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STATUTORY INSTRUMENTS

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**2013 No. 1101**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013**

<i>Made</i>	- - - -	<i>7th May 2013</i>
<i>Laid before Parliament</i>		<i>9th May 2013</i>
<i>Coming into force</i>	- -	<i>30th May 2013</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(1), makes the following Order:

**Citation, commencement and application**

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 and comes into force on 30th May 2013.

(2) This Order applies in relation to England only.

**Amendment of the Town and Country Planning (General Permitted Development) Order 1995**

2. The Town and Country Planning (General Permitted Development) Order 1995(2) is amended as follows.

**Amendments in relation to article 1(6A) land**

3.—(1) After article 1(6) insert—

“(6A) The land referred to elsewhere in this Order as article 1(6A) land is the land described in Part 4 of Schedule 1 to this Order (exempt office areas).”

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(1) 1990 c. 8, section 60 was amended by section 4 of the Growth and Infrastructure Act 2013 (c. 27). There are also other amendments to the 1990 Act which are not relevant to this Order. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; see the entry in Schedule 1 for the Town and Country Planning Act 1990 (c. 8) as substituted by article 4 of, and Schedule 3 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

(2) S.I. 1995/418. Relevant amendments were made by S.I. 2008/2362, 2010/654, 2010/2134, 2011/2056 and 2012/748. Part 24 was substituted by S.I. 2001/2718 and amended by S.I.s 2003/2155 and 2004/945.

(2) After Part 3 of Schedule 1 (Article 1(6) land) insert—

## “PART 4

### Article 1(6A) Land

1. Land within the areas named in column 1 of the table in this Schedule is designated by reference to the area bounded externally by the outer edge of the boundary line shown on the corresponding map specified in column 3 of the table.

2. A reference in this Part of this Schedule to a map is to one of the maps numbered 1.1 to 1.36 and entitled “Maps of areas exempt from office to residential change of use permitted development right 2013”, of which copies, signed by a member of the Senior Civil Service in the Department for Communities and Local Government, are available for inspection at the offices of the Secretary of State for Communities and Local Government.

<i>Name of area</i>	<i>Local planning authority for the area</i>	<i>Map number (colour / style of boundary line)</i>
Central Activities Zone and Tech City, London	Common Council of the City of London	1.1 (red line)
	London Borough Council of Islington	1.2 (red line)
	London Borough Council of Hackney	1.3 to 1.7 (blue line)
	London Borough Council of Tower Hamlets	1.8 and 1.9 (red line and black borough boundary line, green line and black borough boundary line and pink line)
	London Borough Council of Southwark	1.10 (red line)
	London Borough Council of Lambeth	1.11 (red line)
	London Borough Council of Wandsworth	1.12 (blue line and black-dashed borough boundary line)
	Westminster City Council	1.13 (red line)
	Royal Borough Council of Kensington and Chelsea	1.14 (red line)
London Borough Council of Camden	1.15 (red line)	
The whole of the Royal Borough of Kensington and Chelsea (so far as not already designated under the entry for the Central Activities Zone and Tech City)	Royal Borough Council of Kensington and Chelsea	1.14 (red line)
Areas in the Isle of Dogs (so far as not already designated under the	London Borough Council of Tower Hamlets	1.8 and 1.9 (blue line)

<i>Name of area</i>	<i>Local planning authority for the area</i>	<i>Map number (colour / style of boundary line)</i>
entry for Central Activities Zone and Tech City)		
3 areas known as the Royal Docks Enterprise Zone	London Borough Council of Newham	1.16 (red line)
2 areas known as Milton Park Enterprise Zone	Vale of the White Horse Borough Council	1.17 (red line)
Harwell Oxford Enterprise Zone	Vale of the White Horse Borough Council	1.18 (red line)
2 areas known as Manchester City Centre Core	Manchester City Council	1.19 (red line)
13 areas within the Gunnels Wood Employment Area	Stevenage Borough Council	1.20 (red line)
8 areas in and around De Beauvoir	London Borough of Hackney	1.21 (blue line)
6 areas in and around Mare Street	London Borough of Hackney	1.22 (blue line)
BT Building, London Road	Sevenoaks District Council	1.23 (black line)
An area in London Road	Sevenoaks District Council	1.24 (black line)
Crown Inn, Westerham Trading Centre, Westerham	Sevenoaks District Council	1.25 (black line)
Ashford Commercial Quarter	Ashford Borough Council	1.26 (red line)
Petersfield Parish	East Hampshire District Council	1.27 (red line)
Alton Parish	East Hampshire District Council	1.28 (red line)
An area in Whitehall and Bordon	East Hampshire District Council	1.29 (red line)
Horndean Parish	East Hampshire District Council	1.30 (red line)
Liss Parish	East Hampshire District Council	1.31 (red line)
Bramshott and Liphook Ward and Parish	East Hampshire District Council	1.32 (red line)
Ropley Parish	East Hampshire District Council	1.33 (red line)
Bentley Parish	East Hampshire District Council	1.34 (red line)
Grayshott Ward and Parish	East Hampshire District Council	1.35 (red line)
Four Marks and Medstead Ward	East Hampshire District Council	1.36 (red line)”

#### **Amendments in relation to home extensions**

4.—(1) In Part 1 of Schedule 2 (development within the curtilage of a dwellinghouse), Class A is amended as follows

(2) In paragraph A.1(e) at the beginning insert “subject to paragraph (ea),”.

(3) After paragraph A.1(e) insert—

- “(ea) until 30th May 2016, for a dwellinghouse not on article 1(5) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—
- (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
  - (ii) exceed 4 metres in height;”

(4) After paragraph A.3 insert—

“**A.4.**—(1) The following conditions apply to development permitted by Class A which exceeds the limits in paragraph A.1(e) but is allowed by paragraph A.1(ea).

(2) Before beginning the development the developer shall provide the following information to the local planning authority—

- (a) a written description of the proposed development including—
  - (i) how far the enlarged part of the dwellinghouse extends beyond the rear wall of the original dwellinghouse;
  - (ii) the maximum height of the enlarged part of the dwellinghouse; and
  - (iii) the height of the eaves of the enlarged part of the dwellinghouse;
- (b) a plan indicating the site and showing the proposed development;
- (c) the addresses of any adjoining premises;
- (d) the developer’s contact address; and
- (e) the developer’s email address if the developer is content to receive communications electronically.

(3) The local planning authority shall notify owners or occupiers of any adjoining premises about the proposed development by serving on them a notice which—

- (a) describes the proposed development, including—
  - (i) how far the enlarged part of the dwellinghouse extends beyond the rear wall of the original dwellinghouse;
  - (ii) the maximum height of the enlarged part of the dwellinghouse; and
  - (iii) the height of the eaves of the enlarged part of the dwellinghouse;
- (b) provides the address of the proposed development;
- (c) specifies the date when the information referred to in paragraph (2) was received by the local planning authority and the date when the period referred to in paragraph (8)(c) would expire; and
- (d) specifies the date (being not less than 21 days from the date of the notice) by which representations are to be received by the local planning authority.

(4) The local planning authority must send a copy of the notice referred to in paragraph (3) to the developer.

(5) Where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.

(6) The local planning authority may require the developer to submit such further information regarding the proposed development as the local planning authority may reasonably require in order to consider the impact of the proposed development on the amenity of any adjoining premises.

- (7) The local planning authority shall, when considering the impact referred to in paragraphs (5) and (6)—
- (a) take into account any representations made as a result of the notice given under paragraph (3); and
  - (b) consider the amenity of all adjoining premises, not just adjoining premises which are the subject of representations.
- (8) The development shall not be begun before the occurrence of one of the following—
- (a) the receipt by the developer from the local planning authority of a written notice that their prior approval is not required;
  - (b) the receipt by the developer from the local planning authority of a written notice giving their prior approval; or
  - (c) the expiry of 42 days following the date on which the information referred to in paragraph (2) was received by the local planning authority without the local planning authority notifying the developer as to whether prior approval is given or refused.
- (9) The development shall be carried out—
- (a) where prior approval is required, in accordance with the details approved by the local planning authority;
  - (b) where prior approval is not required, or where paragraph (8)(c) applies, in accordance with the information provided under paragraph (2),
- unless the local planning authority and the developer agree otherwise in writing.
- (10) The development shall be completed on or before 30th May 2016.
- (11) The developer shall notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.
- (12) The notification referred to in paragraph (11) shall be in writing and shall include—
- (a) the name of the developer;
  - (b) the address or location of the development, and
  - (c) the date of completion.”

#### **Amendments in relation to minor operations**

- 5.—(1) In Part 2 of Schedule 2 (minor operations), Class A is amended as follows.
- (2) For paragraph A.1(a) substitute—
- “(a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed—
    - (i) for a school, two metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than one metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;
    - (ii) in any other case, one metre above ground level;”
- (3) After paragraph A.1 insert—

### **“Interpretation of Class A**

**A.2** For the purposes of Class A, “school” includes a building permitted by Class C of Part 4 of this Schedule to be used temporarily as a school, from the date the local planning authority is notified as provided in paragraph C.2(b) of Class C of Part 4.”

### **Amendments in relation to change of use**

**6.—**(1) In Part 3 of Schedule 2 (changes of use), in paragraph B.1 of Class B, for “235” substitute “500”.

(2) In Part 3 of Schedule 2 (changes of use) after Class I insert—

## **“Class J**

### **Permitted development**

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

### **Development not permitted**

**J.1** Development is not permitted by Class J where—

- (a) the building is on article 1(6A) land;
- (b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order immediately before 30th May 2013 or, if the building was not in use immediately before that date, when it was last in use;
- (c) the use of the building falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order was begun after 30th May 2016;
- (d) the site is or forms part of a safety hazard area;
- (e) the site is or forms part of a military explosives storage area;
- (f) the building is a listed building or a scheduled monument.

### **Conditions**

**J.2** Class J development is permitted subject to the condition that before beginning the development, the developer shall 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; and
- (c) flooding risks on the site,

and the provisions of paragraph N shall apply in relation to any such application.

## Class K

### Permitted Development

**K. Development consisting of a change of use of a building and any land within its curtilage to use as a state-funded school, from a use falling within Classes B1 (business), C1 (hotels), C2 (residential institutions), C2A (secure residential institutions) and D2 (assembly and leisure) of the Schedule to the Use Classes Order.**

### Development not permitted

**K.1** Development is not permitted by Class K where—

- (a) the site is or forms part of a military explosives storage area;
- (b) the site is or forms part of a safety hazard area;
- (c) the building is a listed building or a scheduled monument.

### Conditions

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

- (a) the site is to be used as a state-funded school and for no other purpose, including any other purpose falling within Class D1 (non-residential institutions) of the Schedule to the Use Classes Order, except to the extent that the other purpose is ancillary to the primary use of the site as a state-funded school;
- (b) before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required as to—
  - (i) transport and highways impacts of the development;
  - (ii) noise impacts of the development; and
  - (iii) contamination risks on the site,and the provisions of paragraph N shall apply in relation to any such application.

## Class L

### Permitted development

**L. Development consisting of a change of use of land from a use permitted by Class K to the previous lawful use of the land.**

## Class M

### Permitted development

**M. Development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Use Classes Order.**

### **Development not permitted**

**M.1** Development is not permitted by Class M if—

- (a) the building has not been solely in agricultural use—
  - (i) since 3rd July 2012; or
  - (ii) for buildings first brought into use after 3rd July 2012, for ten years;
- (b) the cumulative floor space of buildings which have changed use under Class M within an original agricultural unit exceeds 500 square metres;
- (c) the site is or forms part of a military explosives storage area;
- (d) the site is or forms part of a safety hazard area;
- (e) the building is a listed building or a scheduled monument.

### **Conditions**

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

- (a) a site which has changed use under Class M may, subject to paragraph M.3, subsequently change use to another use falling within one of the use classes comprising the flexible use.
- (b) for the purposes of the Use Classes Order and this Order, after a site has changed use under Class M the site it is to be treated as having a sui generis use;
- (c) after a site has changed use under Class M, the planning permissions granted by Class B of Part 41 of Schedule 2 to this Order apply to the building, subject to the following modifications—
  - (i) “curtilage” has the meaning given in Class M;
  - (ii) any reference to “office building” is to be read as a reference to the building which has changed use under Class M.

**M.3** Before changing the use of the site under Class M, and before any subsequent change of use to another use falling within one of the use classes comprising the flexible use, the developer shall—

- (a) where the cumulative floor space of the building or buildings which have changed use under Class M within an original agricultural unit does not exceed 150 square metres, provide the following information to the local planning authority—
  - (i) the date the site will begin to be used for any of the flexible uses;
  - (ii) the nature of the use or uses; and
  - (iii) a plan indicating the site and which buildings have changed use;
- (b) where the cumulative floor space of the building or buildings which have changed use under Class M within an original agricultural unit exceeds 150 square metres and does not exceed 500 square metres, 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) noise impacts of the development;
  - (iii) contamination risks on the site; and
  - (iv) flooding risks on the site,and the provisions of paragraph N shall apply in relation to any such application.



### Procedure for applications for prior approval under Part 3

N.—(1) The following provisions apply where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.

(2) The application shall be accompanied by—

- (a) a written description of the proposed development;
- (b) a plan indicating the site and showing the proposed development;
- (c) the developer's contact address; and
- (d) the developer's email address if the developer is content to receive communications electronically;

together with any fee required to be paid.

(3) Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority shall consult—

- (a) the Secretary of State for Transport, where the increase or change relates to traffic entering or leaving a trunk road;
- (b) the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority; and
- (c) the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway.

(4) Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority shall consult the Environment Agency where the development is—

- (a) in an area within Flood Zone 2 or Flood Zone 3; or
- (b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (ze)(ii) in the Table in Schedule 5 to the 2010 Order.

(5) The local planning authority shall notify the consultees referred to in paragraphs (3) and (4) specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

(6) The local planning authority shall give notice of the proposed development—

- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—
  - (i) describes the proposed development;
  - (ii) provides the address of the proposed development;
  - (iii) specifies the date by which representations are to be received by the local planning authority; or
- (b) by serving a notice in that form on any adjoining owner or occupier.

(7) The local planning authority may require the developer to submit such information regarding the impacts and risks referred to in paragraph J.2, K.2(b) or M.3(b), as the case may

be, as the local planning authority may reasonably require in order to determine the application, which may include—

- (a) assessments of impacts or risks;
  - (b) statements setting out how impacts or risks are to be mitigated.
- (8) The local planning authority shall, when determining an application—
- (a) take into account any representations made to them as a result of any consultation under paragraphs (3) or (4) and any notice given under paragraph (6);
  - (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application; and
  - (c) in relation to the contamination risks on the site—
    - (i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(3), and in doing so have regard to the Contaminated Land Statutory Guidance issued by Secretary of State for the Environment, Food and Rural Affairs in April 2012, and
    - (ii) if they determine that the site will be contaminated land, refuse to give prior approval.
- (9) The development shall not be begun before the occurrence of one of the following—
- (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
  - (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or
  - (c) the expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
- (10) The development shall be carried out—
- (a) where prior approval is required, in accordance with the details approved by the local planning authority;
  - (b) where prior approval is not required, or where paragraph (9)(c) applies, in accordance with the details provided in the application referred to in paragraph (1),

unless the local planning authority and the developer agree otherwise in writing.

### Interpretation of Part 3

**O.** For the purposes of Part 3—

“2010 Order” means the Town and Country Planning (Development Management Procedure) (England) Order 2010(4);

“adjoining owner or occupier” means any owner or occupier of any premises or land adjoining the site;

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(3) 1990 c. 43. Part 2A was inserted by section 57 of the Environment Act 1995 (c.25).

(4) S.I. 2010/2184; to which there are amendments not relevant to Part 3.

“agricultural building” means a building used for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse, and “agricultural use” refers to such uses;

“curtilage” means, for the purposes of Class M only—

- (i) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building; or
- (ii) where it is not possible to discern such a piece of land, an area of land immediately beside or around the agricultural building no larger than the floor space of the building;

“flexible use” has the meaning given in paragraph M;

“Flood Zone 1”, “Flood Zone 2” and “Flood Zone 3” have the meaning given in Schedule 5 to the 2010 Order;

“military explosives storage area” means an area, including an aerodrome, depot or port, within which the storage of military explosives has been licensed by the Secretary of State for Defence, and identified on a safeguarding map provided to the local planning authority for the purposes of a direction made by the Secretary of State in exercise of powers conferred by article 25(1) of the 2010 Order (or any previous powers to the like effect)(5);

“network” and “operator”, for the purposes of paragraph N, have the same meaning as in Part I of the Railways Act 1993 (the provision of railway services)(6);

“original agricultural unit” means agricultural land which was occupied as a unit for the purposes of agriculture on 3rd July 2012;

“safety hazard area” means an area notified to the local planning authority by the Health and Safety Executive for the purposes of paragraph (e) of the Table in Schedule 5 to the 2010 Order (or any previous powers to the like effect);

“site” means the building and any land within its curtilage;

“state-funded school” means a school funded wholly or mainly from public funds, including—

- (i) an Academy school, an alternative provision Academy or a 16 to 19 Academy established under the Academies Act 2010(7);
- (ii) a school maintained by a local authority, as defined in section 142(1) of the School Standards and Framework Act 1998(8); and

“sui generis use” means a use for which no class is specified in the Schedule to the Use Classes Order.”

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(5) See the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002, which is annexed to Joint Circular 01/2003 issued on 27 January 2003 by the Office of the Deputy Prime Minister (now the Department for Communities and Local Government), the Department for Transport and National Assembly for Wales (now the Welsh Assembly Government).

(6) 1993 c. 43; see section 83.

(7) 2010 c. 32; relevant amendments were made by Part 6 of the Education Act 2011 (c. 21). The reference to educational institutions established under the Academies Act 2010 is intended to include city technical colleges, city colleges for the technology of the arts, city academies and Academies established under sections 482 and 483 of the Education Act 1996 (c. 56), which were repealed and re-enacted by the Academies Act 2010. A direct reference in this instrument to sections 482 and 483 would be construed, under section 17 of the Interpretation Act 1978 (c. 30), as a reference to sections 482 and 483 as re-enacted in the Academies Act 2010.

(8) 1998 c. 31.

## **Amendments in relation to temporary use of buildings**

7. In Part 4 of Schedule 2 (temporary buildings and uses), after Class B insert—

### **“Class C**

#### **Permitted development**

##### **C. The use of a building and any land within its curtilage as a state-funded school for a single academic year.**

#### **Development not permitted**

##### **C.1** Development is not permitted by Class C if—

- (a) the existing use of the site is not a class of use specified in the Schedule to the Use Classes Order;
- (b) the site is or forms part of a military explosives storage area;
- (c) the site is or forms part of a safety hazard area;
- (d) the building is a listed building or a scheduled monument.

#### **Conditions**

##### **C.2** Development is permitted by Class C subject to the following conditions—

- (a) the site must be approved for use as a state-funded school by the relevant Minister;
- (b) the relevant Minister must notify the local planning authority of the approval and of the proposed opening date of the school;
- (c) the site is to be used as a state-funded school and for no other purpose, including any other purpose falling within Class D1 (non-residential institutions) of the Schedule to the Use Classes Order, except to the extent that the other purpose is ancillary to the primary use of the site as a state-funded school;
- (d) the permission is granted for one academic year and it may be used only once in relation to a particular site;
- (e) the site reverts to its previous lawful use at the end of the academic year.

#### **Interpretation of Class C**

##### **C.3** For the purposes of Class C—

“academic year” means any period beginning with 1st August and ending with the next 31st July;

“relevant Minister” means the Secretary of State with policy responsibility for schools;

“state-funded school” means a school funded wholly or mainly from public funds, including—

- (i) an Academy school, an alternative provision Academy or a 16 to 19 Academy established under the Academies Act 2010<sup>(9)</sup>;

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(9) 2010 c. 32; relevant amendments were made by Part 6 of the Education Act 2011 (c. 21). The reference to educational institutions established under the Academies Act 2010 is intended to include city technical colleges, city colleges for the technology of the arts, city academies and Academies established under sections 482 and 483 of the Education Act 1996

- (ii) a school maintained by a local authority, as defined in section 142(1) of the School Standards and Framework Act 1998(10).

## Class D

### Permitted development

#### **D. Development consisting of a change of use of a building and any land within its curtilage—**

- (a) **to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1 (business) of the Schedule to the Use Classes Order,**
- (b) **from a use falling within Classes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), Class A5 (hot food takeaways), B1 (business), D1 (non-residential institutions) and D2 (assembly and leisure) of that Schedule,**

**for a single continuous period of up to two years beginning on the date the building and any land within its curtilage begins to be used for one of the flexible uses.**

### Development not permitted

#### **D.1** Development is not permitted by Class D if—

- (a) the change of use relates to more than 150 square metres of floor space in the building;
- (b) the site has at any time in the past relied upon the permission granted by Class D;
- (c) the site is or forms part of a military explosives storage area;
- (d) the site is or forms part of a safety hazard area;
- (e) the building is a listed building or a scheduled monument.

### Conditions

#### **D.2** Development is permitted by Class D subject to the following conditions—

- (a) the developer shall notify the local planning authority of the date the site will begin to be used for one of the flexible uses, and what that use will be, before the use begins;
- (b) at any given time during the two year period referred to in paragraph D the site shall be used for a purpose, or purposes, falling within just one of the use classes comprising the flexible use;
- (c) the site may at any time during the two year period change use to a use falling within one of the other use classes comprising the flexible use, subject to further notification as provided in paragraph (a);

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(c. 56), which were repealed and re-enacted by the Academies Act 2010. A direct reference in this instrument to sections 482 and 483 would be construed, under section 17 of the Interpretation Act 1978 (c. 30), as a reference to sections 482 and 483 as re-enacted in the Academies Act 2010.

(10) 1998 c. 31.

- (d) for the purposes of the Use Classes Order and this Order, during the period of flexible use the site retains the use class it had before changing to any of the flexible uses under Class D;
- (e) the site reverts to its previous lawful use at the end of the period of flexible use.

### **Interpretation of Class D**

**D.3** For the purposes of Class D “flexible use” has the meaning given in paragraph D(a).

## **Interpretation of Part 4**

**E.** For the purposes of Part 4—

“2010 Order” means the Town and Country Planning (Development Management Procedure) (England) Order 2010<sup>(11)</sup>;

“military explosives storage area” means an area, including an aerodrome, depot or port, within which the storage of military explosives has been licensed by the Secretary of State for Defence, and identified on a safeguarding map provided to the local planning authority for the purposes of a direction made by the Secretary of State in exercise of powers conferred by article 25(1) of the 2010 Order (or any previous powers to the like effect)<sup>(12)</sup>;

“safety hazard area” means an area notified to the local planning authority by the Health and Safety Executive for the purposes of paragraph (e) of the Table in Schedule 5 to the 2010 Order (or any previous powers to the like effect);

“site” means the building and any land within its curtilage.”

### **Amendments in relation to industrial and warehouse development**

**8.—(1)** In Part 8 of Schedule 2 (industrial and warehouse development), Class A is amended as follows.

(2) In paragraph A.1(d) at the beginning insert “subject to paragraph (da),”.

(3) After paragraph A.1(d) insert—

“(da) until 30th May 2016 for a building not on article 1(5) land nor on a site of special scientific interest the gross floor space of any new building erected would exceed 200 square metres;”

(4) In paragraph A.1(e) at the beginning insert “subject to paragraph (ea),”.

(5) After paragraph A.1(e) insert—

“(ea) until 30th May 2016, the gross floor space of the original building would be exceeded by more than—

- (i) 10% in respect of development on any article 1(5) land, 25% in respect of development on a site of special scientific interest and 50% in any other case; or
- (ii) 500 square metres in respect of development on any article 1(5) land or 1,000 square metres in any other case;

whichever is the lesser;”

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<sup>(11)</sup> [S.I. 2010/2184](#); to which there are amendments not relevant to Part 4.

<sup>(12)</sup> See the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002, which is annexed to Joint Circular 01/2003 issued on 27 January 2003 by the Office of the Deputy Prime Minister (now the Department for Communities and Local Government), the Department for Transport and National Assembly for Wales (now the Welsh Assembly Government).

(6) After paragraph A.2 insert—

“**A.2A.**—(1) The following conditions apply to development permitted by Class A which—

- (a) exceeds the limit in paragraph A.1(d) but is allowed by paragraph A.1(da); or
  - (b) exceeds the limits in paragraph A.1(e) but is allowed by paragraph A.1(ea).
- (2) The development shall be completed on or before 30th May 2016.
- (3) The developer shall notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.
- (4) The notification shall be in writing and shall include—
- (a) the name of the developer,
  - (b) the address or location of the development,
  - (c) a description of the development, including measurements and calculations relevant to the requirements of paragraphs A.1(da) and (ea), and
  - (d) the date of completion.”

#### **Amendments in relation to development by electronic communications code operators**

**9.**—(1) Part 24 of Schedule 2 (development by electronic communications code operators) is amended as follows.

(2) In paragraph A.2(4) at the beginning insert “Subject to paragraph (4A),”

(3) After paragraph A.2(4) insert—

“(4A) The conditions set out in paragraph A.3 (prior approval) do not apply in relation to Class A development on any article 1(5) land which consists of the construction, installation, alteration or replacement of a telegraph pole, cabinet or line, in connection with the provision of fixed-line broadband, provided that the development is completed on or before 30th May 2018.”

(4) After paragraph A.3(4)(a) insert—

“(aa) by the developer’s contact address, and the developer’s email address if the developer has one;”

(5) In paragraph A.4—

(a) after the definition of “antenna system” insert—

““fixed-line broadband” means a service or connection (commonly referred to as being ‘always on’), via a fixed-line network, providing a bandwidth greater than narrowband;”; and

(b) after the definition of “mast” insert—

““narrowband” means a service or connection providing data speeds up to 128 k bit/s;”

#### **Amendments in relation to schools**

**10.** In Part 32 of Schedule 2 (schools, colleges, universities and hospitals), after paragraph B.2 insert—

## “Interpretation of Part 32

C. For the purposes of Part 32, “school” includes a building permitted by Class C of Part 4 of this Schedule to be used temporarily as a school, from the date the local planning authority is notified as provided in paragraph C.2(b) of Class C of Part 4.”

### Amendments in relation to office buildings

- 11.**—(1) In Part 41 of Schedule 2 (office buildings) Class A(**13**) is amended as follows.
- (2) In paragraph A.1(a) at the beginning insert “subject to paragraph (aa),”.
- (3) After paragraph A.1(a) insert—
- “(aa) until 30th May 2016 for a building not on a site of special scientific interest the gross floor space of the original building would be exceeded by more than—
- (i) 50%; or
- (ii) 100 square metres,
- whichever is the lesser;”
- (4) After paragraph A.2 insert—

- “**A.2A.**—(1) The following conditions apply to development permitted by Class A which exceeds the limits in paragraph A.1(a) but is allowed by paragraph A.1(aa).
- (2) The development shall be completed on or before 30th May 2016.
- (3) The developer shall notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.
- (4) The notification shall be in writing and shall include—
- (a) the name of the developer,
- (b) the address or location of the development,
- (c) a description of the development, including measurements and calculations relevant to the requirements of paragraph A.1(aa), and
- (d) the date of completion.”

### Amendments in relation to shops or catering, financial or professional services establishments

- 12.**—(1) In Part 42 of Schedule 2 (shops or catering, financial or professional services establishments), Class A is amended as follows.
- (2) In paragraph A.1(a) at the beginning insert “subject to paragraph (aa),”.
- (3) After paragraph A.1(a) insert—
- “(aa) until 30th May 2016 for a building not on a site of special scientific interest the gross floor space of the original building would be exceeded by more than—
- (i) 50%; or
- (ii) 100 square metres,
- whichever is the lesser;”
- (4) In paragraph A.1(c) at the beginning insert “subject to paragraph (ca),”.
- (5) After paragraph A.1(c) insert—



- “(ca) until 30th May 2016 paragraph (c) only applies where—
- (i) the land on which the building is located adjoins land or a building which is used for a purpose falling within Class C of the Schedule to the Use Classes Order;
  - (ii) the development is on article 1(5) land; or
  - (iii) the development is on a site of special scientific interest;”
- (6) After paragraph A.2 insert—
- “**A.2A.**—(1) The following conditions apply to development permitted by Class A which—
- (a) exceeds the limits in paragraph A.1(a) but is allowed by paragraph A.1(aa); or
  - (b) relies upon the disapplication of paragraph A.1(c) provided by paragraph A.1(ca).
- (2) The development shall be completed on or before 30th May 2016.
- (3) The developer shall notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.
- (4) The notification shall be in writing and shall include—
- (a) the name of the developer,
  - (b) the address or location of the development,
  - (c) a description of the development, including measurements and calculations relevant to the requirements of paragraph A.1(aa), and
  - (d) the date of completion.”

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

*Nick Boles*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

7th May 2013

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends, in England, the Town and Country Planning (General Permitted Development) Order 1995 ([S.I. 1995/418](#)) (“the 1995 Order”).

Article 3 amends article 1 of the 1995 Order to insert a definition of article 1(6A) land. It also inserts a new Part 4 into Schedule 1 to the 1995 Order which provides a list of article 1(6A) land. The new permitted development right in class J of Part 3 of Schedule 2 to the 1995 Order (inserted by article 6(2) of this Order) does not apply in relation to any building on article 1(6A) land.

Article 4 amends Part 1 of Schedule 2 to the 1995 Order to allow larger home extensions to be built until 30th May 2016. This temporary permitted development right is subject to a new procedure. Before beginning the development the person relying on the right must notify the local planning authority. The authority will then notify neighbouring properties. If neighbours object to the proposed development the authority must consider whether the extension should be approved. The development may not be started until the authority has notified the person of their decision or until the expiry of 42 days without such a decision being notified.

Article 5 amends Class A of Part 2 of Schedule 2 to the 1995 Order to allow schools to build a higher boundary fence or wall adjacent to a highway, provided it does not create an obstruction which is likely to be a danger for highway users. “School” is defined to include buildings which qualify for the right to change temporarily to use as a state-funded school under new Class C of Part 4 of Schedule 2 (see article 7 of this Order), from the date the local planning authority is notified by the relevant Minister that the site has been approved for temporary school use.

Article 6 amends Part 3 of Schedule 2 to the 1995 Order as follows. Article 6(1) amends Class B of Part 3 to increase the size of floor space in business premises which may change use from use classes B1 or B2 in the Schedule to the Town and Country Planning (Use Classes) Order 1987 ([S.I. 1987/764](#)) (“the Use Classes Order”) to use class B8, or from use classes B2 or B8 to use class B1, from 235 square metres to 500 square metres.

Article 6(2) inserts new Class J into Part 3 (changes of use). The new permitted development right is temporary, will expire on 30th May 2016, and does not apply on land in certain areas. Those areas are certain military sites, safety hazard areas and areas described as article 1(6A) land and are defined in article 1(6A) of, and Part 4 of Schedule 1 to, the 1995 Order (inserted by article 3 of this Order). The new permitted development right is subject to the conditions in paragraph J.2 – this requires prior approval of the local planning authority in relation to transport and highways, contamination and flooding. Paragraph N sets out the procedure for applying for approval.

Article 6(2) also inserts new Class K into Part 3 (changes of use). This new permitted development right enables various types of building to change use to use as a state-funded school, subject to the approval of the local planning authority regarding transport and highways, noise impacts and contamination, and Class L allows reversion to the previous use.

Article 6(2) also inserts new Class M into Part 3 (changes of use). This new permitted development right allows existing agricultural buildings to change use to a flexible use falling within use class A1, A2, A3, B1, B8, C1 or D2 in the Schedule to the Use Classes Order. To qualify the building must have been in agricultural use since 3rd July 2012 or if the use began later than that date, for a period of at least 10 years. No more than 500 square metres of floor space in the building can be converted to a new use under the new right. Before beginning the development the person relying on the right must notify the local planning authority. If the change of use relates to more than 150

square metres of floor space the new permitted development right is subject to prior approval of the local planning authority in relation to transport and highways, noise impacts, contamination and flooding. Paragraph N sets out the procedure for applying for approval.

Article 6(2) also inserts, a new paragraph N into Part 3 (change of use), which is a new provision setting out the procedure to be followed where a developer is required to apply to the local planning authority for prior approval under Part 3. The procedure is similar to the existing procedures for other prior approvals under Schedule 2 to the 1995 Order.

Article 6(2) also inserts a new interpretation provision at paragraph O of Part 3 (change of use).

Article 7 amends Part 4 of Schedule 2 to the 1995 Order as follows. Article 7 inserts a new class C into Part 4 which is a temporary permitted development right allowing any building being used for a purpose which falls within one of the use classes set out in the Schedule to the Use Classes Order to change to use as a state-funded school for a single period of one academic year, provided the building has been approved for school use by the relevant Minister, the Secretary of State responsible for schools.

Article 7 also inserts a new class D into Part 4 of Schedule 2 to the 1995 Order which is a new permitted development right allowing any building within use classes A1, A2, A3, A4, A5, B1, D1 and D2 in the Schedule to the Use Classes Order to change to a flexible use falling within either use class A1, A2, A3 or B1. The new use may only be for a single continuous period of up to 2 years. The change of use may only relate to a floor space of no more than 150 square metres.

Article 8 amends Part 8 of Schedule 2 to the 1995 Order to increase the permitted development right to erect, extend or alter industrial and warehouse premises from 25% of gross floor space or 100 square metres (whichever is the lesser) to 50% or 200 square metres. The new permitted development right is temporary and will expire on 30th May 2016.

Article 9 amends Part 24 of Schedule 2 to the 1995 Order which sets out permitted development rights in relation to developments by electronic communications code operators. Article 9 provides that, in relation to article 1(5) land, the construction, installation or replacement of telegraph poles, cabinets or lines for fixed-line broadband services will not require prior approval under paragraph A.3 of Part 24 for a 5 year period. In order to rely on this change to the permitted development rights, development must be completed before 30th May 2018.

Article 10 amends Part 32 of Schedule 2 to the 1995 Order to give buildings which qualify for the right to change temporarily to school use under new Class C of Part 4 of Schedule 2 (see article 7) the benefit of existing permitted development rights which allow schools to carry out building works (including the erection, extension or alteration of buildings and the provision of hard surfaces) subject to various conditions and limitations. This will apply from the date the local planning authority is notified by the relevant Minister that the site has been approved for school use.

Article 11 amends Part 41 of Schedule 2 to the 1995 Order to increase the permitted development right to extend or alter an office building from 25% of gross floor space or 50 square metres (whichever is the lesser) to 50% or 100 square metres. The new permitted development right is temporary and will expire on 30th May 2016.

Article 12 amends Part 42 of Schedule 2 to the 1995 Order to increase the permitted development right to extend or alter a shop, catering, professional or financial services establishment from 25% of gross floor space or 50 square metres (whichever is the lesser) to 50% or 100 square metres. The new permitted development right is temporary and will expire on 30th May 2016. The exclusion of development within 2 metres of the boundary of the curtilage is removed during the same period except in relation to premises which adjoin land or buildings in residential use.

An impact assessment has been prepared in relation to this Order. The assessment has been placed in the Library of each House of Parliament and copies may be obtained from the Department for Communities and Local Government, Bressenden Place, London, SW1E 5DU or from the Department's website:

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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