

SCHEDULE 2

Permitted development rights

PART 17

Mining and mineral exploration

Class D – coal mining development by the Coal Authority and licensed operators

Permitted development

D. Development by a licensee of the Coal Authority, in a mine started before 1st July 1948, consisting of—

- (a) *the winning and working underground of coal or coal-related minerals in a designated seam area; or*
- (b) *the carrying out of development underground which is required in order to gain access to and work coal or coal-related minerals in a designated seam area.*

Conditions

D.1 Development is permitted by Class D subject to the following conditions—

- (a) subject to paragraph (b)—
 - (i) except in a case where there is an approved restoration scheme or mining operations have permanently ceased, the developer must, before 31st December 1995 or before any later date which the mineral planning authority⁽¹⁾ may agree in writing, apply to the mineral planning authority for approval of a restoration scheme;
 - (ii) where there is an approved restoration scheme, reinstatement, restoration and aftercare is carried out in accordance with that scheme;
 - (iii) if an approved restoration scheme does not specify the periods within which reinstatement, restoration or aftercare should be carried out, it is subject to conditions that—
 - (aa) reinstatement or restoration, if any, is to be carried out before the end of the period of 24 months from either the date when the mining operations have permanently ceased or the date when any application for approval of a restoration scheme under paragraph (a)(i) has been finally determined, whichever is later, and
 - (bb) aftercare, if any, in respect of any part of a site, is to be carried out throughout the period of 5 years from either the date when any reinstatement or restoration in respect of that part is completed or the date when any application for approval of a restoration scheme under paragraph (a)(i) has been finally determined, whichever is later;
 - (iv) where there is no approved restoration scheme—
 - (aa) all buildings, plant, machinery, structures and erections used at any time for or in connection with any previous coal-mining operations at that mine

⁽¹⁾ See section 1(4) of the Act.

Status: This is the original version (as it was originally made).

are removed from any land which is an authorised site unless the mineral planning authority have otherwise agreed in writing; and

- (bb) that land is, so far as practicable, restored to its condition before any previous coal-mining operations at that mine took place or to such condition as may have been agreed in writing between the mineral planning authority and the developer,

before the end of the period specified in paragraph (a)(v);

- (v) the period referred to in paragraph (a)(iv) is—

- (aa) the period of 24 months from the date when the mining operations have permanently ceased or, if an application for approval of a restoration scheme has been made under paragraph (a)(i) before that date, 24 months from the date when that application has been finally determined, whichever is later, or

- (bb) any longer period which the mineral planning authority have agreed in writing;

- (vi) for the purposes of paragraph (a), an application for approval of a restoration scheme has been finally determined when the following conditions have been met—

- (aa) any proceedings on the application, including any proceeding on or in consequence of an application under section 288 of the Act (proceedings for questioning the validity of certain orders, decisions and directions)(2), have been determined, and

- (bb) any time for appealing under section 78 (right to appeal against planning decisions and failure to take such decisions)(3), or applying or further applying under section 288, of the Act (where there is a right to do so) has expired; and

- (b) paragraph (a) does not apply to land in respect of which there is an extant planning permission which—

- (i) has been granted on an application under Part 3 of the Act; and

- (ii) has been implemented.

Interpretation of Class D

D.2 For the purposes of Class D—

“approved restoration scheme” means a restoration scheme which is approved when an application made under paragraph D.1(a)(i) is finally determined, as approved (with or without conditions), or as subsequently varied with the written approval of the mineral planning authority (with or without conditions);

“coal-related minerals” means minerals other than coal which are, or may be, won and worked by coal-mining operations;

“designated seam area” means land identified, in accordance with paragraph (a) of the definition of “seam plan”, in a seam plan which was deposited with the mineral planning authority before 30th September 1993;

“a licensee of the Coal Authority” means any person who is for the time being authorised by a licence under Part 2 of the Coal Industry Act 1994 to carry on coal-mining operations to which section 25 of that Act (coal-mining operations to be licensed) applies;

(2) Section 288 was amended by Schedule 3 to the Tribunals and Inquiries Act 1992 (c. 53).

(3) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34), Schedules 10 and 11 to the Planning Act 2008 (c. 29), section 123 of, and Schedule 12 to, the Localism Act 2011 (c. 20) and Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27).

“previous coal-mining operations” has the same meaning as in section 54(3) of the Coal Industry Act 1994 (obligations to restore land affected by coal-mining operations) and references in Class D to the use of anything in connection with any such operations include references to its use for or in connection with activities carried on in association with, or for purposes connected with, the carrying on of those operations;

“restoration scheme” means a scheme which makes provision for the reinstatement, restoration or aftercare (or a combination of these) of any land which is an authorised site and has been used at any time for or in connection with any previous coal-mining operations at that mine; and

“seam plan” means a plan on a scale of not less than 1 to 25,000 showing—

- (a) land comprising the maximum extent of the coal seam or seams that could have been worked from shafts or drifts existing at a mine at 13th November 1992, without further development on an authorised site other than development permitted by Class B of Part 20 of Schedule 2 to the Town and Country Planning General Development Order 1988(4), as originally enacted;
- (b) any active access used in connection with the land referred to in paragraph (a) of this definition;
- (c) the National Grid lines and reference numbers shown on Ordnance Survey maps;
- (d) a typical stratigraphic column showing the approximate depths of the coal seam referred to in paragraph (a) of this definition.