

2017 No. 619

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2017

<i>Made</i> - - - -	<i>28th April 2017</i>
<i>Laid before Parliament</i>	<i>28th April 2017</i>
<i>Coming into force</i> - -	<i>23rd May 2017</i>

The Secretary of State, in exercise of the powers conferred by sections 59, 60, 61 and 333(7) of the Town and Country Planning Act 1990(a), makes the following Order:

Citation and commencement

1. This Order may be cited as the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2017 and comes into force on 23rd May 2017.

Amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015

2. The Town and Country Planning (General Permitted Development) (England) Order 2015(b) is amended as follows.

Amendments in relation to changes of use of drinking establishments

3.—(1) Part 3 of Schedule 2 is amended as follows—

- (a) in Class A—
 - (i) in the heading insert “or” before “takeaways” and omit “or pubs”;
 - (ii) in paragraph A omit “, A4 (drinking establishments)”;
 - (iii) omit paragraphs A.1 to A.3;
- (b) after Class A, insert—

“Class AA-drinking establishments with expanded food provision

Permitted Development

AA. Development consisting of a change of use of a building and any land within its curtilage—

- (a) from a use falling within Class A4 of the Schedule to the Use Classes Order to a use falling within Class A4 (drinking establishments) with a use falling within***

(a) 1990 c.8. Amendments have been made to section 59 which are not relevant to this Order. Section 60 was amended by section 4(1) of the Growth and Infrastructure Act 2013 (c.27) and section 152 of the Housing and Planning Act 2016 (c.22).
(b) S.I. 2015/596 has been amended by S.I. 2016/332, S.I. 2016/1040 and S.I. 2017/391.

Class A3 (restaurants and cafes) (“drinking establishments with expanded food provision”); and

(b) from a use as a drinking establishment with expanded food provision to a use falling within Class A4 (drinking establishments).”

- (c) in Class B—
 - (i) in the heading omit “or pubs”;
 - (ii) in paragraph B omit “Class A4 (drinking establishments) or”;
 - (iii) omit paragraphs B.1 to B.3.
- (2) Part 4 of Schedule 2 is amended as follows—
 - (a) in Class C—
 - (i) for paragraph C.1(e) substitute—

“(e) the building is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, including a purpose as described in Class AA (drinking establishments with expanded food provision) of Part 3 of Schedule 2 to this Order.”;
 - (ii) omit paragraph C.2(f); and
 - (iii) in paragraph C.3 omit the definitions of “community asset”, “list of assets of community value”, “nomination”, “specified building” and “specified period”;
 - (b) in Class D—
 - (i) in the heading omit “, pubs”;
 - (ii) in paragraph D(a)(i) omit “Class A4 (drinking establishments),”;
 - (iii) omit paragraph D.1(f);
 - (iv) omit paragraph D.2(f); and
 - (v) in paragraph D.3 omit ““community asset”, “specified building” and “specified period” have the meaning given in paragraph C.3; and”.

Amendments in relation to demolition of buildings

4. Class B of Part 11 of Schedule 2 is amended as follows—

- (a) for paragraph B.1(c) substitute—

“(c) the building is used, or was last used, for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, including a purpose as described in Class AA (drinking establishments with expanded food provision) of Part 3 of Schedule 2 to this Order.”;
- (b) for paragraph B.2(b)(i) substitute—

“(i) the developer must, before beginning the development, 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;”
- (c) in paragraph B.2(b)(ii), for “paragraph (b)(i)(aa)” substitute “paragraph (b)(i)”;
- (d) omit paragraph B.2(b)(iii);
- (e) omit paragraph B.2(b)(vi);
- (f) in paragraph B.2(b)(vii) omit “subject to paragraph (b)(x),”;
- (g) in paragraph B.2(b)(ix) omit “subject to paragraph (b)(x),”;
- (h) omit paragraph B.2(b)(x); and
- (i) in paragraph B.3 omit the definitions of “community asset”, “list of assets of community value”, “nomination”, “prior approval event”, “specified building” and “specified period”.

Transitional and saving provisions

5.—(1) Where, in relation to specified development, the period of 56 days referred to in—

- (a) paragraph A.2(4) of Part 3 of Schedule 2 to the General Permitted Development Order; or
- (b) paragraph C.2(f)(iii) of Part 4 of that Schedule,

expired before 23rd May 2017 then the planning permission granted under Class A or Class B of Part 3 or, as the case may be, Class C or Class D of Part 4 of Schedule 2 to the General Permitted Development Order continues to have effect as if the amendments made by this Order had not been made.

(2) Where, in relation to specified demolition, a prior approval event occurred before 23rd May 2017, then planning permission granted under Class B of Part 11 of Schedule 2 to the General Permitted Development Order continues to have effect as if the amendments made by this Order had not been made, provided that the period of 56 days referred to in paragraph B.2(b)(x) of Part 11 of Schedule 2 to the General Permitted Development Order expired before 23rd May 2017.

(3) In relation to a building falling within the scope of a relevant article 4 direction the amendments made by article 3(1)(b) of this Order do not have effect until 23rd November 2018.

(4) For the purposes of this article—

“the General Permitted Development Order” means the Town and Country Planning (General Permitted Development) (England) Order 2015 as it was in force immediately before the coming into force of this Order;

“prior approval event” has the same meaning as in paragraph B.3 of Part 11 of Schedule 2 to the General Permitted Development Order;

“relevant article 4 direction” means a direction under article 4(1) of the General Permitted Development Order which is in force immediately before the coming into force of this Order which removes permission to change the use of a building falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order to a use falling within Class A3 (restaurants and cafes) of that Schedule;

“specified demolition” means demolition in relation to a building used or last used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order which is intended to be carried out under Class B of Part 11 of Schedule 2 to the General Permitted Development Order;

“specified development” means development in relation to a building used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order which is intended to be carried out under—

- (a) Class A of Part 3 of Schedule 2 to the General Permitted Development Order;
- (b) Class B of Part 3 of that Schedule;
- (c) Class C of Part 4 of that Schedule; or
- (d) Class D of Part 4 of that Schedule; and

“the Use Classes Order” means the Town and Country Planning (Use Classes) Order 1987(a).

Signed by authority of the Secretary of State for Communities and Local Government

Gavin Barwell
Minister of State

28th April 2017

Department for Communities and Local Government

(a) S.I.1987/764. Relevant amendments were made by S.I. 2005/84 and 2015/597.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the General Permitted Development Order”) (S.I. 2015/596). It implements the duty set out in section 15 of the Neighbourhood Planning Act 2017.

Article 3 removes permitted development rights allowing the change of use of a building falling within Class A4 (drinking establishment) of the Schedule to the Town and Country Planning (use Classes) Order 1987 (S.I. 1987/764) to a building within Classes A1 (shops), A2 (financial and professional services), and A3 (restaurants and cafes) and to a temporary flexible use or a state-funded school for up to 2 academic years.

Article 3 also introduces a new permitted development right allowing change of use of a building falling within Class A4 (drinking establishments) to a use within Class A4 with a use falling within Class A3 (restaurants and cafes), or from those uses to a use falling within Class A4.

Article 4 removes permitted development rights allowing for the demolition of buildings used for a purpose within Class A4 (drinking establishments).

Article 5 makes transitional provisions for cases where, following a request for confirmation from the local planning authority as to whether the building has been nominated or listed as an asset of community value (as defined in paragraphs A.3 of Part 3, C.3 of Part 4 or B.3 of Part 11 of Schedule 2 of the General Permitted Development Order, before amendment by this Order), development may begin in accordance with those provisions. The effect is that planning permission in these cases is saved (where the drinking establishment is not nominated or listed) where such a request has been made more than 56 days before 23rd May 2017. In the case of demolition, prior approval must also have been granted, determined not required or deemed granted before 23rd May 2017. This article also postpones by 18 months the application of the new right introduced by article 3, for a building which falls within the scope of a direction under article 4 withdrawing permission to change use from a use falling within Class A4 (drinking establishments) to a use falling within Class A3 (restaurants and cafes).

An impact assessment will be available at www.legislation.gov.uk, or copies may be inspected at the Planning Directorate, Department for Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.

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£4.25

UK201704283 05/2017 19585

<http://www.legislation.gov.uk/id/uksi/2017/619>

ISBN 978-0-11-115830-2



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