1985 No. 366

TOWN AND COUNTRY PLANNING

Planning (General Development) (Amendment) Order (Northern Ireland) 1985

Made . . . . . 31st December 1985

Coming into operation . . . 10th February 1986

The Department of the Environment, in exercise of the powers conferred by Article 13(1), (2) and (3) of the Planning (Northern Ireland) Order 1972(**a**) and now vested in it(**b**) and paragraph 56(1) of Schedule 4 to the Telecommunications Act 1984(**c**) and of every other power enabling it in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Planning (General Development) (Amendment) Order (Northern Ireland) 1985 and shall come into operation on 10th February 1986.

Interpretation

2. In this Order "the Order of 1973" means the Planning (General Development) Order (Northern Ireland) 1973(**d**).

Amendment

3. The Order of 1973 is amended as follows:—

(*a*) in Article 2(1) the following definitions shall be inserted at the appropriate places in alphabetical order:—

"the 1984 Act" means the Telecommunications Act 1984;

"area of outstanding natural beauty" means an area so designated under Article 14(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(**e**);

"existing" in relation to any building or other structure or any plant or machinery means existing immediately before the carrying out of development described in this order;

"microwave" means that part of the radio spectrum above 1000 MHz;

"microwave antenna" means a satellite antenna or a terrestrial microwave antenna;

"public call box" means any kiosk, booth, acoustic hood, shelter or similar structure which is erected or installed for the purpose of housing or supporting a public telephone and at which call box services are provided (or are to be provided) by a telecommunications code system operator;

(**a**) S.I. 1972/1634 (N.I. 17)
(**b**) S.R. & O. (N.I.) 1973 No. 504 Art. 7(1); S.I. 1976/424 (N.I. 6) Art. 3(1)
(**c**) 1984 c. 12
(**d**) S.R. & O. (N.I.) 1973 No. 326 as amended by S.R. 1981 Nos. 222, 385 and S.R. 1984 No. 434
(**e**) S.I. 1985/170 (N.I. 1)

"satellite antenna" means apparatus designed for transmitting microwave radio energy to satellites or receiving it from them and includes any mountings or brackets attached to such apparatus;

"telecommunication apparatus" means any apparatus falling within the definition of that term in paragraph 1 of Schedule 2 to the 1984 Act;

"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;

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

(*b*) in Part I of Schedule 1:—

(i) for class 12 there shall be substituted the following:—

" *Class 12 — Development by the Post Office*

Development required for the purposes of the Post Office of any of the following descriptions:—

(*a*) the installation of posting boxes or self-service postal machines;

(*b*) any other development carried out in, on, over or under the operational land of the Post Office except:—

(i) the erection or reconstruction of buildings or the alteration of buildings so as materially to affect their design or external appearance;

(ii) the installation or erection, by way of addition or replacement, of any plant or machinery, or structure or erection of the nature of plant or machinery which exceeds 15 metres in height, or the height of the existing plant, machinery or structure or erection, whichever is the greater.

For the purposes of this class "operational land" means land of the Post Office used by it or in which an interest is held by it for any of the following purposes:—

(*a*) a postal sorting office;

(*b*) a postmen's delivery office.";

(ii) the following classes shall be added after class 16:—

"*Class 17 — Development by telecommunications code system operators*

The carrying out of development by or on behalf of a telecommunications code system operator where the development is being carried out—

(*a*) on land occupied by the operator by virtue of a legal freehold interest or a lease granted or extended for a term of not less than 10 years; or

(*b*) in pursuance of a right conferred on the operator under the telecommunications code, and in accordance with any conditions relating to the application of that code which have been imposed by the terms of his licence,

for the purposes of the operator's telecommunication system and the development is within any of the following descriptions:—

(1) the installation, alteration or replacement in, on, over or under land of any telecommunication apparatus where—

(*a*) in the case of the installation of apparatus (other than on a building or other structure), the apparatus does not exceed a height of 15 metres above ground level;

(*b*) in the case of the alteration or replacement of apparatus already installed (other than apparatus installed on a building or other structure), the apparatus does not 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) does not exceed:—

(i) 15 metres where it is installed, or is to be installed, on a building or other structure which has a height of 30 metres or more;

(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 does not exceed the height of the highest part of the existing building or structure by more than—

(i) 10 metres in the case of a building or structure which is 30 metres or more high;

(ii) 8 metres in the case of a building or structure which is more than 15 metres but less than 30 metres high;

(iii) 6 metres in any other case;

(*e*) in the case of the installation, alteration or replacement of any apparatus other than a mast, any kind of antenna, a public call box or any apparatus which does not project above the level of the surface of the ground, the ground or base area of the structure does not exceed 1.5 square metres;

(*f*) in the case of the installation, alteration or replacement of any microwave antenna, or any apparatus which includes or is intended for the support of such an antenna, on a building or other structure—

(i) the building or other structure on which the antenna is installed or is to be installed exceeds a height of 15 metres;

(ii) the size of the antenna, when measured in any dimension does not exceed 1.3 metres (excluding any projecting feed element); and

(iii) the development does not result in the presence on the building or structure of more than two microwave antennas;

(2) the use of land in case of emergency for a period not exceeding six months, for the stationing and operation of moveable telecommunication apparatus required for the replacement of unserviceable telecommunication apparatus, and the erection or placing of moveable structures on the land for the purposes of that use.

Provided that:—

(i) in the case of the installation, alteration or replacement on a building of an antenna or apparatus intended to support an antenna, the

antenna or apparatus shall so far as practicable be sited so as to minimise its effect on the external appearance of that building; and

(ii) where development within paragraph (2) has been carried out, then at the expiration of the period of six months from the commencement of the use, or when the need for the use of the land for the stationing and operation of moveable telecommunication apparatus ceases (whichever first occurs), all the apparatus and moveable structures erected or placed on the land for the purpose of the use shall be removed and the land shall be restored to its condition before development took place.

Class 18 — Other telecommunications development

The installation, alteration or replacement on any building or other structure (except a dwellinghouse), in circumstances other than those set out in class 17 of this Schedule, of a microwave antenna and any structures intended for the support of that antenna where:—

(*a*) the building or other structure on which the antenna is installed or is to be installed exceeds a height of 15 metres;

(*b*) in the case of a terrestrial microwave antenna—

(i) the size of the antenna, when measured in any dimension, does not exceed 1.3 metres (excluding any projecting feed element); and

(ii) the highest part of the antenna or its supporting structure is not more than 3 metres higher than the highest part of the existing building or structure on which it is installed;

(*c*) in the case of a satellite antenna, the size of the antenna, taken together with its supporting structure (but excluding any projecting feed element), does not exceed 90 centimetres;

(*d*) the development does not result in the presence on the building or structure of more than two microwave antennas.

Provided that—

(i) the antenna shall, so far as practicable, be sited so as to minimise its effect on the external appearance of the building or other structure on which it is installed; and

(ii) when an antenna is no longer needed for the reception or transmission of signals it shall be removed from the building or structure.''.

Application to conservation areas and areas of outstanding natural beauty

4. (*a*) In its application to conservation areas and areas of outstanding natural beauty class 17 (development by telecommunications code system operators) in Part I of Schedule 1 to the Order of 1973 shall have effect subject to the following modifications:—

(i) in the case of the installation of apparatus on or over land which is occupied by the operator by virtue of a legal freehold interest or a lease granted or extended for a term of not less than 10 years he shall (except in a case of emergency) give notice to the Department of the Environment, not less than 8 weeks before the development is begun of his intention to carry it out; and in a case of emergency shall, where practicable, give written notice of such intention and, where not so practicable, give written notice of the commencement of the development as soon as possible and not later than 3 days after the emergency begins; and

(ii) nothing in the permission may be construed as authorising (except in a case of emergency):—

(*a*) the installation or alteration of a microwave antenna or apparatus which includes or is intended for the support of such an antenna; or

(*b*) the replacement of such an antenna or such apparatus by an antenna or apparatus which differs in size, design, appearance or siting from that which is being replaced;

(*b*) class 18 (other telecommunications development) shall not apply to conservation areas and areas of outstanding natural beauty.

Repeals

5. Paragraph 12(3) of Schedule 5 to the 1972 Order and paragraph 56(5) of Schedule 4 to the 1984 Act are hereby repealed.

Sealed with the Official Seal of the Department of the Environment on 31st December 1985.

(L.S.) *R. H. MacKenzie*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Order.)

This order amends the Planning (General Development) Order (Northern Ireland) 1973 ("the Order of 1973") by adding two new classes to Part I of Schedule 1 (development permitted under Article 3 of that order) to permit the installation of certain telecommunications apparatus, and by amending class 12 of that Schedule (which relates to development by the Post Office). It also makes provision for conservation areas and areas of outstanding natural beauty in relation to the two new classes added to Schedule 1.

The first of the new classes added to Schedule 1, class 17 (development by telecommunications code system operators) relates to:—

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

(*b*) the use of land in cases of emergency for the temporary stationing of moveable telecommunications apparatus to replace unserviceable apparatus,

by a person who has been granted a licence under section 7 of the Telecommunications Act 1984 to run a telecommunication system and who has had the telecommunications code set out in Schedule 2 to that Act applied to him by the licence. Such development is permitted under the class if it is for the purposes of the licensed operator's telecommunication system and either is carried out on his own land or is carried out in pursuance of a right conferred under the telecommunications code and in accordance with any conditions which have been imposed on him by his licence in relation to the application of that code. The permission for the permanent installation of apparatus is subject to certain limitations on the height of the apparatus and its ground area; and there are special restrictions on the sizes and the numbers of satellite antennas and terrestrial microwave antennas that can be installed on buildings and other structures, together with a provision that no such antennas can be installed on a building or structure unless that building or structure is more than 15 metres high. There is also a condition requiring that any kind of antenna which is installed on a building shall be sited so as to minimise its effect on the external appearance of that building. Permission for the use of land for the stationing of moveable apparatus is subject to a six month time limit. (Article 3(*b*)(ii)).

The other new class (class 18) relates to the installation, alteration or replacement of satellite antennas and terrestrial microwave antennas on buildings and other structures in circumstances in which class 17 does not apply. The building or other structure must not be a dwellinghouse (as defined in the Order of 1973) and must be more than 15 metres high; and there are limits on the dimension of the antennas and the number than can be installed. There are conditions requiring that the antenna shall be sited so as to minimise its effect on the external appearance of the building or structure and that it shall be removed when no longer needed for the reception or transmission of signals. (Article 3(*b*)(ii)).

Additional provisions are included in respect of conservation areas and areas of outstanding natural beauty so that:—

(*a*) an additional condition and an additional limitation are imposed on class 17 which require the operator (except in an emergency) to give 8 weeks notice to the Department before installing any apparatus on his own land and exclude from the class (except in a case of emergency) the installation or alteration of microwave antennas and the replacement of an existing antenna by an antenna which differs from the original one (Article 4(*a*)); and

(*b*) class 18 (other telecommunications development) does not apply in conservation areas and areas of outstanding natural beauty (Article 4(*b*)).

Class 12 of Schedule 1 to the Order of 1973 (development by the Post Office) has been amended by the removal of references to telephone kiosks and to moveable apparatus required for the replacement of unserviceable telephone or radio exchanges, stations or generators (Article 3(*b*)(i)).

This order also repeals paragraph 12(3) of Schedule 5 to the Planning (N.I.) Order 1972 and paragraph 56(5) of Schedule 4 to the Telecommunications Act 1984, which exempt from planning control certain development in connection with the provision of telecommunications systems (Article 5).