

## EXPLANATORY MEMORANDUM TO

### THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) (AMENDMENT) ORDER 2023

2023 No. 1110

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

#### 2. Purpose of the instrument

- 2.1 This Order amends the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596), as amended (“the General Permitted Development Order”).
- 2.2 This Order introduces a new time-limited permitted development right for temporary buildings on school land where the school has a building affected by reinforced autoclaved aerated concrete (RAAC). The permitted development right is time-limited and can be used from the day after this Order is laid until 11.59 p.m. on 24 October 2026.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument is being laid in breach of the 21-day rule for Parliament to pray against Statutory Instruments.
- 3.2 The presence of RAAC in schools can pose a safety risk to children and staff where it has been incorrectly installed, poorly maintained, or has reached the end of its lifespan. As a result, some schools across England have partially or fully vacated until remediation works are complete. The Government considers that breaching the 21-day rule is necessary and justifiable so that schools that have vacated or need to vacate their buildings can provide temporary buildings on their school land as soon as possible. The measure seeks to avoid the delay that the making, submitting and processing of individual planning applications would inevitably involve. This measure will therefore come into force the day after the Order is laid. The Government’s priority is for every child across the UK to go to school safely. Any delay to this measure coming into force could further extend the time that children spend outside of school and their classrooms.

#### 4. Extent and Territorial Application

- 4.1 The extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

## **5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **6. Legislative Context**

- 6.1 Under Part 3 of the Town and Country Planning Act 1990 (“the 1990 Act”) planning permission is required for the development of land. Planning permission may be granted on application to a local planning authority or by a development order made under the 1990 Act.
- 6.2 The General Permitted Development Order grants planning permission for a range of specific classes of development, subject to certain limitations and conditions. Planning permission granted under the General Permitted Development Order is known as a “permitted development right”. The effect is that an application for planning permission does not need to be made to the local planning authority.

## **7. Policy background**

### *What is being done and why?*

- 7.1 Permitted development rights have an important role to play in the planning system. They provide certainty and remove the time and money needed to submit an application for planning permission. Permitted development rights can incentivise certain forms of development and provide flexibilities and planning freedoms to different users.
- 7.2 The Government is putting measures in place to respond to the presence of RAAC in some schools in England. Confirmed RAAC can present a safety risk to the building and its users which has resulted in the partial or full vacation of some school buildings until remediation works are complete.
- 7.3 Article 2 introduces a new time-limited permitted development right so that temporary buildings can be provided on school land where the school has a building affected by RAAC. The article inserts Class CB into Part 4 of Schedule 2 to the General Permitted Development Order. The time-limited permitted development right will cease to have effect after 11.59 p.m. on 24 October 2026. Should the temporary buildings be required beyond 11.59 p.m. on 24 October 2026 a planning application can be submitted.
- 7.4 The right will be subject to limitations and conditions to manage impacts and protect local amenity. The permitted development right allows for temporary buildings with a maximum total floor space up to 125% of the floor space of the school buildings which have been vacated due to the presence of RAAC. New temporary buildings can be no higher than 2 storeys and up to a total maximum height of 9 metres. The development cannot result in an increase to the school’s published admission number.
- 7.5 No part of the temporary buildings can be within 5 metres of a boundary to a residential use falling within Part C of Schedule 1 of the Town and Country Planning (Use Classes) Order 1987 (S.I 1987/764). Temporary buildings must be placed, as far as practicable, to minimise any reduction in the amount of school land used for playing fields and space available for the parking or turning of vehicles.
- 7.6 The school is required to notify the local planning authority and the fire and rescue authority in writing of their use of the permitted development right. Where

development begins after 25 October 2023, the school must notify the local authority either before or as soon as reasonably practicable after development has begun. Where development begins on or before 25 October 2023, the school must notify the local planning authority as soon as reasonably practicable after that date. In notifying the local planning authority and fire and rescue authority, the school must provide a written description of the development, a plan showing the development and any buildings on the school's school land, the start date or expected date for development, the address of the school and the school's contact address. The school must also provide confirmation that there is a RAAC-affected building on the school's school land and confirm the total floor space (in square metres) of school buildings that has been vacated due to RAAC and the total floor space (in square metres) of the temporary buildings being provided.

- 7.7 Temporary buildings must be removed from the school land either before the right ceases to exist at 11.59 p.m. on 24 October 2026 or when the temporary buildings are no longer required, whichever is sooner. Once the temporary building has been removed, the land where the temporary building was placed must be reinstated to its original condition as soon as reasonably practicable.
- 7.8 The permitted development right does not apply if the temporary building is placed on land which is, or forms part of, sites of special scientific interest, safety hazard areas or military explosives storage areas. It will also not apply to land that is a scheduled monument or within the boundaries of a scheduled monument.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

## **9. Consolidation**

- 9.1 The General Permitted Development Order was consolidated in 2015. This is the twenty-seventh amending instrument to the General Permitted Development Order. There are no current plans for a consolidation.

## **10. Consultation outcome**

- 10.1 This time-limited permitted development right has not been subject to consultation. We have worked with the Department for Education to draft this instrument.

## **11. Guidance**

- 11.1 There are no plans to issue specific statutory guidance for this instrument.
- 11.2 The Department for Education will issue non-statutory guidance to advise its contractors and responsible bodies on best practice when delivering temporary buildings under this permitted development right.

## **12. Impact**

- 12.1 The measures will allow schools to provide temporary buildings for a time-limited period on their school sites where a school has been partially or fully vacated due to the presence of RAAC. It removes the small cost and time burden of having to submit a planning application where temporary buildings are required urgently to ensure that children's education is not disrupted by the closure of school buildings.

- 12.2 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.3 An impact assessment has not been produced for this instrument as no significant impact on the public, private or voluntary sector is foreseen.

### **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.
- 13.2 The impact of the change is deregulatory, reducing bureaucracy and cost in the planning system.

### **14. Monitoring & review**

- 14.1 As this is a time-limited measure, applying for a period of three years from the day the permitted development right comes into effect, a review will not be carried out as it would be disproportionate. The impact of the changes are small, as set out in the previous sections. The Department for Levelling Up, Housing and Communities will continue to monitor permitted development rights with changes made accordingly to ensure intended outcomes are achieved. A statutory review clause has not therefore been included for this particular instrument separate to that in article 7A of the General Permitted Development Order.

### **15. Contact**

- 15.1 Amy Brookes at the Department for Levelling Up, Housing and Communities, Telephone: 0303 444 4811 or email: [amy.brookes@levellingup.gov.uk](mailto:amy.brookes@levellingup.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Lucy Hargreaves, Deputy Director for Development Management, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rachel Maclean, Minister of State at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.