

SCHEDULE 2

Permitted development rights

PART 17

Mining and mineral exploration

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

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 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—

⁽¹⁾ See section 1(4) of the Act.

Status: This is the original version (as it was originally made).

- (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.

⁽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).