

2021 No. 1464

TOWN AND COUNTRY PLANNING, ENGLAND

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

Made - - - - *16th December 2021*

Laid before Parliament *20th December 2021*

Coming into force in accordance with article 1(2)

The Secretary of State makes the following Order in exercise of the powers conferred by sections 59, 60, 61, 108(2A), (3C), (5) and (6) and 333(7) of the Town and Country Planning Act 1990(a):

Citation, commencement and extent

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 3) Order 2021.

(2) This Order comes into force as follows—

- (a) this article and articles 2 and 7 come into force on 1st January 2022;
- (b) articles 4, 5 and 10 come into force on 2nd January 2022;
- (c) the rest of this Order comes into force on 11th January 2022.

(3) This Order extends to England and Wales.

(4) In this Order, “the GPDO” means the Town and Country Planning (General Permitted Development) (England) Order 2015(b).

Amendment of Schedule 2 (permitted development rights) to the GPDO

2. Schedule 2 to the GPDO is amended in accordance with articles 3 to 8.

Amendment of references to the National Planning Policy Framework

3.—(1) In each of the following places, for “February 2019” substitute “July 2021”—

- (a) in paragraph AA.3 of Class AA of Part 1 (development within the curtilage of a dwellinghouse)—
 - (i) sub-paragraph (11)(b);

(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) (“the 2016 Act”); section 108(2A) and (3C) was inserted by section 189 of the Planning Act 2008 (c. 29) (“the 2008 Act”) and amended by S.I. 2012/210 and paragraph 29(5), (6) and (7) of Schedule 12 to the 2016 Act; section 108(6) was inserted by section 189 of the 2008 Act and S.I. 2006/1281.

(b) S.I. 2015/596, which has been amended by S.I. 2016/332, 2016/765, 2016/772, 2016/1040, 2016/1154, 2017/391, 2017/571, 2017/619, 2017/1011, 2017/1012, 2018/119, 2018/343, 2018/695, 2019/907, 2020/330, 2020/412, 2020/632, 2020/755, 2020/756, 2020/1243, 2020/1459, 2021/428, 2021/467 and 2021/814.

- (ii) sub-paragraph (12)(b);
- (b) paragraph W(10)(b) of Part 3 (changes of use);
- (c) paragraph E.3(10)(b) of Class E of Part 4 (temporary buildings and uses);
- (d) paragraph J.4(8)(b) of Class J of Part 14 (renewable energy);
- (e) in paragraph B of Part 20 (construction of new dwellinghouses)—
 - (i) sub-paragraph (14)(b);
 - (ii) sub-paragraph (15)(b).

(2) In paragraph C.2(7)(b) of Class C of Part 7 (non-domestic extensions, alterations etc), for “Department for Communities and Local Government in March 2012” substitute “Ministry of Housing, Communities and Local Government in July 2021(a)”.

Amendment of Part 2 (minor operations)

4. In Part 2, after Class F (closed circuit television cameras) insert—

“Class G – moveable structures for pubs, restaurants etc

Permitted development

G. *The provision of one moveable structure within the curtilage, and for the purposes, of a building used for a purpose within—*

- (a) article 3(6)(p) or (q) (drinking establishments etc.) of the Use Classes Order(b); or*
- (b) Class E(b) (sale of food and drink etc.) of Schedule 2 to that Order.*

Development not permitted

G.1. Development is not permitted by Class G—

- (a) on land which is or forms part of—
 - (i) a scheduled monument or land within its curtilage;
 - (ii) a listed building or land within its curtilage;
- (b) if any part of the moveable structure would be within 2 metres of the curtilage of any adjacent land that is used for a purpose within Part C (residential uses) of Schedule 1 to the Use Classes Order;
- (c) if the height of the moveable structure would exceed 3 metres;
- (d) if the footprint of the moveable structure would exceed the lesser of—
 - (i) 50% of the footprint of the building, or
 - (ii) 50 square metres;
- (e) if the moveable structure is used for the display of an advertisement.

Interpretation of Class G

G.2. For the purposes of Class G, “footprint”, in relation to a building or a moveable structure, means the total area of ground covered by the building or moveable structure.”.

(a) This is a reference to the National Planning Policy Framework, available online at <https://www.gov.uk/government/publications/national-planning-policy-framework--2> and a copy of which may be inspected at the Planning Directorate, the Department for Levelling Up, Housing and Communities, 2 Marsham Street, London SW1P 4DF.

(b) S.I. 1987/764 as amended by S.I. 1991/1567, 1992/610, 1992/657, 1994/724, 1995/297, 1999/293, 2005/84, 2002/1875, 2006/220, 2006/1282, 2006/1386, 2010/653, 2010/675, 2011/988, 2015/597, 2016/28, 2016/1154, 2020/757, 2020/895 and 2021/428.

Amendment of Part 4 (temporary buildings and uses)

5. In Part 4, for Class BB (moveable structures for specified uses) substitute—

“Class BB – moveable structures for historic visitor attractions and listed pubs, restaurants etc

Permitted development

BB. *The provision of one moveable structure within the curtilage, and for the purposes, of—*

- (a) a listed building used for a purpose within—
 - (i) article 3(6)(p) or (q) (drinking establishments etc.) of the Use Classes Order; or*
 - (ii) Class E(b) (sale of food and drink etc.) of Schedule 2 to that Order; or**
- (b) a historic visitor attraction.*

Development not permitted

BB.1. Development is not permitted by Class BB—

- (a) on land which is or forms part of a scheduled monument or land within its curtilage;
- (b) if any part of the moveable structure would be within 2 metres of the curtilage of any adjacent land that is used for a purpose within Part C (residential uses) of Schedule 1 to the Use Classes Order;
- (c) if it would result in provision of a moveable structure being made within the curtilage of a building under Class BB on a total of more than 120 days in the relevant period;
- (d) if the height of the moveable structure would exceed 3 metres;
- (e) if the footprint of the moveable structure would exceed the lesser of—
 - (i) 50% of the footprint of the building, or
 - (ii) 50 square metres;
- (f) if the moveable structure is used for the display of an advertisement.

Conditions

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

- (a) where the moveable structure provided under Class BB is removed, the land must, as soon as reasonably practicable and so far as reasonably practicable, be reinstated to its original condition;
- (b) before a moveable structure is provided under Class BB (whether for the first time, or following the expiry of the relevant period), 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—
 - (i) the siting of the moveable structure, and
 - (ii) the method by which it is to be installed,and paragraph BB.3 applies in relation to that application.

Procedure for applications for prior approval under Class BB

BB.3.—(1) This paragraph applies where under Class BB a developer is required to make an application to the local planning authority 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;
- (b) a plan indicating the site and showing the proposed development;
- (c) a statement setting out the proposed methods of—
 - (i) installing the moveable structure; and
 - (ii) reinstating the land to its original condition once the moveable structure is removed;
- (d) the developer's contact address; and
- (e) the developer's email address if the developer is content to receive communications electronically,

together with 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 provided insufficient information to enable the authority to establish whether the proposed development complies with,

any conditions and limitations specified in Class BB as being applicable to the development in question.

(4) Sub-paragraphs (5) to (7) and (9) 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) On receipt of the application, the local planning authority must consult Historic England.

(6) The local planning authority must notify Historic England specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

(7) 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;
 - (iii) specifies the date by which representations are to be received by the local planning authority; or
- (b) by serving a notice in that form on any adjoining owner or occupier.

(8) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application.

(9) The local planning authority must, when determining an application—

- (a) take into account any representations made to them as a result of consultation under sub-paragraph (5) and any notice given under sub-paragraph (7); 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.

(10) 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; or
 - (c) the expiry of 56 days following the date on which the application referred to in sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
- (11) 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 (10)(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.
- (12) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
- (13) When computing the number of days in sub-paragraph (7)(a), any day which is a public holiday must be disregarded.

Interpretation of Class BB

BB.4. For the purposes of Class BB—

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

“historic visitor attraction” means a listed building accessible by members of the public (whether or not for an entry fee) for the purposes of promoting their enjoyment, and advancing their knowledge, of the building;

“original condition”, in relation to land on which a moveable structure is provided, means the condition of the land before the moveable structure was provided;

“relevant period” means the period of 12 months beginning with the day on which one of the events described in paragraph BB.3(10) occurs.”.

Amendment of Part 12 (development by local authorities)

6.—(1) Class BA (holding of a market by or on behalf of a local authority) of Part 12 is amended as follows.

(2) In paragraph BA (permitted development), omit the words from “at any time” to the end.

(3) In paragraph BA.1 (development not permitted), for the words from “if the land is” to the end substitute—

“if the land—

- (a) is, or is within, a site of special scientific interest; or
- (b) is, or contains, a scheduled monument.”.

Amendment of Part 12A (development by Local Authorities and Health Service Bodies)

7. In paragraph A.2(b) (conditions) of Class A (emergency development by a local authority or health service body) of Part 12A, for “31st December 2021” substitute “31st December 2022”.

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.”.

Amendment of the Town and Country Planning (Compensation) (England) Regulations 2015

9. In regulation 2 (prescribed development) of the Town and Country Planning (Compensation) (England) Regulations 2015(a)—

- (a) in paragraph (b)—
 - (i) for “D and E” substitute “D, E and G”;
 - (ii) for “(minor operations relating to electric vehicle charging points)” substitute “(certain minor operations)”;
- (b) in paragraph (d), after “Classes” insert “BB,”;
- (c) after paragraph (ea) insert—
 - “(eb) Class BA of Part 12 (holding of a market by or on behalf of a local authority);”;
- (d) after paragraph (g)—
 - (i) omit the word “and”;
 - (ii) insert—
 - “(ga) Class TA of Part 19 (development by the Crown on a closed defence site); and”.

Transitional provision

10. Class BB of Part 4 of Schedule 2 to the GPDO has effect until the end of 31st January 2022 in relation to a moveable structure provided pursuant to that Class and in place immediately before 2nd January 2022 as if—

- (a) the amendments made by articles 4 and 5 had not been made, and
- (b) the reference in paragraph BB to “1st January 2022” were a reference to “31st January 2022”.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

Christopher Pincher
Minister of State

16th December 2021

Department for Levelling Up, Housing and Communities

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends, primarily, the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the GPDO”). The GPDO provides, for the purposes of section 59(2)(a) of the Town and Country Planning Act 1990 (c. 8), for the granting of permission for certain classes of development without the requirement for a planning application to be made under Part 3 of that Act. The classes of permission, together with their accompanying conditions, limitations and restrictions, are set out in Schedule 2 to the GPDO.

(a) S.I. 2015/598. Regulation 2 has been amended by S.I. 2016/331, 2017/392, 2017/620, 2019/907, 2020/632, 2020/1243, 2021/428 and 2021/814.

Article 3 updates various references to the National Planning Policy Framework published by the Ministry of Housing, Communities and Local Government (as it was called at the time of publication) so that they refer to the most recent version of that publication.

Article 4 inserts new Class G (moveable structures for pubs, restaurants, etc) into Part 2 of Schedule 2 to the GPDO to allow one moveable structure to be provided in the curtilage of a pub, restaurant or other building used for similar purposes without a time limitation, but subject to other limitations.

Article 5 amends Class BB of Part 4 of Schedule 2 to the GPDO so as to remove the restriction that a moveable structure may only be provided in the curtilage of a historic visitor attraction or of a listed building used for the purposes of a pub or restaurant etc until 1st January 2022. Article 5 also introduces new conditions and limitations on development under Class BB.

Article 6 amends Class BA (holding of a market by or on behalf of a local authority) of Part 12 of Schedule 2 to the GPDO to remove the restriction that development under Class BA is only permitted between 25th June 2020 and 23rd March 2022.

Article 7 amends Class A (emergency development by a local authority or health service body) of Part 12A of Schedule 2 to the GPDO to extend that right until 31st December 2022.

Article 8 inserts new Class TA (development by the Crown on a closed defence site) into Part 19 of Schedule 2 to the GPDO to allow development by or on behalf of the Crown constituting the erection, extension or alteration of buildings used exclusively for defence purposes on closed defence sites subject to conditions, limitations and restrictions.

Article 9 makes minor amendment to the Town and Country Planning (Compensation) (England) Regulations 2015 to add Class G of Part 2, Class BB of Part 4, Class BA of Part 12 and Class TA of Part 19 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.

An Explanatory Memorandum is published alongside this instrument at www.legislation.gov.uk.

An impact assessment has not been produced for this instrument.

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