SCHEDULE 2
Permitted development rights

PART 17
Mining and mineral exploration

Class M - removal of material from mineral-working deposits

Permitted development

M. The removal of material of any description from a mineral-working deposit other than a stockpile.

Development not permitted

M.1. Development is not permitted by Class M if—
(a) the developer has not previously notified the mineral planning authority in writing of its intention to carry out the development and supplied them with the appropriate details;
(b) the deposit covers a ground area exceeding 2 hectares, unless the deposit contains no mineral or other material which was deposited on the land more than 5 years before the development, or
(c) the deposit derives from the carrying out of any operations permitted under Class A, B or C of Part 6 (agricultural development) of this Schedule or any Class in a previous development order which it replaces.

Conditions

M.2. Development is permitted by Class M subject to the following conditions—
(a) it is carried out in accordance with the details given in the notice sent to the mineral planning authority referred to in paragraph M.1(a), unless that authority have agreed otherwise in writing;
(b) if the mineral planning authority so require, the developer must within a period of 3 months from the date of the requirement (or such other longer period as that authority may provide) submit to them for approval a scheme providing for the restoration and aftercare of the site;
(c) where such a scheme is required, the site is restored and aftercare is carried out in accordance with the provisions of the approved scheme; and
(d) development is not be commenced until the relevant period has elapsed.

Interpretation of Class M

M.3. For the purposes of Class M—
“appropriate details” means—
(a) the nature of the development;
(b) the exact location of the mineral-working deposit from which the material would be removed;

(1) See section 1(4) of the Act.
(c) the proposed means of vehicular access to the site at which the development is to be carried out, and

(d) the earliest date at which any mineral presently contained in the deposit was deposited on the land; and

“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 M.1(a) or, if earlier, on the date on which the mineral planning authority notify the developer in writing that they 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 direction is sent to the Secretary of State, or, if earlier, the date on which the mineral planning authority notify the developer that the Secretary of State has disallowed the direction.

Interpretation of Part 17

N.1. For the purposes of Part 17—

“active access” means a surface access to underground workings which is in normal and regular use for the transportation of coal, materials, spoil or persons;

“ancillary mining land” means land adjacent to and occupied together with a mine at which the winning and working of minerals is carried out in pursuance of planning permission granted or deemed to be granted under Part 3 of the Act (control over development)(2);

“coal-mining operations” has the same meaning as in section 65 of the Coal Industry Act 1994 (interpretation) and references to any development or use in connection with coal-mining operations include references to development or use for or in connection with activities carried on in association with, or for purposes connected with, the carrying on of those operations;

“licensed operator” has the same meaning as in section 65 of the Coal Industry Act 1994;

“mineral exploration” means ascertaining the presence, extent or quality of any deposit of a mineral with a view to exploiting that mineral;

“minerals” does not include any coal other than coal won or worked during the course of operations which are carried on exclusively for the purpose of exploring for coal or confined to the digging or carrying away of coal that it is necessary to dig or carry away in the course of activities carried on for purposes which do not include the getting of coal or any product of coal;

“normal and regular use” means use other than intermittent visits to inspect and maintain the fabric of the mine or any plant or machinery;

“relevant scheme” means a scheme, other than a waste management scheme, requiring approval by the mineral planning authority in accordance with a condition or limitation on any planning permission granted or deemed to be granted under Part 3 of the Act (control over development), for making provision for the manner in which the deposit of waste is to be carried out and for the carrying out of other activities in relation to that deposit;

“stockpile” means a mineral-working deposit consisting primarily of minerals which have been deposited for the purposes of their processing or sale;

“structure” includes a building, plant or machinery; and

“underground mine” is a mine at which minerals are worked principally by underground methods.

(2) See in particular section 58; which was amended by Schedule 12 to the Localism Act 2011 (c. 20) and Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27).
N.2.—(1) An area of land is an approved site for the purposes of Class A and B of this Part if—
(a) it is identified in a grant of planning permission or any instrument by virtue of which planning permission is deemed to be granted, as land which may be used for development described in this Part; or
(b) in any other case, it is land immediately adjoining an active access to an underground mine which, on 5th December 1988, was in use for the purposes of that mine, in connection with the purposes described in paragraph A.1(b)(i) or (ii) or paragraph B.1(b)(i) to (iii) of this Part.

(2) Subject to sub-paragraph (3), land is an authorised site for the purposes of Class D and F of this Part if—
(a) it is identified in a grant of planning permission or any instrument by virtue of which planning permission is deemed to be granted as land which may be used for development described in this Part; or
(b) in any other case, it is land immediately adjoining an active access which, on 5th December 1988, was in use for the purposes of that mine in connection with coal-mining operations.

(3) For the purposes of sub-paragraph (2), land is not to be regarded as in use in connection with coal-mining operations if—
(a) it is used for the permanent deposit of waste derived from the winning and working of minerals; or
(b) there is on, over or under it a railway, conveyor, aerial ropeway, roadway, overhead power line or pipe-line which is not itself surrounded by other land used for those purposes.