SCOTTISH STATUTORY INSTRUMENTS

2001 No. 266

TOWN AND COUNTRY PLANNING

The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No. 2) Order 2001

Made - - - - 19th July 2001
Laid before the Scottish Parliament - - - - 20th July 2001

Coming into force in accordance with article 1(2)

The Scottish Ministers, in exercise of the powers conferred by sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997(**1**) and of 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 Permitted Development) (Scotland) Amendment (No. 2) Order 2001.

(2) This Order shall come into force, for the purposes of article 3(1), on 22nd July 2001 and for all other purposes on 23rd July 2001.

(3) In this Order, "the 1992 Order" means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(**2**).

Amendment of the 1992 Order

2.—(1) In article 2(1) of the 1992 Order (interpretation):

(a) the definitions of "microwave" and "terrestrial microwave antenna" shall be omitted;

(b) in the definition of "satellite antenna" the word "microwave" shall be omitted;

(c) the following definitions shall be inserted–

(i) after the definition of "building"–

""category A listed building", means a listed building within the meaning of section 1(4) of the Planning (Listed Buildings and Conservation Areas)

(**1**) 1997 c. 8. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) S.I.1992/223, amended by S.I. 1992/1078 and 2084, 1993/1036, 1994/1442, 2586 and 3294, 1996/252, 1266 and 3023, 1997/1871 and 3060 and 1998/1226.

(Scotland) Act 1997(**3**) specified as being category A in a list of buildings compiled or approved and amended as the case may be by the Scottish Ministers in accordance with that provision as at the date of the coming into force of this Order;";

(ii) after the definition of "dwellinghouse"–

""European site", means–

(a) a special area of conservation;

(b) a site of Community importance which has been placed on the list referred to in the third sub paragraph of Article 4(2) of Council Directive 92/43/EEC(**4**) on the conservation of natural habitats and of wild fauna and flora;

(c) a site hosting a priority natural habitat type or priority species in respect of which consultation has been initiated under Article 5(1) of the said Council Directive 92/43/EEC, during the consultation period or pending a decision of the Council under Article 5(3); or

(d) an area classified pursuant to Article 4(1) or (2) of Council Directive 79/409/EEC(**5**) on the conservation of wild birds;";

(iii) after the definition of "floor area"–

""historic garden or designed landscape", means a garden or landscape identified in the Inventory of Gardens and Designed Landscapes in Scotland;";

(iv) after the definition of "mining operations"–

""National Park", means an area designated as a National Park under section 6(1) of the National Parks (Scotland) Act 2000(**6**);";

(v) after the definition of "satellite antenna"–

""scheduled monument", has the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979;(**7**)

(vi) after the definition of "statutory undertaker"–

""terrestrial antenna" means apparatus designed for transmitting or receiving terrestrial radio energy between two fixed points;".

(2) In Part 20 of Schedule 1 to the 1992 Order, for Class 67 substitute–

"**Class 67.**—(1) **Development by or on behalf of a telecommunications code system operator for the purpose of the operator's telecommunications system in, on, over or under land controlled by that operator or in accordance with his licence, consisting of–**

(a) **the construction, installation, alteration or replacement of any telecommunications apparatus;**

(b) **the use of land in an emergency for a period not exceeding 6 months to station and operate moveable telecommunications apparatus required for the replacement of unserviceable telecommunication apparatus, including the provision of moveable structures on land for the purposes of that use; or**

(c) **development involving the construction, installation, alteration or replacement of structures, equipment or means of access which are ancillary**

(**3**) 1997 c. 9.
(**4**) O.J. No. L 206, 22.7.92, p.7.
(**5**) O.J. No. L 103, 25.4.79, p.1.
(**6**) asp 10.
(**7**) 1979 c. 46.

to and reasonably required for the construction and subsequent use of equipment housing.

(2) Development is not permitted by this Class if–

(a) it is to be located in a national scenic area, National Park, Natural Heritage Area, conservation area, historic garden or designed landscape, site of special scientific interest or European Site, or on a Category A listed building or a scheduled monument or within the setting of such building or, as the case may be, monument, unless the development–

(i) is carried out in an emergency;

(ii) would result in there being not more than two small antennas on the dwellinghouse, neither of which faces on to a road; or

(iii) involves the installation of new overhead lines supported by existing poles;

(b) it involves construction or installation of a ground based mast;

(c) it involves the replacement or alteration of an existing ground based mast or the installation of apparatus on the mast which results in an increase in the overall size of the original structure of more than 2 metres in height or 1 metre measured horizontally or a change in location of more than 4 metres from the location of the original mast;

(d) it involves the construction or installation of ground based equipment housing exceeding 3 metres in height or 90 cubic metres in volume;

(e) it involves the replacement or alteration of ground based equipment housing which would result in the equipment housing exceeding–

(i) 3 metres in height or, if greater, the current height of equipment housing which is being altered or replaced; or

(ii) 90 cubic metres in volume or, if greater, the current volume of the equipment housing which is being altered or replaced;

(f) it involves the installation on a building or other structure (other than a ground based mast) of apparatus, other than equipment housing, which would result in such apparatus exceeding 2 metres measured horizontally or (taken together with any equipment housing on which such apparatus is mounted) exceeding 4 metres in height;

(g) it involves the alteration or replacement on a building or other structure (other than a ground based mast) of apparatus, excluding equipment housing which would result in that apparatus (taken together with any equipment housing on which such apparatus is mounted) exceeding–

(i) 4 metres in height or, if greater, the current height of the apparatus which is being altered or replaced; or

(ii) 2 metres measured horizontally or, if greater, the current horizontal measurement of the apparatus which is being altered or replaced;

(h) it consists of development referred to at sub paragraph (1)(a) or (c) above which the operator requires to carry out in connection with development involving the construction or installation of a ground based mast for which planning permission has been granted, and the period within which the development must be begun has not yet expired;

(i) it involves the construction or installation on a building of equipment housing exceeding 3 metres in height or 30 cubic metres in volume;

(j) it involves the replacement or alteration on a building of equipment housing which would result in such equipment housing exceeding–

(i) 3 metres in height or, if greater, the current height of the equipment housing which is being altered or replaced; or

(ii) 30 cubic metres in volume or, if greater, the current volume of the equipment housing which is being altered or replaced;

(k) in the case of the installation, alteration or replacement of any apparatus on a dwellinghouse or within the curtilage of a dwellinghouse, that apparatus–

(i) is not a small antenna; or

(ii) being a small antenna–

(aa) would result in the presence on that dwellinghouse or within the curtilage of the dwellinghouse of more than two such antennas;

(bb) is installed on a dwellinghouse so that the highest part of it would be higher than the highest part of the roof on which it would be installed; or

(cc) is installed within a national scenic area, Natural Heritage Area, site of special scientific interest, European site, National Park, conservation area, historic garden or designed landscape, or within the curtilage of a Category A listed building or a scheduled monument, on any part of a dwellinghouse which faces on to a road,

(l) in the case of the installation, alteration or replacement of any apparatus, comprising a small antenna, on a dwellinghouse which is a category A listed building or within the curtilage of such dwellinghouse, that apparatus is installed on any part of the dwellinghouse or within any part of its curtilege which faces onto a road;

(m) 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 if the development would result in the presence of more than eight small antennas on a building;

(n) in the case of the installation or replacement of any apparatus other than–

(i) a public call box;

(ii) any apparatus which does not project above the surface of the ground;

(iii) equipment housing; or

(iv) any kind of antenna;

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

(o) in the case of the installation of apparatus (other than on a building or other structure) the apparatus would exceed a height of 15 metres above ground level;

(p) in the case of the alteration or replacement of apparatus already installed (other than on a building or other structure), the apparatus 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;

(q) in the case of the installation alteration or replacement of an antenna on a building or other structure (excluding a ground based mast) over 15 metres in height (and where the development is to be located more than 15 metres above ground level)–

(i) the antenna exceeds 2.8 metres in height and 1.3 metres when measured horizontally; or