
STATUTORY INSTRUMENTS

2016 No. 332

The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016

Amendments in relation to minerals permitted development

14. In Part 17 of Schedule 2 (mining and mineral exploration)—

(a) in Class J, in paragraph J.1—

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

“(c) any operation would be carried out within a National Park, an area of outstanding national beauty, a site of archaeological interest, a site of special scientific interest or the Broads;” and

(ii) in sub-paragraph (g), for “12” substitute “15”;

(b) after Class J, insert—

“Class JA – temporary use of land etc in respect of petroleum exploration

Permitted development

JA. *Development on any land during a period not exceeding 28 consecutive days consisting of the drilling of boreholes for the purposes of—*

- (a) *carrying out groundwater monitoring;*
- (b) *carrying out seismic monitoring; or*
- (c) *locating and appraising the condition of mines,*

which is preparatory to potential petroleum exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those drilling, monitoring or locating and appraising operations.

Development not permitted

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

- (a) any operation would be carried out within 50 metres of any part of an occupied residential building or a building occupied as a hospital or school;
- (b) any operation would be carried out within a National Park, an area of outstanding natural beauty, a site of archaeological interest, a site of special scientific interest or the Broads;
- (c) any explosive charge of more than 1 kilogram would be used;
- (d) any structure assembled or provided would exceed 15 metres in height, or, where the structure would be within 3 kilometres of the perimeter of an aerodrome, 3 metres in height;

- (e) in the case of boreholes for locating and appraising the condition of mines, the borehole exceeds 160 metres in depth; or
- (f) drilling would be carried out within a protected groundwater source area.

Conditions

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

- (a) no operations are carried out between 6.00pm and 7.00am;
- (b) no trees on the land are removed, felled, lopped or topped and no other thing is done on the land likely to harm or damage any trees, unless the mineral planning authority have so agreed in writing;
- (c) within a period of 28 days from the cessation of operations unless the mineral planning authority have agreed otherwise in writing—
 - (i) any structure permitted by Class JA and any waste material arising from other development so permitted is removed from the land;
 - (ii) any borehole is adequately sealed;
 - (iii) the surface of the land on which any operations have been carried out is levelled and any topsoil replaced as the uppermost layer, and
 - (iv) the land is, so far as is practicable, restored to its condition before the development took place, including the carrying out of any necessary seeding and replanting;
- (d) the developer notifies the Environment Agency and the relevant drinking water supply undertaker in writing of its intention to carry out the development (specifying the nature and location of the development), and no development takes place until 28 days after that notification; and
- (e) in the case of boreholes for locating and appraising the condition of mines, the developer notifies the Coal Authority in writing of its intention to carry out the development (specifying the nature and location of the development), and no development takes place until 28 days after that notification.

Interpretation of Class JA

JA.3.—(1) For the purposes of Class JA, “protected groundwater source area” means any land at a depth of less than 1,200 metres beneath a relevant surface area.

(2) In paragraph (1), “relevant surface area” means any land at the surface that is—

- (a) within 50 metres of a point at the surface at which water is abstracted from underground strata and which is used to supply water for domestic or food production purposes, or
 - (b) within or above a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes.”;
- (c) in Class K, in paragraph K.1(f), for “12” substitute “15”;
 - (d) after Class K, insert—

“Class KA – use of land etc in respect of petroleum exploration

Permitted development

KA. *Development on any land consisting of the drilling of boreholes for the purposes of—*

- (a) *carrying out groundwater monitoring;*
- (b) *carrying out seismic monitoring; or*
- (c) *locating and appraising the condition of mines,*

which is preparatory to potential petroleum exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those drilling, monitoring, or locating and appraising operations.

Development not permitted

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

- (a) the developer has not previously notified the mineral planning authority in writing of its intention to carry out the development (specifying the nature and location of the development);
- (b) the relevant period has not elapsed;
- (c) any explosive charge of more than 2 kilograms would be used;
- (d) any structure assembled or provided would exceed 15 metres in height; or
- (e) in the case of boreholes for locating and appraising the condition of mine operations, the borehole exceeds 160 metres in depth.

Conditions

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

- (a) the development is carried out in accordance with the details in the notification referred to in paragraph KA.1(a), unless the mineral planning authority has otherwise agreed in writing;
- (b) no trees on the land are removed, felled, lopped or topped and no other thing is done on the land likely to harm or damage any trees, unless specified in detail in the notification referred to in paragraph KA.1(a) or the mineral planning authority has otherwise agreed in writing;
- (c) within a period of 28 days from operations ceasing, unless the mineral planning authority has agreed otherwise in writing—
 - (i) any structure permitted by Class KA and any waste material arising from other development so permitted is removed from the land;
 - (ii) any borehole is adequately sealed;
 - (iii) the surface of the land is levelled and any topsoil replaced as the uppermost layer; and
 - (iv) the land is, so far as is practicable, restored to its condition before the development took place, including the carrying out of any necessary seeding and replanting;

- (d) the developer notifies the Environment Agency and the relevant drinking water supply undertaker in writing of its intention to carry out the development (specifying the nature and location of the development), and no development takes place until 28 days after that notification;
- (e) in the case of boreholes for locating and appraising the condition of mines, the developer notifies the Coal Authority in writing of its intention to carry out the development (specifying the nature and location of the development), and no development takes place until 28 days after that notification; and
- (f) the development ceases no later than a date which is—
 - (i) in the case of development involving the drilling of boreholes for groundwater monitoring, 24 months; and
 - (ii) in other cases, 6 months,
 after the elapse of the relevant period, unless the mineral planning authority has otherwise agreed in writing.

Interpretation of Class KA

KA.3. For the purposes of Class KA, “relevant period” means the period elapsing—

- (a) where a direction is not issued under article 5, 28 days after the notification referred to in paragraph KA.1(a) or, if earlier, on the date on which the mineral planning authority notifies the developer in writing that it will not issue such a direction, or
- (b) where a direction is issued under article 5, 28 days from the date on which notice of that decision is sent to the Secretary of State, or, if earlier, the date on which the mineral planning authority notifies the developer that the Secretary of State has disallowed the direction.”; and
- (e) in paragraph N.1 (interpretation of Part 17)—
 - (i) after the definition of “coal mining operations”, insert—

““groundwater” has the same meaning as in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2010(1);”;
 - (ii) after the definition of “normal and regular use”, insert—

““relevant drinking water supply undertaker” means any water undertaker in whose area of appointment development will take place and, in the case where the development is likely to affect water resources in the area of appointment of another water undertaker, that undertaker;”.