
STATUTORY INSTRUMENTS

2021 No. 1464

The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 3) Order 2021

Amendment of Part 4 (temporary buildings and uses)

5. In Part 4, for Class BB (moveable structures for specified uses) substitute—

“Class BB – moveable structures for historic visitor attractions and listed pubs, restaurants etc

Permitted development

BB. *The provision of one moveable structure within the curtilage, and for the purposes, of—*

(a) a listed building used for a purpose within—

(i) article 3(6)(p) or (q) (drinking establishments etc.) of the Use Classes Order; or

(ii) Class E(b) (sale of food and drink etc.) of Schedule 2 to that Order; or

(b) a historic visitor attraction.

Development not permitted

BB.1. Development is not permitted by Class BB—

- (a) on land which is or forms part of a scheduled monument or land within its curtilage;
- (b) if any part of the moveable structure would be within 2 metres of the curtilage of any adjacent land that is used for a purpose within Part C (residential uses) of Schedule 1 to the Use Classes Order;
- (c) if it would result in provision of a moveable structure being made within the curtilage of a building under Class BB on a total of more than 120 days in the relevant period;
- (d) if the height of the moveable structure would exceed 3 metres;
- (e) if the footprint of the moveable structure would exceed the lesser of—
 - (i) 50% of the footprint of the building, or
 - (ii) 50 square metres;
- (f) if the moveable structure is used for the display of an advertisement.

Conditions

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

- (a) where the moveable structure provided under Class BB is removed, the land must, as soon as reasonably practicable and so far as reasonably practicable, be reinstated to its original condition;
- (b) before a moveable structure is provided under Class BB (whether for the first time, or following the expiry of the relevant period), 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—

- (i) the siting of the moveable structure, and
 - (ii) the method by which it is to be installed,
- and paragraph BB.3 applies in relation to that application.

Procedure for applications for prior approval under Class BB

BB.3.—(1) This paragraph applies where under Class BB a developer is required to make an application to the local planning authority for a determination as to whether the prior approval of the authority will be required.

(2) The application must be accompanied by—

- (a) a written description of the proposed development;
- (b) a plan indicating the site and showing the proposed development;
- (c) a statement setting out the proposed methods of—
 - (i) installing the moveable structure; and
 - (ii) reinstating the land to its original condition once the moveable structure is removed;
- (d) the developer’s contact address; and
- (e) the developer’s email address if the developer is content to receive communications electronically,

together with any fee required to be paid.

(3) The local planning authority may refuse an application where, in the opinion of the authority—

- (a) the proposed development does not comply with, or
- (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with,

any conditions and limitations specified in Class BB as being applicable to the development in question.

(4) Sub-paragraphs (5) to (7) and (9) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

(5) On receipt of the application, the local planning authority must consult Historic England.

(6) The local planning authority must notify Historic England specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

(7) The local planning authority must 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.

- (8) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application.
- (9) The local planning authority must, when determining an application—
- (a) take into account any representations made to them as a result of consultation under sub-paragraph (5) and any notice given under sub-paragraph (7); and
 - (b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in July 2021, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.
- (10) The development must not begin 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 referred to in sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
- (11) The development must 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 sub-paragraph (10)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (2), unless the local planning authority and the developer agree otherwise in writing.
- (12) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
- (13) When computing the number of days in sub-paragraph (7)(a), any day which is a public holiday must be disregarded.

Interpretation of Class BB

BB.4. For the purposes of Class BB—

“footprint”, in relation to a building or a moveable structure, means the total area of ground covered by the building or moveable structure;

“historic visitor attraction” means a listed building accessible by members of the public (whether or not for an entry fee) for the purposes of promoting their enjoyment, and advancing their knowledge, of the building;

“original condition”, in relation to land on which a moveable structure is provided, means the condition of the land before the moveable structure was provided;

“relevant period” means the period of 12 months beginning with the day on which one of the events described in paragraph BB.3(10) occurs.”.