

This Statutory Instrument corrects errors in S.I. 2021/428 and S.I. 2021/746 and is being issued free of charge to all known recipients of each of those Statutory Instruments.

STATUTORY INSTRUMENTS

2021 No. 814

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 2) Order 2021

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| <i>Made</i> | - - - - | <i>7th July 2021</i> |
| <i>Laid before Parliament</i> | | <i>9th July 2021</i> |
| <i>Coming into force</i> | - - | <i>1st August 2021</i> |

The Secretary of State makes the following Order in exercise of the powers conferred by sections 59, 60, 61, 62(1), 76C(2) and (3), 108(2A), (3C), (5) and (6) and 333(1), (2A) and (7) of the Town and Country Planning Act 1990⁽¹⁾ and sections 54 and 122(1)(a) of the Planning and Compulsory Purchase Act 2004⁽²⁾:

Citation, commencement, extent and application

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 2) Order 2021 and comes into force on 1st August 2021.

(2) This Order extends to England and Wales, and any amendment made by this Order has the same application as the provision amended.

(1) 1990 c. 8. Amendments have been made to section 59 which are not relevant to this Order. Section 60 was amended by section 4(1) of the Growth and Infrastructure Act 2013 (c. 27) (“the 2013 Act”) and section 152 of the Housing and Planning Act 2016 (c. 22) (“the 2016 Act”); section 62 was amended by paragraph 8(2) of Schedule 12 to the 2016 Act; section 76C was inserted by paragraph 5 of Schedule 1 to the 2013 Act; section 108(2A) and (3C) was inserted by section 189 of the Planning Act 2008 (c. 29) (“the 2008 Act”) and amended by S.I. 2012/210 and paragraph 29(5), (6) and (7) of Schedule 12 to the 2016 Act; section 108(6) was inserted by section 189 of the 2008 Act and S.I. 2006/1281; section 333(1) was amended by paragraph 32(12) of Schedule 10 to the Environment Act 1995 (c. 25); and section 333(2A) was inserted by paragraph 14(2) of Schedule 6 to the Planning and Compulsory Purchase Act 2004 (c. 5).

(2) 2004 c. 5.

Amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015

2. The Town and Country Planning (General Permitted Development) (England) Order 2015(3) is amended in accordance with articles 3 to 9.

Amendments to Part 1 of Schedule 2

3.—(1) Part 1 (development within the curtilage of a dwellinghouse) of Schedule 2 (permitted development rights) is amended as follows.

(2) In each of the following provisions, after “Class” insert “G,”—

- (a) paragraph A.1(a) (development not permitted) of Class A (enlargement, improvement or other alteration of a dwellinghouse);
- (b) paragraph AA.1(a) (development not permitted) of Class AA (enlargement of a dwellinghouse by construction of additional storeys);
- (c) paragraph B.1(a) (development not permitted) of Class B (additions etc to the roof of a dwellinghouse);
- (d) paragraph C.1(a) (development not permitted) of Class C (other alterations to the roof of a dwellinghouse);
- (e) paragraph D.1(a) (development not permitted) of Class D (porches);
- (f) paragraph E.1(a) (development not permitted) of Class E (buildings etc incidental to the enjoyment of a dwellinghouse);
- (g) paragraph F.1(a) (development not permitted) of Class F (hard surfaces incidental to the enjoyment of a dwellinghouse);
- (h) paragraph G.1(a) (development not permitted) of Class G (chimneys, flues etc on a dwellinghouse);
- (i) paragraph H.1(a) (development not permitted) of Class H (microwave antenna on a dwellinghouse).

(3) In sub-paragraph (2) of paragraph AA.3 (procedure for applications for prior approval) of Class AA (enlargement of a dwellinghouse by construction of additional storeys), after paragraph (c) insert—

“together with any fee required to be paid.”.

Amendments to Part 3 of Schedule 2

4.—(1) Part 3 (changes of use) of Schedule 2 is amended as follows.

(2) For Class A (restaurants, cafes or takeaways to retail), substitute—

“Class A – casino, betting office, pay day loan shop or hot food takeaway to commercial, business and service

Permitted development

A. Development consisting of a change of use of a building from a use falling within one of the following provisions of the Use Classes Order—

(3) S.I. 2015/596, which has been amended by S.I. 2016/332, 2016/765, 2016/772, 2016/1040, 2016/1154, 2017/391, 2017/571, 2017/619, 2017/1011, 2017/1012, 2018/119, 2018/343, 2018/695, 2019/907, 2020/330, 2020/412, 2020/632, 2020/755, 2020/756, 2020/1243, 2020/1459, 2021/428 and 2021/467.

- (a) article 3(6)(m) (casino);
- (b) article 3(6)(n) (betting office);
- (c) article 3(6)(o) (pay day loan shop); or
- (d) article 3(6)(r) (hot food takeaway),

to a use falling within Class E (commercial, business and service) of Schedule 2 to that Order.

Conditions

A.1. Development under Class A is permitted subject to the condition that, before beginning the development, the developer provides written notification to the local planning authority of the date on which the use of the building will change.”.

(3) For paragraph AA (permitted development) of Class AA (drinking establishments with expanded food provision) substitute—

“Permitted development

AA. Development consisting of a change of use of a building and any land within its curtilage—

(a) from a use falling within article 3(6)(p) (public house, wine bar, or drinking establishment) of the Use Classes Order to a use falling within article 3(6)(q) (drinking establishment with expanded food provision) of that Order; or

(b) from a use falling within article 3(6)(q) to a use falling within article 3(6)(p).”.

(4) Omit Class B (takeaways to restaurants and cafes).

(5) Omit Class C (retail, betting office or pay day loan shop or casino to restaurant or cafe).

(6) Omit Class D (shops to financial and professional).

(7) Omit Class E (financial and professional or betting office or pay day loan shop to shops).

(8) Omit Class F (betting offices or pay day loan shops to financial and professional).

(9) In Class G (retail or betting office or pay day loan shop to mixed use)—

(a) in the heading, for “retail” substitute “commercial, business and service”;

(b) in paragraph G (permitted development)—

(i) for sub-paragraph (a), substitute—

“(a) from a use within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order, to a mixed use for any purpose within that Class and as up to 2 flats;”;

(ii) omit sub-paragraph (b);

(iii) for sub-paragraph (c), substitute—

“(c) from a use within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order, to a mixed use for any purpose within Class E (commercial, business and service) of Schedule 2 to that Order and as up to 2 flats;”;

(iv) omit sub-paragraph (d);

(v) in sub-paragraph (e), for “as a betting office or a pay day loan shop”, in both places it occurs, substitute “falling within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order”;

(c) in paragraph G.1 (conditions)—

- (i) in sub-paragraph (a), for the words from “as a betting office” to “of the Schedule 2 to” substitute—
 - “for a use within, as the case may be, article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of, or Class E of Schedule 2 to,”;
 - (ii) at the end of sub-paragraph (c), insert—
 - “;
 - (d) before beginning development, 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) contamination risks in relation to the building;
 - (ii) flooding risks in relation to the building;
 - (iii) impacts of noise from commercial premises on the intended occupiers of the development;
 - (iv) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
 - (v) arrangements required for the storage and management of domestic waste.”.
- (10) In Class H (mixed use to retail)—
- (a) in the heading, for “retail” substitute “commercial, business and service or betting office or pay day loan shop”;
 - (b) in paragraph H (permitted development)—
 - (i) for sub-paragraph (a), substitute—
 - “(a) from a mixed use for any purpose within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order and as up to 2 flats, to a use for any purpose within that Class;”;
 - (ii) omit sub-paragraph (b);
 - (iii) for sub-paragraph (c), substitute—
 - “(c) from a mixed use within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order and as up to 2 flats, to use for any purpose within Class E (commercial, business and service) of Schedule 2 to that Order;”;
 - (iv) omit sub-paragraph (d);
 - (v) in sub-paragraph (e), for “as a betting office or a pay day loan shop”, in both places it occurs, substitute “within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order”;
 - (c) for paragraph H.1 (development not permitted), substitute—

“Development not permitted

H.1. Development is not permitted by Class H unless each part of the building used as a flat was, immediately prior to being so used, used for any purpose within, as the case may be, article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of, or Class E of Schedule 2 to, the Use Classes Order.”.

- (11) For Class I (industrial and general business conversions), substitute—

“Class I – industrial conversions

Permitted development

I. Development consisting of a change of use of a building from any use falling within Class B2 (general industrial) of Schedule 1 to the Use Classes Order, to a use for any purpose falling within Class B8 (storage or distribution) of that Schedule.

Development not permitted

I.1. Development is not permitted by Class I if the change of use relates to more than 500 square metres of floor space in the building.”.

(12) Omit Class J (retail or betting office or pay day loan shop to assembly and leisure).

(13) Omit Class JA (retail, takeaway, betting office, pay day loan shop and launderette uses to offices).

(14) Omit Class K (casinos to assembly and leisure).

(15) In Class M—

(a) for the heading, substitute “certain uses to dwellinghouses”;

(b) for paragraph M (permitted development), substitute—

“Permitted development

M. Development consisting of—

(a) a change of use of a building from—

(i) a use falling within one of the following—

(aa) launderette;

(bb) betting office;

(cc) pay day loan shop;

(dd) hot food takeaway; or

(ii) a mixed use combining use as a dwellinghouse with a use falling within one of the uses mentioned in paragraph (i)(aa), (bb) or (cc) (whether that use was granted permission under Class G of this Part or otherwise);

to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order; or

(b) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses).”;

(c) in paragraph M.1 (development not permitted), omit sub-paragraph (b);

(d) in sub-paragraph (1)(d) of paragraph M.2 (conditions)—

(i) for sub-paragraph (i) substitute—

“(i) on adequate provision of services of the sort that may be provided by a building falling within article 3(6)(c) (launderette) of the Use Classes Order, but only where there is a reasonable prospect of the building being used to provide such services,”;

(ii) omit sub-paragraph (ii).

(16) In Class MA (commercial, business and service uses to dwellinghouses)—

- (a) in paragraph MA.2 (conditions)—
 - (i) in sub-paragraph (2)—
 - (aa) at the end of paragraph (g), omit “and”;
 - (bb) at the end of paragraph (h), insert—
 - “; and
 - (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building”;
 - (ii) in sub-paragraph (4), for the words “as if” to the end substitute—
 - “as if—
 - (a) for paragraph (e) of sub-paragraph (2) there were substituted—
 - “(e) where—
 - (i) sub-paragraph (6) requires the Environment Agency(4) to be consulted, a site-specific flood risk assessment;
 - (ii) sub-paragraph (6A) requires the Health and Safety Executive(5) to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development,”;
 - (b) 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”;
 - (c) after sub-paragraph (6) there were inserted—
 - “(6A) Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.”;
 - (d) in sub-paragraph (7) for “(5) and (6)” there were substituted “(5), (6) and (6A)”;
- (b) after paragraph MA.2, insert—

“Interpretation of Class MA

MA.3. Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will—

- (a) contain two or more dwellinghouses; and
 - (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015(6).”.
- (17) In Class R (agricultural buildings to a flexible commercial use)—
- (a) for paragraph R (permitted development), substitute—

(4) A body established under section 1 of the Environment Act 1995 (c. 25).

(5) A body established under section 10 of the Health and Safety at Work etc. Act 1974 (c. 37). Section 10 was substituted by S.I. 2008/960.

(6) S.I. 2015/595. Article 9A was inserted by S.I. 2021/746.

“Permitted development

R. Development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within one of the following provisions of the Use Classes Order—

- (a) Class B8 (storage or distribution) of Schedule 1;
 - (b) Class C1 (hotels) of Schedule 1; or
 - (c) Class E (commercial, business or service) of Schedule 2.”;
- (b) in sub-paragraph (c) of paragraph R.2 (conditions), for “Class G” substitute “Class E”.
- (18) In Class S (agricultural buildings to state-funded school or registered nursery)—
- (a) in the heading, omit “or registered nursery”;
 - (b) in paragraph S (permitted development), for “or a registered nursery” substitute “falling within Class F.1(a) (provision of education) of Schedule 2 to the Use Classes Order”;
 - (c) in sub-paragraph (1) of paragraph S.2 (conditions)—
 - (i) for paragraph (a), substitute—

“(a) the site is to be used as a state-funded school falling within Class F.1(a) of Schedule 2 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use of the site as such a state-funded school; and”
 - (ii) in paragraph (b)(v), omit “or, as the case may be, a registered nursery”.
- (19) In Class T (business, hotels etc to state-funded schools or registered nursery)—
- (a) for the heading, substitute “commercial, business and service, hotels etc to state-funded schools”;
 - (b) for paragraph T (permitted development), substitute—

“Permitted development

T. Development consisting of a change of use of a building and any land within its curtilage from a use falling within one of the following provisions of the Use Classes Order—

- (a) Class C1 (hotels) of Schedule 1;
 - (b) Class C2 (residential institutions) of Schedule 1;
 - (c) Class C2A (secure residential institutions) of Schedule 1; or
 - (d) Class E (commercial, business or service) of Schedule 2,
to use as a state-funded school falling within Class F.1(a) of Schedule 2 to that Order.”;
- (c) in paragraph T.1 (development not permitted), omit sub-paragraph (a);
- (d) in sub-paragraph (1) of paragraph T.2 (conditions)—
- (i) for paragraph (a), substitute—

“(a) the site is to be used as a state-funded school falling within Class F.1(a) of Schedule 2 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use of the site as such a state-funded school;”
- (20) In paragraph W (procedure for applications for prior approval under Part 3)—
- (a) in sub-paragraph (2)—

- (i) in paragraph (a), omit “C.”;
 - (ii) in paragraph (ba), after “Classes” insert “G.”;
 - (iii) in paragraph (bc), after “Classes” insert “G.”;
 - (b) in sub-paragraph (3), for “M.2(1)(f),” substitute “G.1(d)(iv), paragraph M.2(1)(f), paragraph MA.2(2)(f).”
- (21) In the definition of “sui generis use” in paragraph X (interpretation of Part 3), for “the Schedule” substitute “Schedule 1 or 2”.

Amendments to Part 4 of Schedule 2

- 5.—(1) Part 4 (temporary buildings and uses) of Schedule 2 is amended as follows.
- (2) In Class C (use as a state-funded school for 2 academic years)—
- (a) in paragraph C (permitted development) after “state-funded school” insert “falling within Class F.1(a) (provision of education) of Schedule 2 to the Use Classes Order”;
 - (b) in paragraph C.1 (development not permitted)—
 - (i) in sub-paragraph (a), for “the Schedule” substitute “Schedule 1 or 2”;
 - (ii) in sub-paragraph (e), for the words from “Class A4” to the end substitute “Class F.2 (local community) of Schedule 2 to the Use Classes Order”;
 - (c) in sub-paragraph (c) of paragraph C.2 (conditions), for “Class D1 (non-residential institutions) of the Schedule” substitute “Class F.1(a) (provision of education) of Schedule 2”.
- (3) In Class CA (provision of a temporary state-funded school on previously vacant commercial land)—
- (a) in paragraph CA (permitted development), after “state-funded school” insert “falling within Class F.1(a) (provision of education) of Schedule 2 to the Use Classes Order”;
 - (b) in the definition of “vacant commercial land” in paragraph CA.3 (interpretation of Class CA), for sub-paragraph (b) substitute—
 - “(b) which was last used for a purpose falling within one of the following provisions of the Use Classes Order—
 - (i) Class C1 (hotels) of Schedule 1;
 - (ii) Class C2 (residential institutions) of Schedule 1;
 - (iii) Class C2A (secure residential institutions) of Schedule 1;
 - (iv) Class E (commercial, business and service) of Schedule 2.”.
- (4) In Class D (shops, financial, cafes, takeaways etc to temporary flexible use)—
- (a) for the heading substitute “commercial, business and service etc to temporary flexible use”;
 - (b) in paragraph D (permitted development), for sub-paragraphs (a) and (b) substitute—
 - “(a) from a use falling within one of the following provisions of the Use Classes Order—
 - (i) article 3(6)(n) (betting office);
 - (ii) article 3(6)(o) (pay day loan shop);
 - (iii) article 3(6)(r) (hot food takeaway); or
 - (iv) Class E (commercial, business and service) of Schedule 2,

- (b) to a flexible use falling within one of the following provisions of Schedule 2 to that Order—
 - (i) Class E (commercial, business and service);
 - (ii) Class F.1(b) (display of art);
 - (iii) Class F.1(c) (museum);
 - (iv) Class F.1(d) (public library or public reading room); or
 - (v) Class F.1(e) (public hall or exhibition hall),”.
- (5) In Class DA (restaurants etc to temporarily provide takeaway food)—
 - (a) in paragraph DA (permitted development)—
 - (i) for paragraphs (i) and (ii) of sub-paragraph (a), substitute—
 - “(i) article 3(6)(p) (drinking establishments etc.) of the Use Classes Order;
 - (ii) article 3(6)(q) (drinking establishments with expanded food provision) of that Order; or
 - (iii) Class E(b) (sale of food and drink mostly for consumption on the premises) of Schedule 2 to that Order; or”;
 - (ii) in sub-paragraph (b), for “that Class A3 and Class A4;” substitute “article 3(6)(p) and Class E(b),”;
 - (iii) at the end of sub-paragraph (b), omit “or”;
 - (iv) omit sub-paragraph (c);
 - (b) in paragraph DA.2 (interpretation of Class DA), for “Class A5 of the Schedule to” substitute “article 3(6)(r) of”.

Amendments to Part 7 of Schedule 2

- 6.—**(1) Part 7 (non-domestic extensions, alterations etc) of Schedule 2 is amended as follows.
- (2) In Class A (extensions etc of shops or financial or professional premises)—
 - (a) in the heading, for “shops or financial or professional premises” substitute “commercial, business or service premises”;
 - (b) in paragraph A (permitted development), for “shop or financial or professional services” substitute “commercial, business or service”;
 - (c) in paragraph A.1 (development not permitted)—
 - (i) in sub-paragraph (c)(i)(aa), for “the Schedule” substitute “Schedule 1”;
 - (ii) in sub-paragraph (g), for “an existing shop front” substitute “the front of any existing building”;
 - (d) in sub-paragraph (c) of A.2 (conditions), for “shop or financial or professional services” substitute “commercial, business or service”;
 - (e) in paragraph A.3 (interpretation of Class A), for the definitions of “raised platform” and “shop or financial or professional services establishment” substitute—
 - ““commercial, business or service premises” means a building, or part of a building, used for any purpose within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order and includes buildings with other uses in other parts as long as the other uses are not within the parts being altered or extended;
 - “raised platform” means a platform with a height greater than 0.3 metres,”.
 - (3) In the definition of “shop” in each of—

- (a) paragraph B.3 (interpretation of Class B) of Class B (construction of shop trolley stores),
 - (b) paragraph C.3 (interpretation of Class C) of Class C (click and collect facilities), and
 - (c) paragraph D.3 (interpretation of Class D) of Class D (modification of shop loading bays),
- for “Class A1 (shops) of the Schedule” substitute “Class E(a) (display or retail sale of goods other than hot food) of Schedule 2”.
- (4) In Class E (hard surfaces for shops, catering or financial or professional premises)—
 - (a) in the heading, for “shops, catering or financial or professional premises” substitute “commercial, business or service etc premises”;
 - (b) in paragraph E (permitted development), for sub-paragraph (a) substitute—
 - “(a) the provision of a hard surface within the curtilage of a building used for a purpose falling within one of the following provisions of the Use Classes Order—
 - (i) article 3(6)(p) (drinking establishments etc);
 - (ii) article 3(6)(q) (drinking establishment with expanded food provision);
 - (iii) article 3(6)(r) (hot food takeaway); or
 - (iv) Class E (commercial, business and service) of Schedule 2; or”;
 - (c) omit paragraph E.3 (interpretation of Class E).
 - (5) Omit Class F (extensions etc of office buildings).
 - (6) Omit Class G (hard surfaces for office buildings).
 - (7) In Class M (extensions etc for schools, colleges, universities, prisons and hospitals), in sub-paragraph (a)(i) of paragraph M.1 (development not permitted), after “school,” insert “college,”.
 - (8) In paragraph O (interpretation of Part 7)—
 - (a) in the definition of “office building”, for “Class B1(a) of the Schedule” substitute “Class E(g)(i) of Schedule 2”;
 - (b) in the definition of “school”, in each of sub-paragraph (a) and (b) omit “or registered nursery”;
 - (c) in the definition of “warehouse”, for “the Schedule” substitute “Schedule 1”.

Amendments to Part 8 of Schedule 2

7. In paragraph O (interpretation of Part 8) of Part 8 (transport related development) of Schedule 2, in the definition of “operational building” after “means” insert “, for the purposes of Class F,”.

Amendments to Part 11 of Schedule 2

8. In paragraph B.1 (development not permitted) of Class B (demolition of buildings) of Part 11 (heritage and demolition) of Schedule 2, for sub-paragraph (c) substitute—

- “(c) the building is used, or was last used, for a purpose falling within—
 - (i) article 3(6)(p) (drinking establishments etc.) of the Use Classes Order; or
 - (ii) article 3(6)(q) (drinking establishments with expanded food provision) of that Order;”.

Amendments to Part 20 of Schedule 2

9.—(1) Part 20 (construction of new dwellinghouses) of Schedule 2 is amended as follows.

(2) In sub-paragraph (1) of paragraph A.2 (conditions) of Class A (new dwellinghouses on detached blocks of flats)—

- (a) at the end of paragraph (h) omit “and”;
- (b) in the end of paragraph (i) insert—
 - “; and
 - (j) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building”.

(3) In paragraph B (procedure for applications for prior approval under Part 20)—

- (a) for paragraph (h) of sub-paragraph (2) substitute—
 - “(h) where—
 - (i) sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment;
 - (ii) sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development;”;
- (b) after sub-paragraph (6) insert—
 - “(6A) Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.”;
- (c) in sub-paragraph (11), after “(6),” insert “(6A),”.

(4) In paragraph C (interpretation of Part 20), after sub-paragraph (2) insert—

- “(3) In Part 20, development meets the fire risk condition if the development relates to a building which will—
 - (a) contain two or more dwellinghouses; and
 - (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015(7).”

(5) In Class AA (new dwellinghouses on detached buildings in commercial or mixed use)—

- (a) in sub-paragraph (2) of paragraph AA (permitted development)—
 - (i) in paragraph (a), for “the Use Classes Order” substitute “the 1987 Order”;
 - (ii) in paragraph (b)(ii), for “the Use Classes Order” substitute “the 1987 Order”;
- (b) after sub-paragraph (2), insert—
 - “(3) In relation to Class AA, “the 1987 Order” means the Use Classes Order as in force on 5th March 2018.”;
- (c) in sub-paragraph (1) of paragraph AA.2 (conditions)—
 - (i) at the end of paragraph (j) omit “and”;
 - (ii) at the end of paragraph (k) insert—
 - “; and
 - (l) where the development meets the fire risk condition (see paragraph C(3) of this Part), the fire safety impacts on the intended occupants of the building”.

(6) In Class AB (new dwellinghouses on terrace buildings in commercial or mixed use)—

- (a) in sub-paragraph (2) of paragraph AB (permitted development)—
 - (i) in paragraph (a), for “the Use Classes Order” substitute “the 1987 Order”;
 - (ii) in paragraph (b)(ii), for “the Use Classes Order” substitute “the 1987 Order”;
- (b) after sub-paragraph (3), insert—
 - “(4) In relation to Class AB, “the 1987 Order” means the Use Classes Order as in force on 5th March 2018.”.

Amendment to the Town and Country Planning (Development Management Procedure) (England) Order 2015

10. In paragraph (1) of article 22 (duty to respond to consultation) of the Town and Country Planning (Development Management Procedure) (England) Order 2015⁽⁸⁾—

- (a) after sub-paragraph (d), insert—
 - “(da) paragraph W(6A) of Part 3 of Schedule 2 to the Permitted Development Order as provided for by paragraph MA.2(4)(c) of that Part;”;
- (b) after sub-paragraph (f), insert—
 - “(fa) paragraph B(5), (6) and (6A) of Part 20 of Schedule 2 to the Permitted Development Order (construction of new dwellinghouses);”.

Amendment to the Town and Country Planning (Compensation) (England) Regulations 2015

11. In paragraph (c) of regulation 2 (prescribed development) of the Town and Country Planning (Compensation) (England) Regulations 2015⁽⁹⁾—

- (a) after “Classes” insert “A,”;
- (b) after “D,” insert “G,”;
- (c) for “J,” substitute “I, J, K,”.

Amendment to the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013

12. In paragraph (3)(b) of article 7A (fire statements) of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013⁽¹⁰⁾, omit “(ignoring any storey which is below ground level)”.

Transitional and saving provision

13. The amendments made by this Order are subject to the Schedule (transitional and saving provision).

⁽⁸⁾ S.I. 2015/595.

⁽⁹⁾ S.I. 2015/598. Regulation 2 has been amended by S.I.s 2016/331, 2017/392, 2017/620, 2019/907, 2020/632, 2020/1243 and 2021/428.

⁽¹⁰⁾ S.I. 2013/2140. Article 7A was inserted by S.I. 2021/746; there are no other amendments relevant to this instrument.

7th July 2021

Christopher Pincher
Minister of State
Ministry of Housing, Communities and Local
Government

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 13

Transitional and saving provision

Interpretation of the Schedule**1. In this Schedule—**

“prior approval application” has the same meaning as in section 69A(2) of the Town and Country Planning Act 1990⁽¹¹⁾;

“the GPDO” means the Town and Country Planning (General Permitted Development) (England) Order 2015;

“the Use Classes Order” means the Town and Country Planning (Use Classes) Order 1987⁽¹²⁾.

Transitional provision for change in use which no longer constitutes development**2. Where a change of use of a building or land—****(a) was permitted—**

(i) under a provision of Schedule 2 to the GPDO as the provision had effect immediately before 1st August 2021⁽¹³⁾, and

(ii) subject to a condition that the developer make a prior approval application, and

(b) on or after 1st August 2021, no longer constitutes development because the change is between uses specified in Class E of Schedule 2 to the Use Classes Order,

the change of use may proceed notwithstanding any undetermined prior approval application or related appeal proceedings.

Transitional provision for development no longer subject to a condition**3. Where development—****(a) was permitted—**

(i) under a provision of Schedule 2 to the GPDO as the provision had effect immediately before 1st August 2021, and

(ii) subject to a condition (“the previous condition”), and

(b) is permitted—

(i) under a provision of that Schedule as the provision has effect on or after 1st August 2021 (“the new provision”), and

(ii) without being subject to a condition that is the same, or substantially the same, as the previous condition,

the development may proceed notwithstanding any non-compliance with the previous condition (but the development must comply with any other condition imposed by the new provision).

⁽¹¹⁾ Section 69A was inserted by section 17 of the Neighbourhood Planning Act 2017 (c. 20).

⁽¹²⁾ S.I. 1987/764 as amended by S.I.s 1991/1567, 1992/610, 1992/657, 1994/724, 1995/297, 1999/293, 2005/84, 2002/1875, 2006/220, 2006/1282, 2006/1386, 2010/653, 2010/675, 2011/988, 2015/597, 2016/28, 2016/1154, 2020/757, 2020/895 and 2021/428.

⁽¹³⁾ By virtue of regulation 3(2) of S.I. 2020/757, any references in the GPDO to the uses or use classes specified in the Schedule to the Use Classes Order immediately before 1st August 2021 are to be read as if those references were to the use or use classes which applied in relation to England and were specified in the Schedule to the Use Classes Order on 31st August 2020.

Transitional provision for development subject to a new condition

4. Where development—

- (a) was permitted under a provision of Schedule 2 to the GPDO as the provision had effect immediately before 1st August 2021 (“the previous provision”), and
- (b) is permitted—
 - (i) under a provision of that Schedule as the provision has effect on or after 1st August 2021, and
 - (ii) subject to a condition (“the new condition”) which is not the same, or substantially the same, as a condition which applied under the previous provision, and
- (c) began, or in respect of which a prior approval application was made, before 1st August 2021,

the development may proceed irrespective of whether the new condition has been complied with (but the development must comply with any other condition imposed by the previous provision).

Transitional and saving provision for development which is no longer permitted

5.—(1) This paragraph applies to development (“protected development”) which—

- (a) was permitted under a provision of Schedule 2 to the GPDO as the provision had effect immediately before 1st August 2021 (“the previous permission”),
- (b) is not permitted under any provision of that Schedule as it has effect on or after 1st August 2021, and
- (c) relates to land or a building which, immediately before 1st August 2021, was used for a purpose which made the land or building eligible for the previous permission.

(2) The GPDO has effect in relation to protected development—

- (a) until the end of 31st July 2022 as if the amendments made by this Order had not been made, and
- (b) after 31st July 2022 and in relation to—
 - (i) determining any prior approval application made in respect of protected development on or before 31st July 2022;
 - (ii) determining appeal proceedings related to such an application;
 - (iii) completing protected development which began, or in respect of which a prior approval application was made, on or before 31st July 2022,as if the amendments made by this Order had not been made.

(3) Where the GPDO has effect in accordance with sub-paragraph (2), a reference in the GPDO to a use or use class specified in the Use Classes Order is a reference to that Order as it had effect on 30th August 2020.

(4) Where protected development—

- (a) consists of a change of use of a building under paragraph I(a) of Class I (industrial and general business conversions) of Part 3 to Schedule 2 to the GPDO as that Class had effect immediately before 1st August 2021, and
- (b) results in the building being used for a purpose within sub-paragraph (g) (business uses) of Class E (commercial, business and service) of Schedule 2 to the Use Classes Order,

the building must not, in the absence of further planning permission, be used for any other purpose within Class E.

(5) Where protected development—

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- (a) consists of a change of use of a building under Class S (agricultural buildings to state-funded school or registered nursery) or T (business, hotels etc to state-funded schools or registered nursery) of Part 3 to Schedule 2 to the GPDO as those Classes had effect immediately before 1st August 2021, and
- (b) results in the building being used for a purpose within sub-paragraph (f) (registered nurseries etc) of Class E of Schedule 2 to the Use Classes Order,

the building must not, in the absence of further planning permission, be used for any other purpose within Class E (including another purpose within Class E(f)).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends, primarily, the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the GPDO”). The GPDO provides, for the purposes of section 59 of the Town and Country Planning Act 1990 (c. 8), for the granting of permission for certain classes of development without the requirement for a planning application to be made under Part 3 of that Act. The classes of permission, together with their accompanying conditions, limitations and restrictions, are set out in Schedule 2 to the GPDO.

Many of the classes of permission in Schedule 2 to the GPDO are defined by reference to classes of uses specified in the Town and Country Planning (Use Classes) Order 1987 (“the Use Classes Order”). The Use Classes Order specifies classes for the purposes of section 55(2)(f) of the Town and Country Planning Act 1990, which provides that a change of use of a building or other land does not involve development for the purposes of the Act if the new use and the former use are both within the same specified class.

The Use Classes Order was substantially amended in relation to England by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, primarily to insert a new Schedule 2 providing for new use Classes E (commercial, business and service), F.1 (learning and non-residential institutions) and F.2 (local community), which subsumed existing use classes. The main purpose of this Order is to amend the GPDO in consequence of these changes.

Articles 3 to 9 amend provisions in Parts 1, 3, 4, 7, 11 and 20 of Schedule 2 to the GPDO in consequence of the new structure of the Use Classes Order.

Additionally, articles 4 and 9 amend Class MA of Part 3, and Classes A and AA of Part 20, of Schedule 2 to the GPDO so as to require developers to obtain the prior approval of the local planning authority as to certain matters relating to fire safety where it is proposed to introduce dwellinghouses in buildings above a height threshold. Where a prior approval application is made pursuant to these provisions, the local planning authority must consult the Health and Safety Executive.

This Order makes further minor and consequential amendments to the GPDO.

Article 10 amends the Town and Country Planning (Development Management Procedure) (England) Order 2015 so as to add the new requirements to consult the Health and Safety Executive on fire safety matters to the list of requirements to consult contained in article 22 (duty to respond to consultation) of that Order.

Article 11 makes minor amendment to the Town and Country Planning (Compensation) (England) Regulations 2015 to add certain classes to the list of development prescribed for the purposes of

subsections (2A)(a) and (3C)(a) of section 108 (compensation where planning permission granted by development order is withdrawn) of the Town and Country Planning Act 1990.

Article 12 corrects a minor error in the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013.

Article 13, together with the Schedule, makes transitional and saving provision.

An Explanatory Memorandum is published alongside this instrument at www.legislation.gov.uk.

An impact assessment has not been produced for this instrument.