

SCHEDULE 2

Permitted development rights

PART 11

Heritage and demolition

Class B – demolition of buildings

Permitted development

B. Any building operation consisting of the demolition of a building.

Development not permitted

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

- (a) the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support;
- (b) the demolition is “relevant demolition” for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area)⁽¹⁾; or
- (c) the building is a specified building and the development is undertaken during the specified period, regardless of whether, in relation to the development, a prior approval event has occurred.

Conditions

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

- (a) where demolition is urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition;
- (b) where the demolition does not fall within paragraph (a) and is not excluded demolition—
 - (i) the developer must, before beginning the development—
 - (aa) in all cases, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site; and
 - (bb) in cases where the building is not a community asset and is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, send a written request to the local planning authority as to whether the building has been nominated;
 - (ii) an application described in paragraph (b)(i)(aa) must be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (b)(iv) and any fee required to be paid;

(1) Section 196D was inserted by paragraph 6 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24).

Status: This is the original version (as it was originally made).

- (iii) a request described in paragraph (b)(i)(bb) must include the address of the building, the developer's contact address and, if the developer is content to receive communications electronically, the developer's email address;
- (iv) subject to paragraph (b)(v), the applicant must display a site notice by site display on or near the land on which the building to be demolished is sited and must leave the notice in place for not less than 21 days in the period of 28 days beginning with the date on which the application was submitted to the local planning authority;
- (v) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in paragraph (b)(iv) has elapsed, the applicant is treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;
- (vi) where the building is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order and the building is nominated, whether at the date of request under paragraph (b)(i)(bb) or on a later date, the local planning authority must notify the developer as soon as is reasonably practicable after it is aware of the nomination, and on notification development is not permitted for the specified period;
- (vii) subject to paragraph (b)(x), the development must not begin before the occurrence of one of the following—
 - (aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
 - (bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval; or
 - (cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;
- (viii) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—
 - (aa) where prior approval is required, in accordance with the details approved;
 - (bb) where prior approval is not required, in accordance with the details submitted with the application;
- (ix) subject to paragraph (b)(x), the development must be carried out—
 - (aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;
 - (bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (b)(ii); and
- (x) where the building is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, in addition to the requirements of paragraph (b)(vii) and (ix), the development must not begin before the expiry of a period of 56 days following the date of request under paragraph (b)(i)(bb) and must be completed within a period of 1 year of the date of that request.

Interpretation of Class B

B.3 For the purposes of Class B—

“community asset” means a building which has been entered onto a list of assets of community value including any building which has been subsequently excluded from that list under regulation 2(b) of the Assets of Community Value (England) Regulations 2012⁽²⁾;

“excluded demolition” means demolition—

- (a) on land which is the subject of a planning permission, for the redevelopment of the land, granted on an application or deemed to be granted under Part 3 of the Act (control over development),
- (b) permitted to be carried out by a consent under Part 1 of the Ancient Monuments and Archaeological Areas Act 1979 (scheduled monument consent)⁽³⁾,
- (c) permitted to be carried out by a consent under Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (listed building consent)⁽⁴⁾,
- (d) required or permitted to be carried out by or under any other enactment, or
- (e) required to be carried out by virtue of a relevant obligation;

“list of assets of community value” means a list of land of community value maintained by a local authority under section 87(1) of the Localism Act 2011⁽⁵⁾;

“nomination” means a nomination made under section 89(2) of the Localism Act 2011 for a building to be included in a list of assets of community value and “nominated” is to be interpreted accordingly;

“prior approval event” means, in relation to a particular development—

- (a) the giving of prior approval by the local planning authority in relation to the matters in paragraph B.2(b)(i)(aa);
- (b) a determination that such approval is not required to be given, or
- (c) the expiry of the period for giving such a determination without the applicant being notified whether prior approval is required, given or refused;

“relevant obligation” means—

- (a) an obligation arising under an agreement made under section 106 of the Act, as originally enacted (agreements regulating development or use of land);
- (b) a planning obligation entered into under section 106 of the Act, as substituted by section 12 of the Planning and Compensation Act 1991 (planning obligations)⁽⁶⁾, or under section 299A of the Act (Crown planning obligations)⁽⁷⁾;
- (c) an obligation arising under, or under an agreement made under, any provision corresponding to section 106 of the Act, as originally enacted or as substituted by the Planning and Compensation Act 1991, or to section 299A of the Act;

“site notice” means a notice containing—

- (a) the name of the applicant,

(2) S.I. 2012/2421.

(3) 1979 c. 46; see in particular sections 2 to 4, relevant amendments to which are made by section 33 of, and Schedule 4 to, the National Heritage Act 1983 (c. 47) and Schedule 2 to the Planning Act 2008 (c. 29).

(4) 1990 c. 9; see in particular sections 7, 8 and 18, relevant amendments to which are made by section 51 of the Planning and Compulsory Purchase Act 2004 (c. 5) and Schedule 2 to the Planning Act 2008, S.I. 2001/24. Those sections are modified in relation to buildings in conservation areas by S.I. 1990/1519.

(5) 2011 c.20.

(6) 1991 c. 34. Section 106 of the Act was amended by section 33 of the Greater London Authority Act 2007 (c. 24), section 174 of the Planning Act 2008 and Schedule 2 to the Growth and Infrastructure Act 2013 (c. 27).

(7) Section 299A was repealed by Schedule 9 to the Planning and Compulsory Purchase Act 2004 (c.5).

Status: This is the original version (as it was originally made).

- (b) a description, including the address, of the building or buildings which it is proposed to be demolished,
 - (c) a statement that the applicant has applied to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site,
 - (d) the date on which the applicant proposes to carry out the demolition, and
 - (e) the name and address of the local planning authority,
- and which is signed and dated by or on behalf of the applicant;

“specified building” means a building used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order—

- (a) which is a community asset; or
- (b) in relation to which the local planning authority has notified the developer of a nomination under paragraph B.2(b)(vi); and

“specified period” means—

- (a) in relation to a building which is subject to a nomination of which the local planning authority have notified the developer under paragraph B.2(b)(vi), the period from the date of that notification to the date on which the building is entered onto—
 - (i) a list of assets of community value; or
 - (ii) a list of land nominated by unsuccessful community nominations under section 93 of the Localism Act 2011;
 - (b) in relation to a building which is a community asset—
 - (i) 5 years beginning with the date on which the building was entered onto the list of assets of community value; or
 - (ii) where the building was removed from that list—
 - (aa) under regulation 2(c) of the Assets of Community Value (England) Regulations 2012 following a successful appeal against listing or because the local authority no longer consider the land to be land of community value; or
 - (bb) under section 92(4)(a) of the Localism Act 2011 following the local authority’s decision on a review that the land concerned should not have been included in the local authority’s list of assets of community value,
- the period from the date on which the building was entered onto the list of assets of community value to the date on which it was removed from that list.