

## **EXPLANATORY MEMORANDUM TO**

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

**2023 NO. 747**

#### **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.

#### **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”) to make changes to permitted development rights. This includes the introduction of two new permitted development rights for temporary recreational campsites and prison fences. It also makes amendments to three existing permitted development rights allowing for the temporary use of land, development by local authorities and the temporary use of buildings or land for film-making purposes.
- 2.2 This Order introduces a new permitted development right that will allow the temporary use of land as a recreational campsite for up to 60 days per calendar year. The right is subject to limitations and conditions to address any impacts.
- 2.3 This Order amends the existing permitted development right for the temporary use of land as to only permit camping when in connection with a festival.
- 2.4 This Order amends the existing permitted development right allowing local authorities to undertake a range of works so that bodies acting on behalf of the local authority or urban development corporation can also benefit from the right. It also amends the definition of local authority in Part 12 of the General Permitted Development Order so that National Park authorities and the Broads Authority can benefit from the permitted development right.
- 2.5 This Order amends the existing permitted development right for the temporary use of buildings or land for film-making purposes. It increases the period that buildings or land can be used for temporary film-making purposes, the size of the land, or land on which a building is situated, and the maximum height of any temporary structure, works, plant or machinery.
- 2.6 This Order will also introduce a new permitted development right allowing for the erection of, or alteration to prison fences of up to 5.5 metres above ground level.
- 2.7 In addition, this Order amends the Town and Country Planning (Compensation) (England) Regulations 2015 (S.I. 2015/598) (“the Compensation Regulations”) to limit the compensation liability for the removal of camping, except in connection with a festival, from the temporary use of land permitted development right. It also limits the compensation liability where a local authority withdraws the permitted development right for temporary recreational campsites or prison fences in scope of this Order by making a direction under Article 4 of the General Permitted Development Order.

- 2.8 The Order also amends the Town and Country Planning (Development Management Procedure) (England) Order 2015 (“the Development Management Procedure Order”) to add the new permitted development right for temporary recreational campsites to Article 22 (duty to respond to consultation).

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

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

- 3.1 None.

### **4. Extent and Territorial Application**

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

- 4.2 The 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, although in some cases permitted development rights require the local planning authority to approve certain key planning matters before development can proceed. This is known as “prior approval”.
- 6.3 The Compensation Regulations can exclude, in specified circumstances, the liability of local planning authorities to pay compensation on withdrawal or curtailment of a permitted development right contained within the General Permitted Development Order.
- 6.4 The Development Management Procedure Order prescribes the permitted development rights that are subject to the duty to respond to consultation imposed on statutory consultees (also prescribed in the Development Management Procedure Order).

### **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 are an important tool to support growth by providing certainty and removing the time and money needed to submit a planning application. Permitted development rights can incentivise certain forms of development and provide flexibilities and

planning freedoms to different users, including businesses, local authorities and local communities.

7.2 Permitted development rights are subject to conditions and limitations to control impacts and to protect local amenity.

7.3 This Order amends the General Permitted Development Order as follows:

*Introduction of a new permitted development right for temporary recreational campsites*

7.4 Following the renewed demand for domestic holidaymaking and to support the local tourism industry, Article 3 introduces a new permitted development right for temporary recreational campsites in a new Class BC of Part 4 of Schedule 2 of the General Permitted Development Order. It will allow for the temporary use of land as a recreational campsite for up to 60 days per calendar year and the provision on such land of no more than 50 pitches and any moveable structure reasonably necessary for the campsite use. The right will be subject to limitations and conditions to manage impacts and protect local amenity. The developer is required to make on-site provision for users of the campsite for moveable toilet and waste disposal facilities.

7.5 The developer is required to notify the local planning authority in writing before the commencement of development each calendar year. In notifying the local planning authority, the developer must provide a copy of the site plan which includes details of the toilet and waste disposal facilities as well as the dates on which the campsite will be in use. The local planning authority must then provide this information to the fire and rescue authority (if they are different bodies).

7.6 Where the site is within Flood Zone 2 or 3, prior approval is required from the local planning authority each calendar year before commencement of development. The developer is required to submit a site-specific flood risk assessment, including a warning and evacuation plan. The local planning authority in considering the application for prior approval must consult the Environment Agency.

7.7 The permitted development right will not apply to land within the curtilage of a listed building, sites of special scientific interest or scheduled monuments; nor to safety hazard areas or military explosives storage areas. It will also not allow for the siting of any caravan except when used as a motor vehicle incorporating accommodation (e.g. motorhomes and campervans).

7.8 Article 3 amends the existing temporary use of land permitted development right, Class B of Part 4 of the General Permitted Development Order, which allows land to be temporarily used for any purpose, subject to certain exclusions, for up to 28 days per calendar year, to disapply the use of land for a recreational campsite other than in connection with a festival and specify that, where the right is being used to provide a festival with camping, the right does not allow for the siting of any caravan except when used as a motor vehicle incorporating accommodation (e.g. motorhomes and campervans). This amendment does not come into effect until the end of 25 July 2024, to ensure local authorities are not liable to pay compensation for the withdrawal of permission. Therefore a developer can use Class B of Part 4 or Class BC of Part 4 to operate a campsite under permitted development rights until that date.

*Amendments to the permitted development right allowing for temporary film-making*

7.9 An existing permitted development right, under Class E of Part 4 of the General Permitted Development Order, allows for the temporary use of buildings or land for

film-making purposes and the provision of temporary structures relating to that use. To continue to support film and television production growth and respond to the changing nature of productions, Article 3 amends the permitted development right to increase the maximum period of time that land or a building can be used for the purpose of commercial film-making from 9 months to 12 months in any 27 month period. It will also double the maximum area of land that the permitted development right applies to from 1.5 hectares to 3 hectares and increase the maximum height of any temporary structure, works, plant or machinery provided under the permitted development right from 15 metres to 20 metres.

*Introduction of a new permitted development right for prison fences*

- 7.10 Article 4 introduces a new permitted development right for prison fences in a new Class MA of Part 7 of Schedule 2 of the General Permitted Development Order. The permitted development right will allow for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure in connection with a prison up to 5.5 metres above ground level. This new permitted development right will comply with the Technical Standards as set out in the Ministry of Justice's Specifications and Design Guides and will also support the development of the Ministry of Justice's prison estate.

*Amendments to the permitted development right allowing development by local authorities*

- 7.11 An existing permitted development right, under Class A of Part 12 of the General Permitted Development Order, allows local authorities or urban development corporations to undertake a range of development, including the installation of electric vehicle charging points as well as information kiosks, public water fountains and public shelters. To provide further flexibility to support the deployment of electric vehicle charging points, Article 5 amends the permitted development right to explicitly allow bodies to undertake the works on behalf of the local authority.
- 7.12 Article 5 also makes an amendment to Part 12 of the General Permitted Development Order to add National Park authorities and the Broads Authority to the definition of local authority. This will make it explicitly clear that these authorities can also benefit from the permitted development rights set out in Part 12, providing them with additional flexibility to deliver local infrastructure.

*Amendments in respect of compensation*

- 7.13 Article 6 makes minor amendments to the Compensation Regulations to add Class B of Part 4, Class BC of Part 4 and Class MA of Part 7 to the list of development prescribed for the purposes of subsections (2A)(a) and (3C)(a) of section 108 (compensation where planning permission granted by development order is withdrawn) of the Town and Country Planning Act 1990.

*Amendments in respect of the development management procedure*

- 7.14 Article 7 amends the Development Management Procedure Order to add Class BC of Part 4 to Article 22 which imposes a duty on the Environment Agency to consider and comment on applications for prior approval in relation to flood risk.

## **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-sixth amending instrument to the General Permitted Development Order. There are no current plans for a consolidation.

## **10. Consultation outcome**

- 10.1 The permitted development rights: supporting temporary recreational campsites, renewable energy and film-making consultation (“the consultation”) was open from 28 February 2023 to 25 April 2023. It invited views on changes to permitted development rights which would support temporary recreational campsites, the installation of solar equipment, local authority led development and temporary film-making. The proposed changes to the permitted development rights for solar equipment are not contained in this statutory instrument, and if measures are taken forward, a separate statutory instrument will introduce these changes.

- 10.2 There were over 1,000 responses received to the consultation. The Government response to the consultation will be published in due course. A summary of the responses is provided below:

### *Introduction of a new permitted development right for temporary recreational campsites*

- 10.3 The consultation sought views on the introduction of the new permitted development right as well as potential limitations and conditions, including on the number of days that campsites can operate per calendar year and on campsite capacity. Those supporting the proposal recognised the positive impacts the permitted development right could have to rural areas, landowners and individuals or families wishing to access the countryside. Those that did not support the introduction of the permitted development right raised potential impacts on residential amenity and the environment.
- 10.4 Following responses received to the consultation, we are proceeding with the proposed limitations and conditions that were consulted on in most cases. We had proposed that the permitted development right would only apply to the placing of tents, however respondents raised concerns that this could impact on people with limited mobility, such as the elderly, who are unable to sleep in tents and require campervans etc to stay overnight in campsites. To provide additional flexibility, while the permitted development right will not permit the use of the land for a caravan site, an exception is provided for when the caravan is a motor vehicle incorporating accommodation (e.g. a campervan/motorhome). The limit on caravans is to minimise potential impacts on the land and highways. We had consulted on allowing campsites up to 30 pitches under the permitted development right, however, following the consultation the right will allow up to 50 campervans, motorhomes or tents to balance economic benefits and protect the amenity of local residents. This will support the viability of campsites. Lastly, the consultation proposed that developers would be required to make on-site provision for temporary facilities including toilets, showers and waste. Many respondents did not believe that mandating showers on sites was necessary for every site and it could impact on the viability of some campsites if they are required to hire showers. Therefore, the permitted development right will only require the on-site provision of moveable toilets and waste disposal facilities. It is up to the individual developer to provide any other facilities, such as showers, dependent on the type of campsite they operate.

- 10.5 Through the consultation feedback, we received strong feedback that removing recreational campsites from the temporary use of land permitted development right, under Class B of Part 4, would prevent camping at some festivals. We are therefore continuing to allow festivals with camping to operate under the temporary use of land permitted development right. To provide maximum flexibility for the forthcoming summer, the withdrawal of recreational camping (other than in connection with a festival) will not come into operation for 12 months from the date of this legislation coming into force.

*Amendments to the permitted development right allowing development by local authorities*

- 10.6 The consultation sought feedback on an amendment to the existing permitted development right allowing local authorities to undertake a range of development, including the installation of electric vehicle charging points to enable bodies to undertake the works on behalf of the local authority. Those supporting the proposal cited positive benefits that the change would bring to local authorities in helping them install public infrastructure in their authority area and would likely increase access to electric vehicle charging points. Some queried the accountability of contractors undertaking the works, however others recognised impacts would be minimal as they would be working on behalf of the local authority.
- 10.7 We received additional feedback through the consultation that the definition of a local authority in Part 12 of the General Permitted Development Order does not make explicit reference to a National Park authority or the Broads Authority. It was requested that National Park authorities and the Broads Authority were added to the definition so that they can benefit from the permitted development right to enable the rollout of public infrastructure, including electric vehicle charging points. We are making this change to support these authorities in delivering public infrastructure.

*Amendments to the permitted development right allowing for temporary film-making*

- 10.8 The consultation sought views on three amendments to the existing permitted development right. These would enable buildings or land to be used for temporary film-making purposes for 12 months in any 27 month period, allow up to 3 hectares of land (or land on which a building is situated) to be used for temporary film-making purposes, and for temporary structures, works, plan or machinery erected in connection with a temporary film-making use to be up to 20 metres in height. Those supporting the amendments recognised the increased flexibilities for the film and television production industry would not only benefit that specific industry but also provide benefits to the surrounding local area. Some respondents that supported the amendments recognised that there may be local impacts but concluded the temporary nature of the use and wider benefits to local areas would outweigh them. Existing prior approvals seek to mitigate impacts upon local communities where possible.

## **11. Guidance**

- 11.1 There are no plans to issue specific statutory guidance for this instrument.

## **12. Impact**

- 12.1 These statutory instruments apply to businesses, charities and voluntary bodies. The new permitted development rights are deregulatory in effect, reducing bureaucracy and planning costs. There will be a decrease in cost and time burden of having to submit a planning application for film production companies for some film sets.

- 12.2 There is no significant impact on the public sector. The impact on local planning authorities is in some cases a reduction in administrative cost and time of processing planning applications, where the development would otherwise have come forward through a planning application. For example, currently where a landowner seeks to operate a campsite for more than 28 days per calendar year, a planning application is required. Permitting recreational campsites for up to 60 days per calendar year and requiring prior approval by the local authority only where the site is within Flood Zone 2 or 3, will likely result in fewer planning applications for the local authority to process. Similarly providing additional flexibility for the temporary use of buildings or land for film-making purposes and introducing a new right for prison fences enabling the Ministry of Justice to comply with specific standards, will also reduce burdens for local authorities in processing a small number of applications.
- 12.3 An amendment is also being made to the permitted development right allowing development by local authorities. The changes make clear that work may be undertaken under the Class A of Part 12 right on behalf of, and not just by local authorities and urban development corporations, with local authorities and urban development corporations maintaining control for the work undertaken on their behalf. This will provide clarity and certainty on the use of the rights. Furthermore, National Park authorities and the Broads Authority will also benefit from the Part 12 rights, enabling them to also deliver public service infrastructure such as information kiosks, electric vehicle charge points etc. The impact of these changes are deregulatory, providing a small reduction in bureaucracy and cost in the planning system.
- 12.4 A full Impact Assessment has not been prepared for this instrument.

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

- 13.1 Those parts of the legislation relating to the new permitted development right for temporary recreational campsites and amendments to the permitted development right for temporary film-making apply to activities that may be undertaken by small businesses. The impact of the change is deregulatory, providing a small reduction in bureaucracy and cost in the planning system and so small businesses have not been exempted as they will benefit.
- 13.2 The permitted development right relating to development by local authorities and the new permitted development right for prison fences will benefit the public sector.

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

- 14.1 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.

### **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 can be contacted with any queries regarding the instrument.

- 15.2 Lucy Hargreaves, Deputy Director for Planning – 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.