronic communications service”.

“owner” means any person who is the estate owner in respect of the fee simple, or who is entitled to a tenancy granted or extended for a term of years certain of which not less than 7 years remain unexpired;

“relevant period” means a period which expires—

(a) 6 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

(b) when the need for such apparatus, structure or use ceases,

whichever occurs first;

“site display” means the posting of the notice by firmly attaching it to some object, sited and displayed in such a way as to be easily visible and legible by members of the public;

“small antenna” means an antenna which—

(a) is for use in connection with a telephone system operating on a point to fixed multi-point basis;

(b) does not exceed 0.5 metres in any linear measurement; and

(c) does not, in two-dimensional profile, have an area exceeding 1,591 square centimetres, and any calculation for the purposes of paragraph (b) and (c) excludes any feed element, reinforcing rim mountings and brackets;

“small cell antenna” means an antenna which—

(a) operates on a point to multi-point or area basis in connection with an electronic communications service;

(b) may be variously referred to as a femtocell, picocell, metrocell or microcell antenna;

(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) and (d) includes any power supply unit or casing, but excludes any mounting, fixing, bracket or other support structure; and

“tenant” means the tenant of an agricultural holding any part of which is comprised in the land to which the application relates.

**A.5.** 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.6.** Nothing in paragraph A.5 extends the permission in Class A to include the installation, alteration or replacement of anything mentioned in paragraph A.5(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.5.