
STATUTORY INSTRUMENTS

1994 No. 2586

The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No. 2) Order 1994

Amendment of General Permitted Development Order

4. In Part 17 of Schedule 1 to the 1992 Order (British Coal Corporation Mining Development)—
- (a) for the heading “BRITISH COAL CORPORATION MINING DEVELOPMENT”, substitute “COAL MINING DEVELOPMENT BY THE COAL AUTHORITY AND ITS LICENSEES”;
 - (b) for Class 58 (underground development) substitute—

“Class 58.

(1) Development by a licensee of the Coal Authority, in a mine started before 1st July 1948, consisting of—

- (a) the winning and working underground of coal or coal-related minerals in a designated seam area; or
- (b) the carrying out of development underground which is required in order to gain access to and work coal or coal-related minerals in a designated seam area.

(2) Development is permitted by this class subject, except where sub-paragraph (3) applies, to the conditions that—

- (a) except in a case where there is an approved restoration scheme or mining operations have permanently ceased, the developer shall, before 31st December 1995 or before any later date which the planning authority may agree in writing, apply to the planning authority for approval of a restoration scheme;
- (b) where there is an approved restoration scheme, reinstatement, restoration and aftercare shall be carried out in accordance with that scheme;
- (c) if an approved restoration scheme does not specify the periods within which reinstatement, restoration or aftercare should be carried out, it shall be subject to the conditions that—

- (i) reinstatement or restoration, if any, shall 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 sub-paragraph (2)(a) has been finally determined, whichever is later, and
- (ii) aftercare, if any, in respect of any part of a site, shall be carried out throughout the period of five 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 sub-paragraph (2)(a) has been finally determined, whichever is later;

- (d) where there is no approved restoration scheme—

- (i) all buildings, plant, machinery, structures or erections used at any time for in connection with any previous coal-mining operations at that mine shall be removed from any land which is an authorised site unless the planning authority have otherwise agreed in writing, and
 - (ii) that land shall, so far as practicable, be 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 planning authority and the developer,
- before the end of the period specified in sub-paragraph (2)(e);
- (e) the period referred to in sub-paragraph (2)(d) is–
 - (i) 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 sub-paragraph (2)(a) before that date, 24 months from the date when that application has been finally determined, whichever is later, or
 - (ii) any longer period which the planning authority have agreed in writing;
 - (f) for the purposes of sub-paragraph (2), an application for approval of a restoration scheme has been finally determined when the following conditions have been met:–
 - (i) any proceedings on the application, including any proceedings on or in consequence of an application under section 233 of the Act⁽¹⁾, have been determined, and
 - (ii) any time for appealing under section 33⁽²⁾, or applying or further applying under section 233, of that Act (where there is a right to do so) has expired.
- (3) Sub-paragraph (2) shall not apply to land in respect of which there is an extant planning permission which–
- (a) has been granted on an application under Part III of the Act, and
 - (b) has been implemented.
- (4) For the purposes of this class–
- “a licensee of the Coal Authority” means any person who is for the time being authorised by a licence under Part II of the Coal Industry Act 1994 to carry on coal-mining operations to which section 25 of that Act applies;
- “approved restoration scheme” means a restoration scheme which is approved when an application made under sub-paragraph (2)(a) is finally determined, as approved (with or without conditions), or as subsequently varied with the written approval of the planning authority (with or without conditions);
- “coal-related minerals” means minerals other than coal which are, or may be, won and worked by coal-mining operations;
- “designated seam area” means land identified, in accordance with paragraph (a) of the definition of “seam plan”, in a seam plan which was deposited with the planning authority before 1st September 1994;

(1) Section 233(3) was amended by the Housing and Planning Act 1986 (c. 63), Schedule 12, Part IV.

(2) Section 33 was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 2, paragraph 11; by the said Act of 1986, Schedule 11, paragraphs 55 and 56 and by the Planning and Compensation Act 1991 (c. 34), section 50 and Schedule 13, paragraph 11.

“previous coal-mining operations” has the same meaning as in section 54(3) of the Coal Industry Act 1994 and references in this class to the use of anything in connection with any such operations shall include references to its use for or in connection with activities carried on in association with, or for purposes connected with, the carrying on of those operations;

“restoration scheme” means a scheme which makes provision for the reinstatement, restoration or aftercare (or a combination of these) of any land which is an authorised site and has been used at any time for or in connection with any previous coal-mining operations at that mine;

“seam plan” means a plan or plans on a scale of not less than 1 to 25,000 showing—

- (a) land comprising the maximum extent of the coal seam or seams that can be worked from shafts or drifts existing at a mine at 29th June 1994, without further development on an authorised site other than development permitted by Class 59 of Schedule 1 to this Order;
 - (b) any active access used in connection with the land referred to in paragraph (a) of this definition;
 - (c) the National Grid lines and reference numbers shown on Ordnance Survey maps;
 - (d) a typical stratigraphic column showing the approximate depths of the coal seams referred to in paragraph (a) of this definition.”;
- (c) in classes 59 and 60 (development required for purposes of a mine)—
- (i) for “the British Coal Corporation, their lessees or licensees”, substitute “a licensed operator” in each place where it occurs;
 - (ii) for “coal industry activities”, substitute “coal-mining operations” in each place where it occurs;
- (d) in class 62 (development required for maintenance or safety), for “British Coal Corporation, their lessees or licensees” substitute “Coal Authority or a licensed operator”; and
- (e) in the interpretation of Part 17—
- (i) for the definition of “coal industry activities”, substitute ““coal-mining operations” has the same meaning as in section 65(1) of the Coal Industry Act 1994 and references to any development or use in connection with coal-mining operations shall 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;”;
 - (ii) after the definition of “coal-mining operations”, as inserted by sub-paragraph (i), insert ““licensed operator” has the same meaning as in section 65 of the Coal Industry Act 1994;”;
 - (iii) for “coal industry activities”, substitute “coal-mining operations” in each place where it occurs.