
STATUTORY INSTRUMENTS

2013 No. 1101

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013

Amendments in relation to change of use

6.—(1) In Part 3 of Schedule 2 (changes of use), in paragraph B.1 of Class B, for “235” substitute “500”.

(2) In Part 3 of Schedule 2 (changes of use) after Class I insert—

“Class J

Permitted development

J. Development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order from a use falling within Class B1(a) (offices) of that Schedule.

Development not permitted

J.1 Development is not permitted by Class J where—

- (a) the building is on article 1(6A) land;
- (b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order immediately before 30th May 2013 or, if the building was not in use immediately before that date, when it was last in use;
- (c) the use of the building falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order was begun after 30th May 2016;
- (d) the site is or forms part of a safety hazard area;
- (e) the site is or forms part of a military explosives storage area;
- (f) the building is a listed building or a scheduled monument.

Conditions

J.2 Class J development is permitted subject to the condition that before beginning the development, the developer shall 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 and highways impacts of the development;
- (b) contamination risks on the site; and
- (c) flooding risks on the site,

and the provisions of paragraph N shall apply in relation to any such application.

Class K

Permitted Development

K. Development consisting of a change of use of a building and any land within its curtilage to use as a state-funded school, from a use falling within Classes B1 (business), C1 (hotels), C2 (residential institutions), C2A (secure residential institutions) and D2 (assembly and leisure) of the Schedule to the Use Classes Order.

Development not permitted

K.1 Development is not permitted by Class K where—

- (a) the site is or forms part of a military explosives storage area;
- (b) the site is or forms part of a safety hazard area;
- (c) the building is a listed building or a scheduled monument.

Conditions

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

- (a) the site is to be used as a state-funded school and for no other purpose, including any other purpose falling within Class D1 (non-residential institutions) of the Schedule to the Use Classes Order, except to the extent that the other purpose is ancillary to the primary use of the site as a state-funded school;
- (b) before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required as to—
 - (i) transport and highways impacts of the development;
 - (ii) noise impacts of the development; and
 - (iii) contamination risks on the site,and the provisions of paragraph N shall apply in relation to any such application.

Class L

Permitted development

L. Development consisting of a change of use of land from a use permitted by Class K to the previous lawful use of the land.

Class M

Permitted development

M. Development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Use Classes Order.

Development not permitted

M.1 Development is not permitted by Class M if—

- (a) the building has not been solely in agricultural use—
 - (i) since 3rd July 2012; or
 - (ii) for buildings first brought into use after 3rd July 2012, for ten years;
- (b) the cumulative floor space of buildings which have changed use under Class M within an original agricultural unit exceeds 500 square metres;
- (c) the site is or forms part of a military explosives storage area;
- (d) the site is or forms part of a safety hazard area;
- (e) the building is a listed building or a scheduled monument.

Conditions

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

- (a) a site which has changed use under Class M may, subject to paragraph M.3, subsequently change use to another use falling within one of the use classes comprising the flexible use.
- (b) for the purposes of the Use Classes Order and this Order, after a site has changed use under Class M the site it is to be treated as having a sui generis use;
- (c) after a site has changed use under Class M, the planning permissions granted by Class B of Part 41 of Schedule 2 to this Order apply to the building, subject to the following modifications—
 - (i) “curtilage” has the meaning given in Class M;
 - (ii) any reference to “office building” is to be read as a reference to the building which has changed use under Class M.

M.3 Before changing the use of the site under Class M, and before any subsequent change of use to another use falling within one of the use classes comprising the flexible use, the developer shall—

- (a) where the cumulative floor space of the building or buildings which have changed use under Class M within an original agricultural unit does not exceed 150 square metres, provide the following information to the local planning authority—
 - (i) the date the site will begin to be used for any of the flexible uses;
 - (ii) the nature of the use or uses; and
 - (iii) a plan indicating the site and which buildings have changed use;
- (b) where the cumulative floor space of the building or buildings which have changed use under Class M within an original agricultural unit exceeds 150 square metres and does not exceed 500 square metres, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—
 - (i) transport and highways impacts of the development;
 - (ii) noise impacts of the development;
 - (iii) contamination risks on the site; and
 - (iv) flooding risks on the site,and the provisions of paragraph N shall apply in relation to any such application.

Procedure for applications for prior approval under Part 3

N.—(1) The following provisions apply where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.

(2) The application shall be accompanied by—

- (a) a written description of the proposed development;
- (b) a plan indicating the site and showing the proposed development;
- (c) the developer's contact address; and
- (d) the developer's email address if the developer is content to receive communications electronically;

together with any fee required to be paid.

(3) Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority shall consult—

- (a) the Secretary of State for Transport, where the increase or change relates to traffic entering or leaving a trunk road;
- (b) the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority; and
- (c) the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway.

(4) Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority shall consult the Environment Agency where the development is—

- (a) in an area within Flood Zone 2 or Flood Zone 3; or
- (b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (ze)(ii) in the Table in Schedule 5 to the 2010 Order.

(5) The local planning authority shall notify the consultees referred to in paragraphs (3) and (4) specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

(6) The local planning authority shall 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.

(7) The local planning authority may require the developer to submit such information regarding the impacts and risks referred to in paragraph J.2, K.2(b) or M.3(b), as the case may

be, as the local planning authority may reasonably require in order to determine the application, which may include—

- (a) assessments of impacts or risks;
 - (b) statements setting out how impacts or risks are to be mitigated.
- (8) The local planning authority shall, when determining an application—
- (a) take into account any representations made to them as a result of any consultation under paragraphs (3) or (4) and any notice given under paragraph (6);
 - (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application; and
 - (c) in relation to the contamination risks on the site—
 - (i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990⁽¹⁾, and in doing so have regard to the Contaminated Land Statutory Guidance issued by Secretary of State for the Environment, Food and Rural Affairs in April 2012, and
 - (ii) if they determine that the site will be contaminated land, refuse to give prior approval.
- (9) The development shall not be begun 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 was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
- (10) The development shall 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 paragraph (9)(c) applies, in accordance with the details provided in the application referred to in paragraph (1),

unless the local planning authority and the developer agree otherwise in writing.

Interpretation of Part 3

O. For the purposes of Part 3—

“2010 Order” means the Town and Country Planning (Development Management Procedure) (England) Order 2010⁽²⁾;

“adjoining owner or occupier” means any owner or occupier of any premises or land adjoining the site;

(1) 1990 c. 43. Part 2A was inserted by section 57 of the Environment Act 1995 (c.25).

(2) S.I. 2010/2184; to which there are amendments not relevant to Part 3.

“agricultural building” means a building used for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse, and “agricultural use” refers to such uses;

“curtilage” means, for the purposes of Class M only—

- (i) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building; or
- (ii) where it is not possible to discern such a piece of land, an area of land immediately beside or around the agricultural building no larger than the floor space of the building;

“flexible use” has the meaning given in paragraph M;

“Flood Zone 1”, “Flood Zone 2” and “Flood Zone 3” have the meaning given in Schedule 5 to the 2010 Order;

“military explosives storage area” means an area, including an aerodrome, depot or port, within which the storage of military explosives has been licensed by the Secretary of State for Defence, and identified on a safeguarding map provided to the local planning authority for the purposes of a direction made by the Secretary of State in exercise of powers conferred by article 25(1) of the 2010 Order (or any previous powers to the like effect)(3);

“network” and “operator”, for the purposes of paragraph N, have the same meaning as in Part I of the Railways Act 1993 (the provision of railway services)(4);

“original agricultural unit” means agricultural land which was occupied as a unit for the purposes of agriculture on 3rd July 2012;

“safety hazard area” means an area notified to the local planning authority by the Health and Safety Executive for the purposes of paragraph (e) of the Table in Schedule 5 to the 2010 Order (or any previous powers to the like effect);

“site” means the building and any land within its curtilage;

“state-funded school” means a school funded wholly or mainly from public funds, including—

- (i) an Academy school, an alternative provision Academy or a 16 to 19 Academy established under the Academies Act 2010(5);
- (ii) a school maintained by a local authority, as defined in section 142(1) of the School Standards and Framework Act 1998(6); and

“sui generis use” means a use for which no class is specified in the Schedule to the Use Classes Order.”

(3) See the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002, which is annexed to Joint Circular 01/2003 issued on 27 January 2003 by the Office of the Deputy Prime Minister (now the Department for Communities and Local Government), the Department for Transport and National Assembly for Wales (now the Welsh Assembly Government).

(4) 1993 c. 43; see section 83.

(5) 2010 c. 32; relevant amendments were made by Part 6 of the Education Act 2011 (c. 21). The reference to educational institutions established under the Academies Act 2010 is intended to include city technical colleges, city colleges for the technology of the arts, city academies and Academies established under sections 482 and 483 of the Education Act 1996 (c. 56), which were repealed and re-enacted by the Academies Act 2010. A direct reference in this instrument to sections 482 and 483 would be construed, under section 17 of the Interpretation Act 1978 (c. 30), as a reference to sections 482 and 483 as re-enacted in the Academies Act 2010.

(6) 1998 c. 31.