



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Adran yr Amgylchedd, Cynllunio a Chefn Gwlad
Department for Environment, Planning and Countryside

The Chief Planning Officer :)
County and County Borough Councils)
) in Wales
The National Park Officer :)
National Park Authorities)

Our ref: APAA 08/04/109 / (CL03 – 06)

Date: 25 January 2006

Dear Colleague

THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (AMENDMENT) (WALES) ORDER 2006 : REVISED PART 1-H AND 25 PERMITTED DEVELOPMENT RIGHTS

1. This letter is to alert you to new amending secondary legislation which revises the current permitted development rights contained in Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) for:
 - a) the installation, alteration or replacement of a satellite antenna on a dwelling house or within the curtilage of a dwelling house (Part 1-H); and
 - b) other telecommunications development (Part 25).

A copy of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2006 which implements these revised permitted development rights in Wales from 31 January 2006 will shortly be sent to you under separate cover. In the meantime, I enclose a copy of the “final” draft for your use.

2. Whilst this Circular letter offers guidance for local planning authorities on the terms of the order, only the Courts can interpret the law authoritatively.
3. The provisions in the GPDO for antennas were introduced in 1991, with amendments made in 1998 and 1999. They apply only to satellite dishes. Since then significant technological advancements have been made – the development of broadband for example. There is now a wide range of equipment used to deliver electronic communications, some of which does not

fall within these permitted development rights. The permitted development rights, as now revised, bring the GPDO up to date and ensure that it does not discriminate between technologies.

4. However, in setting the limits for permitted development, there is a balance to be struck between giving freedoms to individual householders and safeguarding the environment. The limitations and restrictions on permitted development rights for antennas are intended to protect the environment from unnecessarily large, unsympathetic or poorly sited antennas. This applies particularly in designated areas – such as conservation areas and Areas of Outstanding Natural Beauty.

Definition of Antenna

5. Any reference to ‘antennas’ should be taken as referring to all microwave¹ antennas, as defined in Article 1(2) of the GPDO. This term covers both microwave and satellite antennas². Generally, most conventional TV aerials (including their mountings and poles) have not been considered as being development, and therefore have not required planning consent because they are considered to be *de minimis*³.

Designated areas

6. Designated Areas refer to conservation areas, Areas of Outstanding Natural Beauty and the National Parks. They are specified in Schedule 1, Part 2: Article 1(5) of the GPDO (and are often referred to as ‘Article 1(5) land’) as being land requiring additional protection from adverse visual impact. There are special restrictions regarding the siting of antennas on buildings in designated areas.

Listed Buildings

7. There are separate controls for work affecting listed buildings. The installation of antennas on a listed building will usually require listed building consent.

¹ The term ‘microwave’ refers to that part of the radio spectrum above 1,000 MHz.

² Satellite dishes also use microwave frequencies, but they are transmitted from the geo-orbital satellite rather than terrestrially; they have a distinctive appearance and have unique line-of-sight requirement.

³ *De Minimis* – the shortened version of ‘*de minimis non curat lex*’ – is a legal maxim roughly translated as “the law does not concern itself with trifles”. It is legal principle applied by the courts and, as such, is not described or dealt with in the Planning Acts. It is applied where a trifling infringement is brought to the attention of the court, but where the deviation is of so little consequence that, if continued, would weigh little or nothing in the public interest and might properly be overlooked. What is treated as *de minimis* is the decision of the courts based on the facts of the case. It is not within the gift of the Local Authority Planning Departments, nor the National Assembly, to decide whether or where the principle should be applied, nor can the decision of the courts be anticipated in this way.

Numbers of antennas

8. The permitted development rights provided by the GPDO, as amended, allow two antennas on buildings below 15m (including dwelling houses); and four on buildings 15m or more in height.

Size of antennas

9. The sizes of antennas permitted by the GPDO for buildings below 15m in height (including dwelling houses) are, in the case of single antennas, up to 100cm in length; and in the case of any second antenna, up to 60cm in length. For buildings 15m or more in height, the maximum size for antennas is 130cm in length. For all buildings, chimney mounted antennas have a maximum size of 60cm in length.
10. The size of the antennas is defined by cubic capacity as well as by length (linear dimension). This is because there are now a number of antennas which have a more pronounced three-dimensional profile than, for example, satellite dishes. The maximum cubic capacity is 35 litres.
11. The revised permitted development rights include changes in the location of antennas. For buildings below 15m in height (including dwelling houses), antennas are permitted to protrude above the highest part of the roof if the building has a chimney. In such cases, antennas may protrude by up to 60cm or up to the height of the chimney, whichever is the lower. For buildings 15m or more in height, antennas are permitted to protrude above the highest part of the roof by up to 300cm. In all cases, antennas are not permitted to protrude above a chimney. There are further restrictions for all types of building located on Article 1(5) land. Antennas are not permitted on a chimney, wall or roof slope which both faces onto and is visible from a road. The visibility requirement ensures that restrictions are not imposed unnecessarily.
12. **Annex A:** describes the revised permitted development rights for antennas installed on dwelling houses, and dwelling houses on Article 1(5) land (Part 1-H).

Annex B: describes the revised permitted development rights for antennas installed on buildings under 15m (excluding dwelling houses) and such buildings on Article 1(5) land (Part 25B).

Annex C: describes the revised permitted development rights for antennas installed on buildings 15m or more in height, and such buildings on Article 1(5) land (Part 25A).

13. Further good practice guidance will be available in the Assembly Government pamphlet, *A Householders' Planning Guide to the Installation of Antennas*, which is being revised. Copies of the revised pamphlet will be sent to each local planning authority and further copies will be available from the Assembly's Libraries and Publications Service.

Yours sincerely

ROSEMARY THOMAS
Head of Planning Division

Annex A

Permitted Development under revised Part 1-H for Antennas on Dwelling Houses

The regulations relating to antennas on dwelling houses are described in the following table:

Numbers of antenna(s)	Up to 2 antennas are permitted
Size of antenna(s)	<p>Single antennas are permitted to be up to 100cm in length.</p> <p>For 2 antennas, one is permitted to be up to 100cm in length; any second antenna is limited to 60cm in length.</p> <p>Chimney-mounted antennas are limited to 60cm in length.</p> <p>All antennas should be no greater than 35 litres cubic capacity.</p>
Location restrictions	<p>In dwelling houses which have a chimney: antennas should not protrude above the highest part of the roof by more than 60cm, or the highest part of the chimney, whichever is the lower.</p> <p>In dwelling houses without a chimney: antennas should not protrude above the highest part of the roof.</p> <p>Antennas should not protrude above the highest point of the chimney.</p>
Restrictions on Article 1(5) land	Antennas are not permitted on a chimney, wall or roof slope which both faces onto and is visible from a road.

Annex B

Permitted Development under revised Part 25B for Antennas on Buildings under 15m in height

The regulations relating to antennas on buildings under 15m in height (but not dwelling houses) are described in the following table:

Numbers of antenna(s)	Up to 2 antennas are permitted
Size of antenna(s)	<p>Single antennas are permitted to be up to 100cm in length.</p> <p>For 2 antennas, one is permitted to be up to 100cm in length; any second antenna is limited to 60cm in length.</p> <p>Chimney-mounted antennas are limited to 60cm in length.</p> <p>All antennas should be no greater than 35 litres cubic capacity.</p>
Location restrictions	<p>In buildings with a chimney: antennas should not exceed the highest part of the roof by more than 60cm, or the highest part of the chimney, whichever is the lower.</p> <p>In buildings without a chimney: antennas should not exceed the highest part of the roof.</p> <p>Antennas should not protrude above the highest point of the chimney.</p>
Restrictions on Article 1(5) land	Antennas are not permitted on a chimney, wall or roof slope which both faces onto and is visible from a road.

Annex C

Permitted Development under revised Part 25A for Antennas on Buildings 15m or more in height

The regulations relating to antennas on buildings 15m in height or more are described in the following table:

Numbers of antenna(s)	Up to 4 antennas are permitted
Size of antenna(s)	All antennas are permitted to be up to 130cm in length. Chimney-mounted antennas are limited to 60cm in length. All antennas should be no greater than 35 litres cubic capacity.
Location restrictions	Antennas should not exceed the highest part of the roof by more than 300cm.
Restrictions on Article 1(5) land	Antennas are not permitted on a chimney, wall or roof slope which both faces onto and is visible from a road.