

GUIDANCE NOTES ON THE TOWN AND COUNTRY PLANNING (TELECOMMUNICATIONS) DEVELOPMENT ORDER 2019

What is the purpose of the Order?

The Town and Country Planning (Telecommunications) Development Order 2019 aims to introduce faster processes to allow new, smaller telecoms improvements which will ensure that our communities and businesses receive the most modern and comprehensive mobile phone service and coverage which helps make our lives easier and businesses more profitable, in accordance with the recommendations of the Reform of the Planning System.

What does the Order do?

The Order makes provision for some telecoms development to be undertaken without the need for planning approval (all those developments listed in and subject to the conditions or limitations set out in Schedule 2) and some to be undertaken following a prior approval process (all those developments listed in and subject to the conditions or limitations set out in Schedule 3).

Are there any limitations on what can be done without planning approval?

All telecoms development referred to in the Order must comply with a series of General Conditions which are set out in Schedule 1.

What are the differences between Schedules 2 and 3?

The type of development in both is the same but they are subject to different conditions/limitations. As such, you may not be able to satisfy the conditions in Schedule 2 and if not, you would look to Schedule 3 to see if you can comply with the conditions/limitations set out there. If you can't comply with either then planning approval is required.

Can anyone undertake development under this Order?

No: the only persons (which includes companies, bodies or agencies) who can undertake telecoms development under this Order are those to whom a licence has been granted under Section 5 of the Telecommunications Act 1984 (a "licensed operator")

Can work be undertaken under the Order within a Conservation Area?

Only mounted equipment on an existing or authorised Telecommunications structure on land or existing or authorised Telecommunications structure on the top of a building (Schedule 2 Part 3) or where the telecommunications equipment is underground. Telecommunications development may also be undertaken within a Conservation Area where prior approval has been granted by the Department under Schedule 3 although it should be noted that in determining whether prior approval should be granted, the Department will take into account, amongst other things which are listed in Schedule 4, the impact on any designated Conservation Area (paragraph 2(7)(c)).

Can telecoms development be undertaken under the Order in protected or sensitive areas?

No work can be undertaken under this Order on, in over or under a Registered Building or Ancient Monument, land which is part of an Area of Special Scientific Interest or where the construction involves the felling, lopping or limbing of any tree or interfere with the root system of any tree (Schedule 1). In determining the impact on trees it may be appropriate to consult Department of Environment, Food and Agriculture's Arboricultural Officers or seek the services of a professional arboriculturalist.

If something is undertaken under the Order and becomes redundant, what happens then?

Under Schedule 1, paragraph 9, if equipment or structures are no longer required for telecommunications purposes, it must be removed within 6 months of it being no longer required for telecommunications purposes and the land, structure or building must be restored to its condition before the development took place.

Can structures be put on pavements so that people may find it difficult to get past?

Schedule 1, paragraph 6 requires that development on or adjacent to a pavement must not result in an unobstructed width of less than 1500mm where the existing width is not less than 1500mm or in cases where the existing width is already less than 1500mm, the pavement may not be obstructed any further at all.

Are there any controls in the Order over the effects of exposure of emissions to health and the environment?

Anything erected under the Order must be in full compliance with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP). This organisation provides scientific advice and guidance on the health and environmental effects of non-ionizing radiation (NIR) to protect people and the environment from detrimental NIR exposure. NIR refers to electromagnetic radiation such as ultraviolet, light, infrared, and radiowaves, and mechanical waves such as infra- and ultrasound. In daily life, common sources of NIR include the sun, household electrical appliances, mobile phones, Wi-Fi, and microwave ovens.

Does the Order cover every type of telecommunications development?

No, there will be types of development – for example the erection of a structure over 15m in height – which are not covered in the Order and for which planning approval will always be required.

How do I apply for Prior Approval under this Order?

There is a form which requires to be completed and you must provide details which are listed in Schedule 4(1) of the Order as well as the relevant fee. The Department is required to determine the application within 42 days if it has not requested additional information. If the application is not determined within the appointed time, you may request such a determination within a further 14 days and if this is not forthcoming, the application will be treated as approved. There is no appeal against this. Alternatively, if your application is refused you can submit another application for Prior Approval addressing the reasons for refusal or if they cannot be resolved, you should submit an application for planning approval.

28th November, 2019