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STATUTORY INSTRUMENTS

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**2021 No. 428**

**The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021**

**Insertion of Class MA in Part 3 of Schedule 2**

6. After Class M (retail, takeaways and specified sui generis uses to dwellinghouses) of Part 3 of Schedule 2 insert—

*“Class MA – commercial, business and service uses to dwellinghouses*

**Permitted development**

**MA.** *Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.*

**Development not permitted**

**MA.1.**—(1) Development is not permitted by Class MA—

- (a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;
- (b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;
- (c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;
- (d) if land covered by, or within the curtilage of, the building—
  - (i) is or forms part of a site of special scientific interest;
  - (ii) is or forms part of a listed building or land within its curtilage;
  - (iii) is or forms part of a scheduled monument or land within its curtilage;
  - (iv) is or forms part of a safety hazard area; or
  - (v) is or forms part of a military explosives storage area;
- (e) if the building is within—
  - (i) an area of outstanding natural beauty;
  - (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(1);

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(1) 1981 c. 69. Section 41 was amended by sections 20 and 24 of, and Schedules 2 and 4 to, the Agriculture Act 1986 (c. 49), Schedule 3 to the Norfolk and Suffolk Broads Act 1988 (c. 4), Schedule 10 to the Environment Act 1995 (c. 25) and Schedules 11 and 12 to the Natural Environment and Rural Communities Act 2006 (c. 16). There are other amendments not relevant to this Order.

- (iii) the Broads;
- (iv) a National Park; or
- (v) a World Heritage Site;
- (f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or
- (g) before 1 August 2022, if—
  - (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
  - (ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

- (a) the following classes of the Schedule as it had effect before 1st September 2020—
  - (i) Class A1 (shops);
  - (ii) Class A2 (financial and professional services);
  - (iii) Class A3 (food and drink);
  - (iv) Class B1 (business);
  - (v) Class D1(a) (non-residential institutions – medical or health services);
  - (vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);
  - (vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;
- (b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

### **Conditions**

**MA.2.**—(1) Development under Class MA is permitted subject to the following conditions.

(2) Before beginning development under Class MA, 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—

- (a) transport impacts of the development, particularly to ensure safe site access;
- (b) contamination risks in relation to the building;
- (c) flooding risks in relation to the building;
- (d) impacts of noise from commercial premises on the intended occupiers of the development;
- (e) where—
  - (i) the building is located in a conservation area, and
  - (ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
- (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

- (g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and
- (h) where the development involves the loss of services provided by—
  - (i) a registered nursery, or
  - (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006(2),

the impact on the local provision of the type of services lost.

(3) An application for prior approval for development under Class MA may not be made before 1 August 2021.

(4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if in the introductory words in sub-paragraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”.

(5) Development must be completed within a period of 3 years starting with the prior approval date.

(6) Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.”.

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(2) 2006 c. 41. Section 2 was substituted by paragraph 1(1) of Schedule 4 to the Health and Social Care Act 2012 (c. 7), and section 3 was amended by section 13(2)(a) and (b), (3), (4), (5) and (6) of that Act.