

2015 No. 659

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015

<i>Made</i> - - - -	<i>11th March 2015</i>
<i>Laid before Parliament</i>	<i>12th March 2015</i>
<i>Coming into force</i> - -	<i>6th April 2015</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, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 and comes into force on 6th April 2015.

(2) This Order applies in England only.

Amendments to the Town and Country Planning (General Permitted Development) Order 1995

2. The Town and Country Planning (General Permitted Development) Order 1995(b) is amended as follows.

Amendments in relation to changes of use

3. In Part 3 of Schedule 2 (changes of use)—

(a) after Class A(c) insert—

“Development not permitted

A.1 Development is not permitted by Class A during the specified period if the building is a specified building.

(a) 1990 c.8. Section 59 was amended by section 1 of, and paragraph 4 of Schedule 1 to, the Growth and Infrastructure Act 2013 (c. 27) and section 60 was amended by section 4(1) of the Growth and Infrastructure Act 2013.
(b) S.I. 1995/418. Relevant amendments were made by S.I. 2005/85, 2013/1101 and 2013/2147.
(c) Class A of Part 3 was substituted by S.I. 2005/85.

Conditions

A.2

(1) In the case of a building which is not a community asset, which is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order^(a), development is permitted by Class A subject to the following conditions.

(2) Before beginning the development the developer shall send a written request to the local planning authority as to whether the building has been nominated, which must include—

- (a) the address of the building;
- (b) the developer's contact address; and
- (c) the developer's email address if the developer is content to receive communications electronically.

(3) If the building is nominated, whether at the date of request under paragraph A.2(2) or on a later date, the local planning authority must notify the developer as soon as is reasonably practicable after it is aware of the nomination, and on notification development is not permitted for the specified period.

(4) The development shall not begin before the expiry of a period of 56 days following the date of request under paragraph A.2(2) and must be completed within a period of 1 year of the date of that request.

Interpretation of Class A

A.3 For the purposes of Class A—

“community asset” means a building which has been entered onto a list of assets of community value, including any building which has been subsequently excluded from that list under regulation 2(b) of the Assets of Community Value (England) Regulations 2012^(b);

“list of assets of community value” means a list of land of community value maintained by a local authority under section 87(1) of the Localism Act 2011^(c);

“nomination” means a nomination made under section 89(2) of the Localism Act 2011 for a building to be included in a list of assets of community value and “nominated” is to be interpreted accordingly;

“specified building” means a building used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order—

- (a) which is a community asset; or
- (b) in respect of which the local planning authority has notified the developer of a nomination under paragraph A.2(3);

“specified period” means—

(a) in relation to a building which is subject to a nomination of which the local planning authority have notified the developer under paragraph A.2(3), the period from the date of that notification to the date on which the building is entered onto—

- (i) a list of assets of community value; or
- (ii) a list of land nominated by unsuccessful community nominations under section 93 of the Localism Act 2011;

(b) in relation to a building which is a community asset—

(a) Class A4 was inserted into the Schedule to the Use Classes Order by S.I. 2005/84.
(b) S.I. 2012/2421.
(c) 2011 c.20.

- (i) 5 years beginning with the date on which the building was entered onto the list of assets of community value; or
- (ii) where the building was removed from that list—
 - (aa) under regulation 2(c) of the Assets of Community Value (England) Regulations 2012 following a successful appeal against listing or because the local authority no longer consider the land to be land of community value; or
 - (bb) under section 92(4)(a) of the Localism Act 2011 following the local authority’s decision on a review that the land concerned should not have been included in the local authority’s list of assets of community value,

the period from the date on which the building was entered onto the list of assets of community value to the date on which it was removed from that list.”

(b) after Class AA(a) insert—

“Development not permitted

AA.1 Development is not permitted by Class AA during the specified period if the building is a specified building.

Conditions

AA.2 In the case of a building which is not a community asset, which is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, development is permitted by Class AA subject to the conditions set out in paragraphs A.2(2) to (4).

Interpretation of Class AA

AA.3 For the purposes of Class AA, “community asset”, “specified building” and “specified period” have the meaning given in paragraph A.3.”; and

(c) after Class C(b) insert—

“Development not permitted

C.1 Development is not permitted by Class C during the specified period if the building is a specified building.

Conditions

C.2 In the case of a building which is not a community asset, which is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, development is permitted by Class C subject to the conditions set out in paragraphs A.2(2) to (4).

Interpretation of Class C

C.3 For the purposes of Class C, “community asset”, “specified building” and “specified period” have the meaning given in paragraph A.3.”.

(a) Class AA was inserted into Part 3 by S.I. 2005/85.
 (b) Class C of Part 3 was amended by S.I. 2005/85.

Amendments in relation to temporary buildings and uses

4. In Part 4 of Schedule 2 (temporary buildings and uses) insert—

(a) in Class C(a)—

(i) at the end of paragraph C.1(d), for the full stop substitute a semi-colon and insert—

“(e) the building is a specified building and the development is undertaken during the specified period, regardless of whether any approval or notification has been given in accordance with paragraphs C.2(a) or (b).”;

(ii) after paragraph C.2(a) insert—

“(aa) in the case of a building which is not a community asset, which is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order—

(i) before beginning the development the developer shall send a written request to the local planning authority as to whether the building has been nominated, which must include;

(aa) the address of the building;

(bb) the developer’s contact address; and

(cc) the developer’s email address if the developer is content to receive communications electronically;

(ii) if the building is nominated, whether at the date of request under sub-paragraph (i) or on a later date, the local planning authority must notify the developer as soon as is reasonably practicable after it is aware of the nomination, and on notification development is not permitted for the specified period;

(iii) the development shall not begin before the expiry of a period of 56 days following the date of request under sub-paragraph (i) and must be completed within a period of 1 year of the date of that request;”;

(iii) in paragraph C.3, insert the following definitions in the appropriate places—

““community asset” means a building which has been entered onto a list of assets of community value, including any building which has been subsequently excluded from that list under regulation 2(b) of the Assets of Community Value (England) Regulations 2012(b);

“list of assets of community value” means a list of land of community value maintained by a local authority under section 87(1) of the Localism Act 2011(c);

“nomination” means a nomination made under section 89(2) of the Localism Act 2011 for a building to be included in a list of assets of community value and “nominated” is to be interpreted accordingly;

“specified building” means a building used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order—

(a) which is a community asset; or

(b) in respect of which the local planning authority has notified the developer of a nomination under paragraph C.2(aa)(ii);

“specified period” means—

(a) in relation to a building which is subject to a nomination of which the local planning authority have notified the developer under paragraph C.2(aa)(ii), the

(a) Class C was inserted into Part 4 by S.I. 2013/1101.

(b) S.I. 2012/2421.

(c) 2011 c.20.

period from the date of that notification to the date on which the building is entered onto—

- (i) a list of assets of community value; or
 - (ii) a list of land nominated by unsuccessful community nominations under section 93 of the Localism Act 2011;
- (b) in relation to a building which is a community asset—
- (i) 5 years beginning with the date on which the building was entered onto the list of assets of community value; or
 - (ii) where the building was removed from that list—
 - (aa) under regulation 2(c) of the Assets of Community Value (England) Regulations 2012 following a successful appeal against listing or because the local authority no longer consider the land to be land of community value; or
 - (bb) under section 92(4)(a) of the Localism Act 2011 following the local authority’s decision on a review that the land concerned should not have been included in the local authority’s list of assets of community value,

the period from the date on which the building was entered onto the list of assets of community value to the date on which it was removed from that list.”
; and

- (b) in Class D(a)—
- (i) at the end of paragraph D.1(e), for the full stop substitute a semi-colon and insert—
“(f) the building is a specified building and the development is undertaken during the specified period, regardless of whether any notification has been given in accordance with paragraph D.2(a).”;
 - (ii) at the end of paragraph D.2(e), for the full stop substitute a semi-colon and insert—
“(f) in the case of a building which is not a community asset, which is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, the conditions set out in paragraphs C.2(aa)(i) to (iii) shall apply.”;
 - (iii) in paragraph D.3, at the end insert “and “community asset”, “specified building” and “specified period” have the meaning given in paragraph C.3.”.

Amendments in relation to the demolition of buildings

5. In Class A(b) of Part 31 of Schedule 2 (demolition of buildings)—

- (a) at the end of paragraph A.1(a) omit “or”;
- (b) at the end of paragraph A.1(b), for the full stop substitute “; or” and insert—
“(c) the building is a specified building and the development is undertaken during the specified period, regardless of whether, in relation to the development, a prior approval event has occurred.”;
- (c) in paragraph A.2(b) —
 - (i) for paragraph (i) substitute—
“(i) the developer shall, before beginning the development—
 - (aa) in all cases, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the method of demolition and any proposed restoration of the site; and

(a) Class D was inserted into Part 4 by S.I. 2013/1101.
(b) Class A of Part 31 was amended by S.I. 2013/2147.

- (bb) in cases where the building is not a community asset and is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, send a written request to the local planning authority as to whether the building has been nominated;”;
- (ii) for paragraph (ii) substitute—
 - “(ii) an application described in sub-paragraph (b)(i)(aa) shall be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with sub-paragraph (b)(iii) and any fee required to be paid;
 - (iia) a request described in sub-paragraph (b)(i)(bb) must include the address of the building, the developer’s contact address and, if the developer is content to receive communications electronically, the developer’s email address;”;
- (iii) after paragraph (iv) insert—
 - “(iva) where the building is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order and the building is nominated, whether at the date of request under sub-paragraph (b)(i)(bb) or on a later date, the local planning authority must notify the developer as soon as is reasonably practicable after it is aware of the nomination, and on notification development is not permitted for the specified period;”;
- (iv) after paragraph (v) insert—
 - “(va) where the building is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, in addition to the requirements of sub-paragraphs (b)(v) and (vii), the development shall not begin before the expiry of a period of 56 days following the date of request under sub-paragraph (b)(i)(bb) and must be completed within a period of 1 year of the date of that request;”;
- (v) in paragraph (vii), at the beginning, insert “subject to sub-paragraph (b)(va),”; and
- (d) in paragraph A.3 insert the following definitions in the appropriate places—
 - ““community asset” means a building which has been entered onto a list of assets of community value including any building which has been subsequently excluded from that list under regulation 2(b) of the Assets of Community Value (England) Regulations 2012(a);
 - “list of assets of community value” means a list of land of community value maintained by a local authority under section 87(1) of the Localism Act 2011(b);
 - “nomination” means a nomination made under section 89(2) of the Localism Act 2011 for a building to be included in a list of assets of community value and “nominated” is to be interpreted accordingly;
 - “prior approval event” means, in relation to a particular development—
 - (i) the giving of prior approval by the local planning authority in relation to the matters in paragraph A.2(b)(i)(aa);
 - (ii) a determination that such approval is not required to be given, or
 - (iii) the expiry of the period for giving such a determination without the applicant being notified whether prior approval is required, given or refused;
 - “specified building” means a building used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order—
 - (a) which is a community asset; or

(a) S.I. 2012/2421.

(b) 2011 c.20.

- (b) in respect of which the local planning authority has notified the developer of a nomination under paragraph A.2(b)(iva);

“specified period” means—

- (a) in relation to a building which is subject to a nomination of which the local planning authority have notified the developer under paragraph A.2(b)(iva), the period from the date of that notification to the date on which the building is entered onto—
 - (i) a list of assets of community value; or
 - (ii) a list of land nominated by unsuccessful community nominations under section 93 of the Localism Act 2011;
 - (b) in relation to a building which is a community asset—
 - (i) 5 years beginning with the date on which the building was entered onto the list of assets of community value; or
 - (ii) where the building was removed from that list—
 - (aa) under regulation 2(c) of the Assets of Community Value (England) Regulations 2012 following a successful appeal against listing or because the local authority no longer consider the land to be land of community value; or
 - (bb) under section 92(4)(a) of the Localism Act 2011 following the local authority’s decision on a review that the land concerned should not have been included in the local authority’s list of assets of community value,
- the period from the date on which the building was entered onto the list of assets of community value to the date on which it was removed from that list.”

Transitional provisions

6.—(1) The amendments made to the Town and Country Planning (General Permitted Development) Order 1995(a) (“the General Permitted Development Order”) by this Order do not apply to development specified in paragraph (2) and accordingly, the General Permitted Development Order, in the form in which it existed immediately before the coming into force of this Order, continues to apply in relation to that development.

(2) Development is specified for the purposes of paragraph (1) where it consists of—

- (a) a change of use from a use falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order—
 - (i) to a use permitted by Class C of Part 4 of Schedule 2 to the General Permitted Development Order provided that the change of use is carried out in accordance with the requirements of Class C and the site was approved for use as a state-funded school by the relevant Minister prior to 6th April 2015; or
 - (ii) to a use permitted by Class D of Part 4 of Schedule 2 to the General Permitted Development Order provided that the change of use is carried out in accordance with the requirements of Class D and the developer has notified (or further notified) the local planning authority under paragraph D.2(a) of Part 4 of that Schedule of the change of use prior to 6th April 2015; or
- (b) demolition permitted by Class A of Part 31 of Schedule 2 to the General Permitted Development Order provided that the demolition is carried out in accordance with the requirements of Class A and, in relation to that demolition, a prior approval event occurred before 6th April 2015.

(a) S.I. 1995/418; Classes C and D of Part 4 of Schedule 2 to that Order were inserted by S.I. 2013/1101 and Class A of Part 31 of that Schedule was amended by S.I. 2013/2147.

(3) For the purposes of article 6(2)—

“prior approval event” has the meaning given in article 5(d); 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

Brandon Lewis
Minister of State

11th March 2015

Department of Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends, in relation to England, the Town and Country Planning (General Permitted Development) Order 1995 (“the General Permitted Development Order”). The Order makes a number of amendments to Parts 3, 4 and 31 of Schedule 2 to the General Permitted Development Order. These amendments provide, in relation to certain developments permitted under those Parts, that during a specified period such development is not permitted in relation to a specified building.

The development is:

- change of use permitted by Classes A, AA and C of Part 3 of Schedule 2 to the General Permitted Development Order;
- temporary change of use permitted by Classes C and D of Part 4 of Schedule 2 to that Order;
- demolition permitted by Class A of Part 31 of Schedule 2 to that Order.

A specified building is a building used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Town and Country Planning (Use Classes) Order 1987:

- which has been entered onto a list of assets of community value maintained by a local authority under section 89(2) of the Localism Act 2011, even if it is later excluded from that list following a relevant disposal under regulation 2(b) of the Assets of Community Value (England) Regulations 2012; or
- in respect of which the local planning authority has notified the developer of a nomination made under section 89(2) of the Localism Act 2011 for a building to be included in a list of assets of community value.

The specified period is:

- in relation to a building which is included in a list of assets of community value, 5 years from the date on which the building was entered onto the list, or, if earlier, the date on which it was removed from the list under regulation 2(c) of the Assets of Community Value (England) Regulations 2012, or section 94(2)(a) of the Localism Act 2011; or
- in relation to a building which has been nominated for inclusion in a list of assets of community value, the period from the date on which the local planning authority notifies the developer of that nomination to the date on which the building is entered onto a list of assets of community value or a list of land nominated by unsuccessful community nominations under section 93 of the Localism Act 2011.

Article 3 makes these amendments in relation to certain changes of use permitted by Part 3 of Schedule 2 to the General Permitted Development Order.

Article 4 makes these amendments in relation to certain temporary changes of use permitted by Part 4 of Schedule 2 to the General Permitted Development Order.

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

Article 5 makes these amendments in relation to the demolition of a building permitted by Part 31 of Schedule 2 to the General Permitted Development Order.

Article 6 makes transitional provision in relation to certain buildings which are in the process of converting to a temporary use permitted by Classes C or D of Part 4 of Schedule 2 to the General Permitted Development Order, or of demolition permitted by Class A of Part 31 of Schedule 2 to that Order.

An impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sector is foreseen.

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