

SCHEDULE 2

PART 20

COAL MINING DEVELOPMENT BY THE COAL AUTHORITY AND LICENSED OPERATORS

Class A

A Permitted development

A. Development by a licensee of the Coal Authority, in a mine started before 1st July 1948, consisting of—

- (a) the winning and working underground of coal or coal-related minerals in a designated seam area; or**
- (b) the carrying out of development underground which is required in order to gain access to and work coal or coal-related minerals in a designated seam area.**

A.1 Conditions

A.1 Development is permitted by Class A subject to the following conditions—

- (a) subject to sub-paragraph (b)—
 - (i) except in a case where there is an approved restoration scheme or mining operations have permanently ceased, the developer shall, before 31st December 1995 or before any later date which the mineral planning authority may agree in writing, apply to the mineral planning authority for approval of a restoration scheme;
 - (ii) where there is an approved restoration scheme, reinstatement, restoration and aftercare shall be carried out in accordance with that scheme;
 - (iii) if an approved restoration scheme does not specify the periods within which reinstatement, restoration or aftercare should be carried out, it shall be subject to conditions that—
 - (aa) reinstatement or restoration, if any, shall be carried out before the end of the period of 24 months from either the date when the mining operations have permanently ceased or the date when any application for approval of a restoration scheme under sub-paragraph (a)(i) has been finally determined, whichever is later, and
 - (bb) aftercare, if any, in respect of any part of a site, shall be carried out throughout the period of five years from either the date when any reinstatement or restoration in respect of that part is completed or the date when any application for approval of a restoration scheme under sub-paragraph (a)(i) has been finally determined, whichever is later;
 - (iv) where there is no approved restoration scheme—
 - (aa) all buildings, plant, machinery, structures and erections used at any time for or in connection with any previous coal-mining operations at that mine shall be removed from any land which is an authorised site unless the mineral planning authority have otherwise agreed in writing, and
 - (bb) that land shall, so far as practicable, be restored to its condition before any previous coal-mining operations at that mine took place or to such condition

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as may have been agreed in writing between the mineral planning authority and the developer,

before the end of the period specified in sub-paragraph (v);

(v) the period referred to in sub-paragraph (iv) is—

(aa) the period of 24 months from the date when the mining operations have permanently ceased or, if an application for approval of a restoration scheme has been made under sub-paragraph (a)(i) before that date, 24 months from the date when that application has been finally determined, whichever is later, or

(bb) any longer period which the mineral planning authority have agreed in writing;

(vi) for the purposes of sub-paragraph (a), an application for approval of a restoration scheme has been finally determined when the following conditions have been met—

(aa) any proceedings on the application, including any proceeding on or in consequence of an application under section 288 of the Act (proceedings for questioning the validity of certain orders, decisions and directions), have been determined, and

(bb) any time for appealing under section 78 (right to appeal against planning decisions and failure to take such decisions), or applying or further applying under section 288, of the Act (where there is a right to do so) has expired;

(b) sub-paragraph (a) shall not apply to land in respect of which there is an extant planning permission which—

(i) has been granted on an application under Part III of the Act, and

(ii) has been implemented.

A.2 Interpretation of Class A

A.2 For the purposes of Class A—

“a licensee of the Coal Authority” means any person who is for the time being authorised by a licence under Part II of the Coal Industry Act 1994 to carry on coal-mining operations to which section 25 of that Act (coal-mining operations to be licensed) applies;

“approved restoration scheme” means a restoration scheme which is approved when an application made under paragraph A.1(a)(i) is finally determined, as approved (with or without conditions), or as subsequently varied with the written approval of the mineral planning authority (with or without conditions);

“coal-related minerals” means minerals other than coal which are, or may be, won and worked by coal-mining operations;

“designated seam area” means land identified, in accordance with paragraph (a) of the definition of “seam plan”, in a seam plan which was deposited with the mineral planning authority before 30th September 1993;

“previous coal-mining operations” has the same meaning as in section 54(3) of the Coal Industry Act 1994 (obligations to restore land affected by coal-mining operations) and references in Class A to the use of anything in connection with any such operations shall include references to its use for or in connection with activities carried on in association with, or for purposes connected with, the carrying on of those operations;

“restoration scheme” means a scheme which makes provision for the reinstatement, restoration or aftercare (or a combination of these) of any land which is an authorised site and has been used at any time for or in connection with any previous coal-mining operations at that mine; and

“seam plan” means a plan or plans on a scale of not less than 1 to 25,000 showing—

- (a) land comprising the maximum extent of the coal seam or seams that could have been worked from shafts or drifts existing at a mine at 13th November 1992, without further development on an authorised site other than development permitted by Class B of Part 20 of Schedule 2 to the Town and Country Planning General Development Order 1988(1), as originally enacted;
- (b) any active access used in connection with the land referred to in paragraph (a) of this definition;
- (c) the National Grid lines and reference numbers shown on Ordnance Survey maps;
- (d) a typical stratigraphic column showing the approximate depths of the coal seam referred to in paragraph (a) of this definition.

Class B

B Permitted development

B. Development by a licensee of the British Coal Corporation, in a mine started before 1st July 1948, consisting of—

- (a) **the winning and working underground of coal or coal-related minerals in a designated seam area; or**
- (b) **the carrying out of development underground which is required in order to gain access to and work coal or coal-related minerals in a designated seam area.**

B.1 Interpretation of Class B

B.1 For the purposes of Class B—

“designated seam area” has the same meaning as in paragraph A.2 above;

“coal-related minerals” means minerals other than coal which can only be economically worked in association with the working of coal or which can only be economically brought to the surface by the use of a mine of coal; and

“a licensee of the British Coal Corporation” means any person who is for the time being authorised by virtue of section 25(3) of the Coal Industry Act 1994 (coal-mining operations to be licensed) to carry on coal-mining operations to which section 25 of that Act applies.

Class C

C Permitted development

C. Any development required for the purposes of a mine which is carried out on an authorised site at that mine by a licensed operator, in connection with coal-mining operations.

C.1 Development not permitted

C.1 Development is not permitted by Class C if—

- (a) the external appearance of the mine would be materially affected;
- (b) any building, plant or machinery, structure or erection or any deposit of minerals or waste—

(1) [S.I. 1988/1813](#); Schedule 2 to the Town and Country Planning General Development Order 1988 is revoked by this Order.

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- (i) would exceed a height of 15 metres above ground level, or
- (ii) where a building, plant or machinery would be rearranged, replaced or repaired, the resulting development would exceed a height of 15 metres above ground level or the height of what was rearranged, replaced or repaired, whichever is the greater;
- (c) any building erected (other than a replacement building) would have a floor space exceeding 1,000 square metres;
- (d) the cubic content of any replaced, extended or altered building would exceed by more than 25% the cubic content of the building replaced, extended or altered or the floor space would exceed by more than 1,000 square metres, the floor space of that building;
- (e) it would be for the purpose of creating a new surface access to underground workings or of improving an existing access (which is not an active access) to underground workings; or
- (f) it would be carried out on land to which the description in paragraph F.2(1)(b) applies, and a plan of that land had not been deposited with the mineral planning authority before 5th June 1989.

C.2 Conditions

C.2 Development is permitted by Class C subject to the condition that before the end of the period of 24 months from the date when the mining operations have permanently ceased, or any longer period which the mineral planning authority agree in writing—

- (a) all buildings, plant, machinery, structures and erections and deposits of minerals or waste permitted by Class C shall be removed from the land unless the mineral planning authority have otherwise agreed in writing; and
- (b) the land shall, so far as is practicable, be restored to its condition before the development took place or to such condition as may have been agreed in writing between the mineral planning authority and the developer.

Class D

D Permitted development

D. Any development required for the purposes of a mine which is carried out on an authorised site at that mine by a licensed operator in connection with coal-mining operations and with the prior approval of the mineral planning authority.

D.1 Development not permitted

D.1 Development is not permitted by Class D if—

- (a) it would be for the purpose of creating a new surface access or improving an existing access (which is not an active access) to underground workings; or
- (b) it would be carried out on land to which the description in paragraph F.2(1)(b) applies, and a plan of that land had not been deposited with the mineral planning authority before 5th June 1989.

D.2 Condition

D.2 Development is permitted by Class D subject to the condition that before the end of the period of 24 months from the date when the mining operations have permanently ceased, or any longer period which the mineral planning authority agree in writing—

- (a) all buildings, plant, machinery, structures and erections and deposits of minerals or waste permitted by Class D shall be removed from the land, unless the mineral planning authority have otherwise agreed in writing; and
- (b) the land shall, so far as is practicable, be restored to its condition before the development took place or to such condition as may have been agreed in writing between the mineral planning authority and the developer.

D.3 Interpretation of Class D

D.3 The prior approval referred to in Class D shall not be refused or granted subject to conditions unless the authority are satisfied that it is expedient to do so because—

- (a) the proposed development would injure the amenity of the neighbourhood and modifications could reasonably be made or conditions reasonably imposed in order to avoid or reduce that injury, or
- (b) the proposed development ought to be, and could reasonably be, sited elsewhere.

Class E

E Permitted development

E. The carrying out by the Coal Authority or a licensed operator, with the prior approval of the mineral planning authority, of development required for the maintenance or safety of a mine or a disused mine or for the purposes of ensuring the safety of the surface of the land at or adjacent to a mine or a disused mine.

E.1 Prior approvals

E.1

(1) The prior approval of the mineral planning authority to development permitted by Class E is not required if—

- (a) the external appearance of the mine or disused mine at or adjacent to which the development is to be carried out would not be materially affected;
- (b) no building, plant or machinery, structure or erection—
 - (i) would exceed a height of 15 metres above ground level, or
 - (ii) where any building, plant, machinery, structure or erection is rearranged, replaced or repaired, would exceed a height of 15 metres above ground level or the height of what was rearranged, replaced or repaired, whichever is the greater,

and

- (c) the development consists of the extension, alteration or replacement of an existing building, within the limits set out in paragraph (3).

(2) The approval referred to in Class E shall not be refused or granted subject to conditions unless the authority are satisfied that it is expedient to do so because—

- (a) the proposed development would injure the amenity of the neighbourhood and modifications could reasonably be made or conditions reasonably imposed in order to avoid or reduce that injury, or
- (b) the proposed development ought to be, and could reasonably be, sited elsewhere.

(3) The limits referred to in paragraph E.1(1)(c) are—

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- (a) that the cubic content of the building as extended, altered or replaced does not exceed that of the existing building by more than 25%, and
- (b) that the floor space of the building as extended, altered or replaced does not exceed that of the existing building by more than 1,000 square metres.

F.1 Interpretation of Part 20

F.1 For the purposes of Part 20—

“active access” means a surface access to underground workings which is in normal and regular use for the transportation of coal, materials, spoil or men;

“coal-mining operations” has the same meaning as in section 65 of the Coal Industry Act 1994 (interpretation) and references to any development or use in connection with coal-mining operations shall include references to development or use for or in connection with activities carried on in association with, or for purposes connected with, the carrying on of those operations;

“licensed operator” has the same meaning as in section 65 of the Coal Industry Act 1994;

“normal and regular use” means use other than intermittent visits to inspect and maintain the fabric of the mine or any plant or machinery; and

“prior approval of the mineral planning authority” means prior written approval of that authority of detailed proposals for the siting, design and external appearance of the proposed building, plant or machinery, structure or erection as erected, installed, extended or altered.

F.2

(1) Subject to sub-paragraph (2), land is an authorised site for the purposes of Part 20 if—

- (a) it is identified in a grant of planning permission or any instrument by virtue of which planning permission is deemed to be granted as land which may be used for development described in this Part; or
- (b) in any other case, it is land immediately adjoining an active access which, on 5th December 1988, was in use for the purposes of that mine in connection with coal-mining operations.

(2) For the purposes of sub-paragraph (1), land is not to be regarded as in use in connection with coal-mining operations if—

- (a) it is used for the permanent deposit of waste derived from the winning and working of minerals; or
- (b) there is on, over or under it a railway, conveyor, aerial ropeway, roadway, overhead power line or pipe-line which is not itself surrounded by other land used for those purposes.