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STATUTORY INSTRUMENTS

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**2021 No. 1464**

**The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 3) Order 2021**

**Amendment of Part 19 (development by the Crown or for national security purposes)**

**8.** In Part 19, after Class T (electronic communication apparatus etc for national security purposes) insert—

*“Class TA – development by the Crown on a closed defence site*

**Permitted development**

**TA.** *The erection, extension or alteration on a closed defence site by or on behalf of the Crown of—*

- (a) single living accommodation;*
- (b) a non-residential building.*

**Development not permitted**

**TA.1.**—(1) Development is not permitted by Class TA—

- (a) within 15 metres of the closed defence site’s perimeter (“the perimeter”);
- (b) within 25 metres of the perimeter where the development would be visible from a highway and—
  - (i) in the case of a building erected, the height of the building would exceed 10 metres;
  - (ii) in the case of a building extended or altered, the height of the building would exceed the lesser of—
    - (aa) the height of the existing building, or
    - (bb) 10 metres;
- (c) at any other location if the height of—
  - (i) any building erected would exceed 12 metres;
  - (ii) any building extended or altered would exceed the lesser of—
    - (aa) the height of the existing building, or
    - (bb) 12 metres;
- (d) on land which is or forms part of—
  - (i) article 2(3) land;
  - (ii) a site of special scientific interest;
  - (iii) a listed building or land within its curtilage;
  - (iv) a scheduled monument or land within its curtilage.

(2) Development is not permitted by Class TA(a) if the total floor space of any buildings added to the closed defence site via erection or extension under Class TA(a) would exceed 25% of the total floor space of single living accommodation on the closed defence site immediately before 11th January 2022.

(3) Development is not permitted by Class TA(b) if the total floor space of any buildings added to the closed defence site via erection or extension under Class TA(b) would exceed 35% of the total floor space of non-residential buildings at the closed defence site immediately before 11th January 2022.

### Conditions

**TA.2.**—(1) Development is permitted by Class TA subject to the conditions that before beginning development the developer must—

- (a) assess the contamination and flood risks of the development,
- (b) identify measures to reduce so far as practicable any contamination or flood risks of the development,
- (c) where the development is in an area within Flood Zone 3, carry out prior consultation in accordance with paragraph TA.3, and
- (d) in any event, provide written notification to the local planning authority—
  - (i) of the date on which it is proposed to begin development, and
  - (ii) including a description of the development containing sufficient information to enable the local authority to satisfy itself that the development complies with the provisions of Class TA.

(2) Development is permitted by Class TA subject to the condition that it is carried out in accordance with any measures identified under paragraph TA.2(1)(b) to reduce so far as practicable any contamination or flood risks.

(3) Where the total footprint of any buildings added to the closed defence site via erection or extension under Class TA exceeds (or would, as a result of the proposed development, exceed) 4,000 square metres, development is permitted by Class TA subject to the condition that before beginning the 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 the siting and scale of the development.

(4) The conditions in sub-paragraph (5) apply where proposed development relates to the erection or extension of a building which will be—

- (a) visible from a highway,
- (b) of height in excess of 10 metres, and
- (c) either—
  - (i) single living accommodation which will be higher than the highest existing single living accommodation on the closed defence site, or
  - (ii) a non-residential building which will be higher than the highest existing non-residential building on the closed defence site.

(5) Proposed development described in sub-paragraph (4) is permitted by Class TA subject to the conditions that—

- (a) the proposed development is sited and its external appearance designed so as to minimise so far as practicable its effect on the amenity of the area, and

- (b) before beginning the 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 the external appearance of the building.
- (6) An application under sub-paragraph (3) or (5)(b) is to be made and determined in accordance with paragraph TA.4.

#### **Procedure for prior consultation under Class TA**

**TA.3.**—(1) Where a developer is required to carry out prior consultation under paragraph TA.2(1)(c), the developer must consult the Environment Agency as to the flood risks of the proposed development.

(2) The developer must notify the Environment Agency specifying the date by which they must respond (not being less than 21 days from the date the notice is given) (“the closing date”).

(3) The development must not begin—

(a) before the occurrence of one of the following—

- (i) the receipt by the developer of responses to the consultation required by this paragraph, or
- (ii) the day after the closing date.

(b) in any event, before the developer takes into account any representations received on or before the closing date as a result of consultation under this paragraph.

(4) Where the developer receives representations on or before the closing date as a result of consultation under this paragraph, the developer must as soon as reasonably practicable send to the local planning authority—

- (a) a copy of the representations, and
- (b) a statement explaining how the developer has taken the representations into account.

#### **Procedure for applications for prior approval under Class TA**

**TA.4.**—(1) The following provisions apply where a developer is required under paragraph TA.2(3) or (5)(b) to make an application for a determination as to whether the prior approval of the authority will be required.

(2) The application must be accompanied by—

(a) a written description of the proposed development including a statement of any proposed increase in the total footprint of buildings on the closed defence site,

(b) where the proposed development relates to the erection or extension of—

(i) single living accommodation, a statement showing the total floor space of single living accommodation—

- (aa) on the closed defence site immediately before 11th January 2022,
- (bb) already added to the closed defence site via development under Class TA(a), and
- (cc) to be added to the closed defence site via the proposed development;

(ii) a non-residential building, a statement showing the total floor space of non-residential buildings—

- (aa) on the closed defence site immediately before 11th January 2022,

- (bb) already added to the closed defence site via development under Class TA(b), and
  - (cc) to be added to the closed defence site via the proposed development;
  - (c) a plan indicating the closed defence site and showing the proposed development,
  - (d) drawings prepared to an identified scale and showing—
    - (i) in the case of a building to be erected, the proposed external dimensions and elevations of that building;
    - (ii) in the case of a building to be extended or altered, the external dimensions and elevations of that building both before and after the proposed extension or alteration,
  - (e) the developer’s contact address and, if they are content to receive communications electronically, the developer’s email address, and
  - (f) any fee required to be paid.
- (3) The local planning authority may refuse an application where, in the opinion of the authority—
- (a) the proposed development does not comply with, or
  - (b) the developer has, following a requirement imposed under paragraph TA.4(6), provided insufficient information to enable the authority to establish whether the proposed development complies with,
- any conditions, limitations or restrictions specified in Class TA applicable to the development in question.
- (4) Sub-paragraphs (5) and (7) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.
- (5) The local planning authority must 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, and
    - (iii) specifies the date by which representations are to be received by the local planning authority (not being less than 21 days from the date the notice is displayed), or
  - (b) by serving a notice in that form on any owner or occupier of any premises which adjoin the closed defence site.
- (6) The local planning authority may require the developer to submit such information as the authority may reasonably require to determine the application.
- (7) The local planning authority must, when determining an application—
- (a) take into account any representations made to them as a result of any notice given under sub-paragraph (5), and
  - (b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in July 2021, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.
- (8) The development must not begin 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;
  - (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.
- (9) The development must 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 sub-paragraph (8)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (2),

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

(10) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the approval.

(11) When computing the number of days in sub-paragraph (5)(a), any day which is a public holiday must be disregarded.

### **Interpretation of Class TA**

**TA.5.** For the purposes of Class TA—

“closed defence site” means a site which is—

- (a) on Crown land,
- (b) used exclusively for defence purposes, and
- (c) surrounded by a closed perimeter;

“footprint”, in relation to a building, means the total area of ground covered by it;

“non-residential building” means a building which is used exclusively for defence purposes other than as—

- (a) single living accommodation, or
- (b) a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order;

“single living accommodation” means a building used for the purpose of providing living accommodation for single or unaccompanied persons.”.