

2016 No. 332

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016

<i>Made</i>	- - - -	<i>10th March 2016</i>
<i>Laid before Parliament</i>		<i>11th March 2016</i>
<i>Coming into force</i>	- -	<i>6th April 2016</i>

The Secretary of State, in exercise of the powers conferred by sections 59, 60, 61 and 333(7) of the Town and Country Planning Act 1990(a), makes the following Order.

Citation and commencement

1. This Order may be cited as the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 and comes into force on 6th April 2016.

Amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015

2. The Town and Country Planning (General Permitted Development) (England) Order 2015(b) (“the General Permitted Development Order”) is amended as follows.

Review

3. After article 7 insert—

“Review

7A.—(1) The Secretary of State must from time to time—

- (a) carry out a review of articles 1 to 7;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those articles;
- (b) assess the extent to which those objectives are achieved; and

(a) 1990 c.8. Amendments have been made to section 59 which are not relevant to this Order. Section 60 was amended by section 4(1) of the Growth and Infrastructure Act 2013 (c. 27).
(b) S.I. 2015/596.

- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (3) The first report under this article must be published before the end of the period of five years beginning with 6th April 2016.
- (4) Reports under this article are afterwards to be published at intervals not exceeding five years.”.

Amendment in relation to development within the curtilage of a dwellinghouse

4. In Part 1 of Schedule 2 (development within the curtilage of a dwellinghouse), in Class A for paragraph A.1(h)(ii) substitute—

- “(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse;”.

Amendment in relation to change of use of shops to financial and professional

5. In Part 3 of Schedule 2 (changes of use), in Class D after “building” insert “and any land”.

Amendments in relation to change of use of launderettes to dwellinghouses

6.—(1) Class M in Part 3 of Schedule 2 is amended as follows.

(2) For paragraph M of Class M substitute—

“Class M – retail and specified sui generis uses to dwellinghouses

Permitted development

M. Development consisting of—

(a) *a change of use of a building from—*

- (i) *a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order,*
 - (ii) *a use as a betting office, pay day loan shop or launderette, or*
 - (iii) *a mixed use combining use as a dwellinghouse with—*
 - (aa) *a use as a betting office, pay day loan shop or launderette, or*
 - (bb) *a use falling within either Class A1 (shops) or Class A2 (financial and professional services) of that Schedule (whether that use was granted permission under Class G of this Part or otherwise),*
- to a use falling within Class C3 (dwellinghouses) of that Schedule, and*

(b) *building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.*
”.

(3) For paragraph M.2(1)(d)(i) substitute—

- “(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or Class A2 (financial and professional services) of that Schedule or, as the case may be, a building used as a launderette, but only where there is a reasonable prospect of the building being used to provide such services, or”.

Amendments in relation to change of use of offices to dwellinghouses

7.—(1) In Part 3 of Schedule 2, in Class O—

(a) for paragraph O.1(a) substitute—

“(a) the building is on article 2(5) land and an application under paragraph O.2(1) in respect of the development is received by the local planning authority on or before 30th May 2019;”;

- (b) omit paragraph O.1(c);
- (c) for paragraph O.2 substitute—

“**O.2.**—(1) Development under Class O is permitted subject to the condition that 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—

- (a) transport and highways impacts of the development,
- (b) contamination risks on the site,
- (c) flooding risks on the site, and
- (d) impacts of noise from commercial premises on the intended occupiers of the development,

and the provisions of paragraph W (prior approval) apply in relation to that application.

(2) Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.”;

- (d) after paragraph O.2 insert—

“Interpretation of Class O

O.3. For the purposes of Class O, “commercial premises” means any premises normally used for the purpose of any commercial or industrial undertaking which existed on the date of application under paragraph O.2(1), and includes any premises licensed under the Licensing Act 2003(a) or any other place of public entertainment.”.

- (2) With effect from 31st May 2019 omit—

- (i) article 2(5);
- (ii) Part 3 of Schedule 1 (article 2(5) land); and
- (iii) paragraph O.1(a) of Part 3 of Schedule 2 (as substituted by this Order).

Amendments in relation to change of use of light industrial to dwellinghouses

- 8. In Part 3 of Schedule 2, after Class P insert—

“Class PA – premises in light industrial use to dwellinghouses

Permitted development

PA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development not permitted

PA.1. Development is not permitted by Class PA if—

- (a) an application under paragraph PA.2(1) in respect of the development is received by the local planning authority on or before 30th September 2017;
- (b) the building was not used solely for a light industrial use on 19th March 2014 or, in the case of a building which was in use before that date but was not in use on that date, when it was last in use;

(a) 2003 c.17.

- (c) the prior approval date falls on or after 1st October 2020;
- (d) the gross floor space of the existing building exceeds 500 square metres;
- (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
- (f) less than 1 year before the date the development begins—
 - (i) an agricultural tenancy over the site has been terminated, and
 - (ii) the termination was for the purpose of carrying out development under this Class,
 unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural purposes;
- (g) the site is, or forms part of—
 - (i) a site of special scientific interest;
 - (ii) a safety hazard area;
 - (iii) a military explosives storage area;
- (h) the building is a listed building or is within the curtilage of a listed building; or
- (i) the site is, or contains, a scheduled monument.

Conditions

PA.2.—(1) Development is permitted by Class PA subject to the condition that before beginning the development, the developer must—

- (a) submit a statement, which must accompany the application referred to in paragraph (b), to the local planning authority setting out the evidence the developer relies upon to demonstrate that the building was used solely for a light industrial use on the date referred to in paragraph PA.1(b);
- (b) apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—
 - (i) transport and highways impacts of the development,
 - (ii) contamination risks in relation to the building,
 - (iii) flooding risks in relation to the building,
 - (iv) where the authority considers the building to which the development relates is within an area that is important for providing industrial services or storage or distribution services or a mix of those services (which includes, where the development relates to part of a building, services provided from any other part of the building), whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services,

and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Development under Class PA is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

Interpretation of Class PA

PA.3. For the purposes of Class PA—

“curtilage” (except in paragraph PA.1(h)) means—

- (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the building in light industrial use, closely associated with and serving the purposes of that building, or

- (b) an area of land immediately beside or around the building in light industrial use no larger than the land area occupied by the building,

whichever is the lesser;

“industrial services” means services provided from premises with a light industrial use or a use falling within Class B2 (general industrial) of the Schedule to the Use Classes Order;

“light industrial use” means a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order;

“storage or distribution services” means services provided from premises with a use falling within Class B8 (storage or distribution) of the Schedule to the Use Classes Order.”.

9. In paragraphs A.1(a), B.1(a), C.1(a), D.1(a), E.1(a), F.1, G.1(a) and H.1(a) of Part 1 of Schedule 2 (development within the curtilage of a dwellinghouse), after “P” insert “, PA”.

Amendment in relation to procedure for applications for prior approval

10. In Part 3 of Schedule 2, after paragraph W(2)(b) insert—

“(ba) in relation to development proposed under Classes M, N, O, P, PA and Q of this Part, a statement specifying the net increase in dwellinghouses proposed by the development (for the purposes of this sub-paragraph, “net increase in dwellinghouses” is the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development);”.

Amendment in relation to temporary use of buildings or land for film-making purposes

11. In Part 4 of Schedule 2 (temporary buildings and uses) omit paragraph B.1(a).

Amendments in relation to minerals permitted development

12. In article 4, in paragraph (1) after “Class K” insert “, KA”.

13. In article 5—

(a) in paragraph (1), after “Class K” insert “, KA”;

(b) after paragraph (2)(a), insert—

“(aa) in the case of development otherwise permitted under Class KA, the land on which the development is to be carried out is within a protected groundwater source area (as defined in Class JA of Part 17 of Schedule 2);”; and

(c) in paragraph (2)(b), after “Class K” insert “, KA”.

14. In Part 17 of Schedule 2 (mining and mineral exploration)—

(a) in Class J, in paragraph J.1—

(i) for sub-paragraph (c), substitute—

“(c) any operation would be carried out within a National Park, an area of outstanding national beauty, a site of archaeological interest, a site of special scientific interest or the Broads;”; and

(ii) in sub-paragraph (g), for “12” substitute “15”;

(b) after Class J, insert—

Permitted development

JA. *Development on any land during a period not exceeding 28 consecutive days consisting of the drilling of boreholes for the purposes of—*

- (a) carrying out groundwater monitoring;*
- (b) carrying out seismic monitoring; or*
- (c) locating and appraising the condition of mines,*

which is preparatory to potential petroleum exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those drilling, monitoring or locating and appraising operations.

Development not permitted

JA.1. Development is not permitted by Class JA if—

- (a) any operation would be carried out within 50 metres of any part of an occupied residential building or a building occupied as a hospital or school;
- (b) any operation would be carried out within a National Park, an area of outstanding natural beauty, a site of archaeological interest, a site of special scientific interest or the Broads;
- (c) any explosive charge of more than 1 kilogram would be used;
- (d) any structure assembled or provided would exceed 15 metres in height, or, where the structure would be within 3 kilometres of the perimeter of an aerodrome, 3 metres in height;
- (e) in the case of boreholes for locating and appraising the condition of mines, the borehole exceeds 160 metres in depth; or
- (f) drilling would be carried out within a protected groundwater source area.

Conditions

JA.2. Development is permitted by Class JA subject to the following conditions—

- (a) no operations are carried out between 6.00pm and 7.00am;
- (b) no trees on the land are removed, felled, lopped or topped and no other thing is done on the land likely to harm or damage any trees, unless the mineral planning authority have so agreed in writing;
- (c) within a period of 28 days from the cessation of operations unless the mineral planning authority have agreed otherwise in writing—
 - (i) any structure permitted by Class JA and any waste material arising from other development so permitted is removed from the land;
 - (ii) any borehole is adequately sealed;
 - (iii) the surface of the land on which any operations have been carried out is levelled and any topsoil replaced as the uppermost layer, and
 - (iv) the land is, so far as is practicable, restored to its condition before the development took place, including the carrying out of any necessary seeding and replanting;
- (d) the developer notifies the Environment Agency and the relevant drinking water supply undertaker in writing of its intention to carry out the development (specifying the nature and location of the development), and no development takes place until 28 days after that notification; and

- (e) in the case of boreholes for locating and appraising the condition of mines, the developer notifies the Coal Authority in writing of its intention to carry out the development (specifying the nature and location of the development), and no development takes place until 28 days after that notification.

Interpretation of Class JA

JA.3.—(1) For the purposes of Class JA, “protected groundwater source area” means any land at a depth of less than 1,200 metres beneath a relevant surface area.

(2) In paragraph (1), “relevant surface area” means any land at the surface that is—

- (a) within 50 metres of a point at the surface at which water is abstracted from underground strata and which is used to supply water for domestic or food production purposes, or
 - (b) within or above a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes.”;
- (c) in Class K, in paragraph K.1(f), for “12” substitute “15”;
- (d) after Class K, insert—

“Class KA – use of land etc in respect of petroleum exploration

Permitted development

KA. *Development on any land consisting of the drilling of boreholes for the purposes of—*

- (a) carrying out groundwater monitoring;*
- (b) carrying out seismic monitoring; or*
- (c) locating and appraising the condition of mines,*

which is preparatory to potential petroleum exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those drilling, monitoring, or locating and appraising operations.

Development not permitted

KA.1. Development is not permitted by Class KA if—

- (a) the developer has not previously notified the mineral planning authority in writing of its intention to carry out the development (specifying the nature and location of the development);
- (b) the relevant period has not elapsed;
- (c) any explosive charge of more than 2 kilograms would be used;
- (d) any structure assembled or provided would exceed 15 metres in height; or
- (e) in the case of boreholes for locating and appraising the condition of mine operations, the borehole exceeds 160 metres in depth.

Conditions

KA.2. Development is permitted by Class KA subject to the following conditions—

- (a) the development is carried out in accordance with the details in the notification referred to in paragraph KA.1(a), unless the mineral planning authority has otherwise agreed in writing;
- (b) no trees on the land are removed, felled, lopped or topped and no other thing is done on the land likely to harm or damage any trees, unless specified in detail in

- the notification referred to in paragraph KA.1(a) or the mineral planning authority has otherwise agreed in writing;
- (c) within a period of 28 days from operations ceasing, unless the mineral planning authority has agreed otherwise in writing—
 - (i) any structure permitted by Class KA and any waste material arising from other development so permitted is removed from the land;
 - (ii) any borehole is adequately sealed;
 - (iii) the surface of the land is levelled and any topsoil replaced as the uppermost layer; and
 - (iv) the land is, so far as is practicable, restored to its condition before the development took place, including the carrying out of any necessary seeding and replanting;
 - (d) the developer notifies the Environment Agency and the relevant drinking water supply undertaker in writing of its intention to carry out the development (specifying the nature and location of the development), and no development takes place until 28 days after that notification;
 - (e) in the case of boreholes for locating and appraising the condition of mines, the developer notifies the Coal Authority in writing of its intention to carry out the development (specifying the nature and location of the development), and no development takes place until 28 days after that notification;
 - (f) the development ceases no later than a date which is—
 - (i) in the case of development involving the drilling of boreholes for groundwater monitoring, 24 months; and
 - (ii) in other cases, 6 months,
 after the elapse of the relevant period, unless the mineral planning authority has otherwise agreed in writing.

Interpretation of Class KA

KA.3. For the purposes of Class KA, “relevant period” means the period elapsing—

- (a) where a direction is not issued under article 5, 28 days after the notification referred to in paragraph KA.1(a) or, if earlier, on the date on which the mineral planning authority notifies the developer in writing that it will not issue such a direction, or
 - (b) where a direction is issued under article 5, 28 days from the date on which notice of that decision is sent to the Secretary of State, or, if earlier, the date on which the mineral planning authority notifies the developer that the Secretary of State has disallowed the direction.”; and
- (e) in paragraph N.1 (interpretation of Part 17)—
- (i) after the definition of “coal mining operations”, insert—

““groundwater” has the same meaning as in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2010(a);”;
 - (ii) after the definition of “normal and regular use”, insert—

““relevant drinking water supply undertaker” means any water undertaker in whose area of appointment development will take place and, in the case where the development is likely to affect water resources in the area of appointment of another water undertaker, that undertaker;”.

(a) S.I. 2010/675, to which there are amendments not relevant to these Regulations.

Transitional and saving provisions

15.—(1) The amendment made by article 14(a)(i) of this Order does not apply in relation to development under Class J of Part 17 of Schedule 2 to the General Permitted Development Order where that development has started, but not completed, on the date on which this Order comes into force.

(2) The amendment made by article 10 of this Order does not apply to applications made on or before 5th April 2016 for determination as to whether the prior approval of the authority will be required under Part 3 of Schedule 2 to the General Permitted Development Order.

Signed by authority of the Secretary of State for Communities and Local Government

Brandon Lewis
Minister of State

10th March 2016

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the General Permitted Development Order”) (S.I. 2015/596).

Review

Article 3 requires the Secretary of State to review the operation and effect of articles 1 to 7 of the General Permitted Development Order. This review is required by section 28 of the Small Business, Enterprise and Employment Act 2015 (c.26), in respect of regulatory provisions made after 1st July 2015. The framework set out in the General Permitted Development Order was made before this date. However, since this instrument amends the wider framework of the General Permitted Development Order, the review provisions are extended to the whole of the General Permitted Development Order, as amended by this instrument.

Change of use of buildings to residential use

Article 6 amends Class M of Part 3 of Schedule 2 to allow a building used as a launderette to change to residential use, on the same terms as those which apply to other uses within Class M.

Article 7 makes permanent the existing temporary right to change a building used as an office into residential use (Class O of Part 3 of Schedule 2). Article 7(1)(a) extends until 30th May 2019 the exemption from Class O of areas listed in Part 3 of Schedule 1 of the General Permitted Development Order. A condition allowing the local planning authority to consider noise impacts on the intended occupants of the development from premises in commercial use is included in the extended right. It also allows development under this Class to be completed up to 3 years from the prior approval date (defined in paragraph X of Part 3 of Schedule 2).

Article 8 creates a temporary right (Class PA of Part 3 of Schedule 2) to change a building in light industrial use to residential use, where an application for determination as to whether prior approval is required is made on or after 1 October 2017 and the prior approval date occurs on or before 30th September 2020. It also allows development under Class PA to be completed up to 3 years from the prior approval date (defined in paragraph X of Part 3 of Schedule 2). Article 9 provides that the householder development rights contained in Part 1 of Schedule 2 do not apply to development carried out under Class PA.

Article 10 requires a developer changing a building to residential use to supply to the local authority a statement specifying the net increase in the number of dwellinghouses proposed by the development, alongside its application for determination as to whether prior approval is required. Article 15(2) provides that this does not apply to applications made on or before 5th April 2016.

Amendments in relation to minerals permitted development

Articles 12, 13 and 14 allow, subject to conditions and limitations, the drilling of boreholes for the purposes of: (a) carrying out groundwater monitoring; (b) carrying out seismic monitoring; or (c) locating and appraising the condition of mine operations, which is preparatory to potential petroleum exploration. Under new Class JA of Part 17 of the General Permitted Development Order, such development may take place for a period not exceeding 28 consecutive days. Under new Class KA of Part 17, where a developer has notified the relevant mineral planning authority in writing of its intentions, then such development may take place for a period not exceeding 24 months (in the case of the drilling of boreholes for carrying out groundwater monitoring) or 6 months (in other cases), unless the mineral planning authority has otherwise agreed in writing. Authorities have the power, in certain circumstances, to issue a notice under Article 5 of the General Permitted Development Order restricting the rights otherwise permitted under Class KA.

Minor amendments are also made in respect of existing permitted development rights relating to minerals exploration in Classes J and K of Part 17. The height restriction on any structure assembled or provided in respect of such development is raised from 12 metres to 15 metres, and development under Class J will no longer be permitted in the Broads.

Other amendments

Article 4 clarifies the wording of the General Permitted Development Order, making it clear that the relevant boundary is opposite the rear wall of the dwellinghouse being enlarged.

Article 5 re-inserts the wording ‘and any land’ which was omitted from Class D of Part 3 of Schedule 2.

Article 11 clarifies that land may be used for a temporary period for commercial film-making under Class B of Part 4 of Schedule 2.

Impact assessments in relation to articles 6 to 8, and articles 12 to 14, of this Order and will be published at www.legislation.gov.uk or copies may be inspected at the Planning Directorate, Department for Communities and Local Government, 2 Marsham Street, London SW1P 4DF. An impact assessment has not been produced in respect of other provisions of this instrument as no significant impact on the private or voluntary sector is foreseen.

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£6.00

UK2016031016 03/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/332>

ISBN 978-0-11-114507-4



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