

## SCHEDULE 2

### Permitted development rights

## PART 17

### Mining and mineral exploration

*Class A – extensions, alterations etc ancillary to mining operations*

#### Permitted development

**A. *The carrying out of operations for the erection, extension, installation, rearrangement, replacement, repair or other alteration of any—***

- (a) *plant or machinery,*
- (b) *buildings,*
- (c) *private ways or private railways or sidings, or*
- (d) *sewers, mains, pipes, cables or other similar apparatus,*

***on land used as a mine.***

#### Development not permitted

**A.1** Development is not permitted by Class A—

- (a) in relation to land at an underground mine—
  - (i) on land which is not an approved site; or
  - (ii) on land to which the description in paragraph N.2(1)(b) of this Part applies, unless a plan of that land was deposited with the mineral planning authority<sup>(1)</sup> before 5th June 1989;
- (b) if the principal purpose of the development would be any purpose other than—
  - (i) purposes in connection with the winning and working of minerals at that mine or of minerals brought to the surface at that mine; or
  - (ii) the treatment, storage or removal from the mine of such minerals or waste materials derived from them;
- (c) if the external appearance of the mine would be materially affected;
- (d) if the height of any building, plant or machinery which is not in an excavation would exceed—
  - (i) 15 metres above ground level; or
  - (ii) the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered,whichever is the greater;
- (e) if the height of any building, plant or machinery in an excavation would exceed—
  - (i) 15 metres above the excavated ground level; or

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<sup>(1)</sup> See section 1(4) of the Act.

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- (ii) 15 metres above the lowest point of the unexcavated ground immediately adjacent to the excavation; or
  - (iii) the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered,
- whichever is the greatest;
- (f) if any building erected (other than a replacement building) would have a floor space exceeding 1,000 square metres; or
  - (g) if 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.

### **Condition**

**A.2** Development is permitted by Class A 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 and machinery permitted by Class A are removed from the land unless the mineral planning authority have otherwise agreed in writing; and
- (b) the land is restored, so far as is practicable, to its condition before the development took place, or restored to such condition as may have been agreed in writing between the mineral planning authority and the developer.

### *Class B – other developments ancillary to mining operations*

### **Permitted development**

**B.** *The carrying out, on land used as a mine or on ancillary mining land of operations for the erection, installation, extension, rearrangement, replacement, repair or other alteration of any—*

- (a) *plant or machinery,*
- (b) *buildings, or*
- (c) *structures or erections.*

### **Development not permitted**

**B.1** Development is not permitted by Class B—

- (a) in relation to land at an underground mine—
  - (i) on land which is not an approved site; or
  - (ii) on land to which the description in paragraph N.2(1)(b) of this Part applies, unless a plan of that land was deposited with the mineral planning authority<sup>(2)</sup> before 5th June 1989; or
- (b) if the principal purpose of the development would be any purpose other than—
  - (i) purposes in connection with the operation of the mine;
  - (ii) the treatment, preparation for sale, consumption or utilization of minerals won or brought to the surface at that mine; or

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(2) See section 1(4) of the Act.

- (iii) the storage or removal from the mine of such minerals, their products or waste materials derived from them.

### **Condition**

**B.2.**—(1) Subject to sub-paragraph (2), development is permitted by Class B subject to the prior approval of the mineral planning authority of detailed proposals for the siting, design and external appearance of the building, plant or machinery proposed to be erected, installed, extended or altered.

(2) The prior approval referred to in sub-paragraph (1) may 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 can 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.

**B.3** Development is permitted by Class B 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 permitted by Class B is removed from the land unless the mineral planning authority have otherwise agreed in writing; and
- (b) the land is restored, so far as is practicable, to its condition before the development took place or restored to such condition as may have been agreed in writing between the mineral planning authority and the developer.

### *Class C – developments for maintenance or safety*

### **Permitted development**

**C.** *The carrying out 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.*

### **Development not permitted**

**C.1** Development is not permitted by Class C if it is carried out by the Coal Authority or any licensed operator within the meaning of section 65 of the Coal Industry Act 1994 (interpretation)(3).

### **Conditions**

**C.2.**—(1) Subject to sub-paragraphs (2) and (3), development is permitted by Class C subject to the prior approval of the mineral planning authority(4) of detailed proposals for the siting, design and external appearance of the building, plant or machinery proposed to be erected, installed, extended or altered.

(2) The prior approval referred to in sub-paragraph (1) 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, machinery, structure or erection—

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(3) 1994 c. 32; which was amended by S.I. 2009/1941. See also section 25 concerning coal-mining operations to be licensed.

(4) See section 1(4) of the Act.

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- (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 sub-paragraph (4).
- (3) The prior approval referred to in sub-paragraph (1) may 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.
- (4) The limits referred to in paragraph C.2(2)(c) are—
- (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.

*Class D – coal mining development by the Coal Authority and licensed operators*

### **Permitted development**

**D. 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.***

### **Conditions**

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

- (a) subject to paragraph (b)—
  - (i) except in a case where there is an approved restoration scheme or mining operations have permanently ceased, the developer must, before 31st December 1995 or before any later date which the mineral planning authority<sup>(5)</sup> 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 is 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 is subject to conditions that—
    - (aa) reinstatement or restoration, if any, is to 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

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(5) See section 1(4) of the Act.

- a restoration scheme under paragraph (a)(i) has been finally determined, whichever is later, and
- (bb) aftercare, if any, in respect of any part of a site, is to be carried out throughout the period of 5 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 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 are removed from any land which is an authorised site unless the mineral planning authority have otherwise agreed in writing; and
  - (bb) that land is, so far as practicable, restored to its condition before any previous coal-mining operations at that mine took place or to such condition as may have been agreed in writing between the mineral planning authority and the developer,
- before the end of the period specified in paragraph (a)(v);
- (v) the period referred to in paragraph (a)(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 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 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)<sup>(6)</sup>, have been determined, and
  - (bb) any time for appealing under section 78 (right to appeal against planning decisions and failure to take such decisions)<sup>(7)</sup>, or applying or further applying under section 288, of the Act (where there is a right to do so) has expired; and
- (b) paragraph (a) does not apply to land in respect of which there is an extant planning permission which—
- (i) has been granted on an application under Part 3 of the Act; and
  - (ii) has been implemented.

## Interpretation of Class D

### D.2 For the purposes of Class D—

“approved restoration scheme” means a restoration scheme which is approved when an application made under paragraph D.1(a)(i) is finally determined, as approved (with or without

<sup>(6)</sup> Section 288 was amended by Schedule 3 to the Tribunals and Inquiries Act 1992 (c. 53).

<sup>(7)</sup> Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34), Schedules 10 and 11 to the Planning Act 2008 (c. 29), section 123 of, and Schedule 12 to, the Localism Act 2011 (c. 20) and Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27).

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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;

“a licensee of the Coal Authority” means any person who is for the time being authorised by a licence under Part 2 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;

“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 D to the use of anything in connection with any such operations 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 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<sup>(8)</sup>, 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 E – coal mining development by a licensee of the British Coal Corporation*

**Permitted development**

***E. 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.***

**Interpretation of Class E**

**E.1** For the purposes of Class E—

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<sup>(8)</sup> S.I. 1988/1813.

“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;

“designated seam area” has the same meaning as in paragraph D.2 of this Part; 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)(9) to carry on coal-mining operations to which section 25 of that Act applies.

#### *Class F – coal-mining development on an authorised site*

### **Permitted development**

***F. 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.***

### **Development not permitted**

**F.1** Development is not permitted by Class F 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—
  - (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 N.2(2)(b) of this Part applies, and a plan of that land had not been deposited with the mineral planning authority(10) before 5th June 1989.

### **Conditions**

**F.2** Development is permitted by Class F 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 F are removed from the land unless the mineral planning authority have otherwise agreed in writing; and

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(9) 1994 c. 21.

(10) See section 1(4) of the Act.

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- (b) the land is, so far as is practicable, 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.

**F.3.**—(1) Subject to sub-paragraphs (2) and (3), development is permitted by Class F subject to the prior approval of the mineral planning authority of detailed proposals for the siting, design and external appearance of any building, plant or machinery proposed to be erected, installed, extended or altered.

(2) The prior approval referred to in sub-paragraph (1) is not required for any building, plant or machinery which does not exceed the limits set out in paragraph F.1(b), (c) or (d).

(3) The prior approval referred to in sub-paragraph (1) may 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 G – coal-mining development by the Coal Authority etc for maintenance or safety*

## **Permitted development**

**G.** *The carrying out by the Coal Authority or a licensed operator 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.*

## **Conditions**

**G.1.**—(1) Subject to sub-paragraphs (2) and (3), development is permitted by Class G subject to the prior approval of the mineral planning authority<sup>(11)</sup> of detailed proposals for the siting, design and external appearance of the building, plant or machinery proposed to be erected, installed, extended or altered.

(2) The prior approval referred to in sub-paragraph (1) 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 sub-paragraph (4).

(3) The prior approval referred to in sub-paragraph (1) may 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

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<sup>(11)</sup> See section 1(4) of the Act.



- (b) the proposed development ought to be, and could reasonably be, sited elsewhere.
- (4) The limits referred to in paragraph G.1(2)(c) are—
  - (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.

### *Class H – waste tipping at a mine*

#### **Permitted development**

**H.** *The deposit, on premises used as a mine or on ancillary mining land already used for the purpose, of waste derived from the winning and working of minerals at that mine or from minerals brought to the surface at that mine, or from the treatment or the preparation for sale, consumption or utilization of minerals from the mine.*

#### **Development not permitted**

**H.1** Development is not permitted by Class H if—

- (a) in the case of waste deposited in an excavation, waste would be deposited at a height above the level of the land adjoining the excavation, unless that is provided for in a waste management scheme or a relevant scheme; or
- (b) in any other case, the superficial area or height of the deposit (measured as at 21st October 1988) would be increased by more than 10%, unless such an increase is provided for in a waste management scheme or in a relevant scheme.

#### **Conditions**

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

- (a) except in a case where a relevant scheme or a waste management scheme has already been approved by the mineral planning authority<sup>(12)</sup>, the developer must, if the mineral planning authority so require, within 3 months or such longer period as the authority may specify, submit a waste management scheme for that authority’s approval; and
- (b) where a waste management scheme or a relevant scheme has been approved, the depositing of waste and all other activities in relation to that deposit is carried out in accordance with the scheme as approved.

#### **Interpretation of Class H**

**H.3** For the purposes of Class H—

“ancillary mining land” means land adjacent to and occupied together with a mine at which the winning and working of minerals is carried out in pursuance of planning permission granted or deemed to be granted under Part 3 of the Act (control over development)<sup>(13)</sup>; and

“waste management scheme” means a scheme required by the mineral planning authority to be submitted for their approval in accordance with the condition in paragraph H.2(a) which makes provision for—

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<sup>(12)</sup> See section 1(4) of the Act.

<sup>(13)</sup> See in particular section 58; which was amended by Schedule 12 to the Localism Act 2011 (c. 20) and Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27).

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- (a) the manner in which the depositing of waste (other than waste deposited on a site for use for filling any mineral excavation in the mine or on ancillary mining land in order to comply with the terms of any planning permission granted on an application or deemed to be granted under Part 3 of the Act) is to be carried out after the date of the approval of that scheme;
- (b) where appropriate, the stripping and storage of the subsoil and topsoil;
- (c) the restoration and aftercare of the site.

*Class I – waste tipping from a mine on sites used since 1948*

**Permitted development**

**I. *The deposit on land comprised in a site used for the deposit of waste materials or refuse on 1st July 1948 of waste resulting from coal-mining operations.***

**Development not permitted**

**I.1** Development is not permitted by Class I unless it is in accordance with a relevant scheme approved by the mineral planning authority<sup>(14)</sup> before 5th December 1988.

**Interpretation of Class J**

**I.2** For the purposes of Class I, “coal-mining operations” has the same meaning as in section 65 of the Coal Industry Act 1994 (interpretation).

*Class J – temporary use of land etc for mineral exploration*

**Permitted development**

**J. *Development on any land during a period not exceeding 28 consecutive days consisting of—***

- (a) *the drilling of boreholes;*
- (b) *the carrying out of seismic surveys; or*
- (c) *the making of other excavations,*

***for the purpose of mineral exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those operations.***

**Development not permitted**

**J.1** Development is not permitted by Class J if—

- (a) it consists of the drilling of boreholes for petroleum exploration;
- (b) any operation would be carried out within 50 metres of any part of an occupied residential building or a building occupied as a hospital or school;
- (c) any operation would be carried out within a National Park, an area of outstanding natural beauty, a site of archaeological interest or a site of special scientific interest;
- (d) any explosive charge of more than 1 kilogram would be used;
- (e) any excavation referred to in Class J(c) would exceed 10 metres in depth or 12 square metres in surface area;

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(14) See section 1(4) of the Act.

- (f) in the case described in Class J(c) more than 10 excavations would, as a result, be made within any area of 1 hectare within the land during any period of 24 months; or
- (g) any structure assembled or provided would exceed 12 metres in height, or, where the structure would be within 3 kilometres of the perimeter of an aerodrome, 3 metres in height.

## Conditions

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

- (a) no operations are carried out between 6.00pm and 7.00am;
- (b) no trees on the land are removed, felled, lopped or topped and no other thing is done on the land likely to harm or damage any trees, unless the mineral planning authority<sup>(15)</sup> have so agreed in writing;
- (c) before any excavation (other than a borehole) is made, any topsoil and any subsoil is separately removed from the land to be excavated and stored separately from other excavated material and from each other;
- (d) within a period of 28 days from the cessation of operations unless the mineral planning authority have agreed otherwise in writing—
  - (i) any structure permitted by Class J and any waste material arising from other development so permitted is removed from the land;
  - (ii) any borehole is adequately sealed;
  - (iii) any other excavation is filled with material from the site;
  - (iv) the surface of the land on which any operations have been carried out is levelled and any topsoil replaced as the uppermost layer, and
  - (v) the land is, so far as is practicable, restored to its condition before the development took place, including the carrying out of any necessary seeding and replanting.

*Class K – use of land etc for mineral exploration*

## Permitted development

**K.** *Development on any land consisting of—*

- (a) *the drilling of boreholes;*
- (b) *the carrying out of seismic surveys; or*
- (c) *the making of other excavations,*

*for the purposes of mineral exploration, and the provision or assembly on that land or on adjoining land of any structure required in connection with any of those operations.*

## Development not permitted

**K.1** Development is not permitted by Class K if—

- (a) it consists of the drilling of boreholes for petroleum exploration;
- (b) the developer has not previously notified the mineral planning authority<sup>(16)</sup> in writing of its intention to carry out the development (specifying the nature and location of the development);

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<sup>(15)</sup> See section 1(4) of the Act.

<sup>(16)</sup> See section 1(4) of the Act.

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- (c) the relevant period has not elapsed;
- (d) any explosive charge of more than 2 kilograms would be used;
- (e) any excavation referred to in Class K(c) would exceed 10 metres in depth or 12 square metres in surface area; or
- (f) any structure assembled or provided would exceed 12 metres in height.

### **Conditions**

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

- (a) the development is carried out in accordance with the details in the notification referred to in paragraph K.1(b), unless the mineral planning authority have otherwise agreed in writing;
- (b) no trees on the land are removed, felled, lopped or topped and no other thing is done on the land likely to harm or damage any trees, unless specified in detail in the notification referred to in paragraph K.1(b) or the mineral planning authority have otherwise agreed in writing;
- (c) before any excavation other than a borehole is made, any topsoil and any subsoil is separately removed from the land to be excavated and stored separately from other excavated material and from each other;
- (d) within a period of 28 days from operations ceasing, unless the mineral planning authority have agreed otherwise in writing—
  - (i) any structure permitted by Class K and any waste material arising from other development so permitted is removed from the land;
  - (ii) any borehole is adequately sealed;
  - (iii) any other excavation is filled with material from the site;
  - (iv) the surface of the land is levelled and any topsoil replaced as the uppermost layer, and
  - (v) the land is, so far as is practicable, restored to its condition before the development took place, including the carrying out of any necessary seeding and replanting, and
- (e) the development ceases no later than a date 6 months after the elapse of the relevant period, unless the mineral planning authority have otherwise agreed in writing.

### **Interpretation of Class K**

**K.3** For the purposes of Class K, “relevant period” means the period elapsing—

- (a) where a direction is not issued under article 5, 28 days after the notification referred to in paragraph K.1(b) or, if earlier, on the date on which the mineral planning authority notify the developer in writing that they will not issue such a direction, or
- (b) where a direction is issued under article 5, 28 days from the date on which notice of that decision is sent to the Secretary of State, or, if earlier, the date on which the mineral planning authority notify the developer that the Secretary of State has disallowed the direction.

*Class L – removal of material from a stockpile*

### **Permitted development**

**L.** *The removal of material of any description from a stockpile.*

*Class M - removal of material from mineral-working deposits*

**Permitted development**

**M.** *The removal of material of any description from a mineral-working deposit other than a stockpile.*

**Development not permitted**

**M.1** Development is not permitted by Class M if—

- (a) the developer has not previously notified the mineral planning authority<sup>(17)</sup> in writing of its intention to carry out the development and supplied them with the appropriate details;
- (b) the deposit covers a ground area exceeding 2 hectares, unless the deposit contains no mineral or other material which was deposited on the land more than 5 years before the development; or
- (c) the deposit derives from the carrying out of any operations permitted under Class A, B or C of Part 6 (agricultural development) of this Schedule or any Class in a previous development order which it replaces.

**Conditions**

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

- (a) it is carried out in accordance with the details given in the notice sent to the mineral planning authority referred to in paragraph M.1(a), unless that authority have agreed otherwise in writing;
- (b) if the mineral planning authority so require, the developer must within a period of 3 months from the date of the requirement (or such other longer period as that authority may provide) submit to them for approval a scheme providing for the restoration and aftercare of the site;
- (c) where such a scheme is required, the site is restored and aftercare is carried out in accordance with the provisions of the approved scheme; and
- (d) development is not be commenced until the relevant period has elapsed.

**Interpretation of Class M**

**M.3** For the purposes of Class M—

“appropriate details” means—

- (a) the nature of the development;
- (b) the exact location of the mineral-working deposit from which the material would be removed;
- (c) the proposed means of vehicular access to the site at which the development is to be carried out, and
- (d) the earliest date at which any mineral presently contained in the deposit was deposited on the land; and

“relevant period” means the period elapsing—

- (a) where a direction is not issued under article 5, 28 days after the notification referred to in paragraph M.1(a) or, if earlier, on the date on which the mineral planning authority notify the developer in writing that they will not issue such a direction; or

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(17) See section 1(4) of the Act.

- (b) where a direction is issued under article 5, 28 days from the date on which notice of that direction is sent to the Secretary of State, or, if earlier, the date on which the mineral planning authority notify the developer that the Secretary of State has disallowed the direction.

### **Interpretation of Part 17**

#### **N.1** For the purposes of Part 17—

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

“ancillary mining land” means land adjacent to and occupied together with a mine at which the winning and working of minerals is carried out in pursuance of planning permission granted or deemed to be granted under Part 3 of the Act (control over development)(**18**);

“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 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;

“mineral exploration” means ascertaining the presence, extent or quality of any deposit of a mineral with a view to exploiting that mineral;

“minerals” does not include any coal other than coal won or worked during the course of operations which are carried on exclusively for the purpose of exploring for coal or confined to the digging or carrying away of coal that it is necessary to dig or carry away in the course of activities carried on for purposes which do not include the getting of coal or any product of coal;

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

“relevant scheme” means a scheme, other than a waste management scheme, requiring approval by the mineral planning authority in accordance with a condition or limitation on any planning permission granted or deemed to be granted under Part 3 of the Act (control over development), for making provision for the manner in which the deposit of waste is to be carried out and for the carrying out of other activities in relation to that deposit;

“stockpile” means a mineral-working deposit consisting primarily of minerals which have been deposited for the purposes of their processing or sale;

“structure” includes a building, plant or machinery; and

“underground mine” is a mine at which minerals are worked principally by underground methods.

#### **N.2.—(1)** An area of land is an approved site for the purposes of Class A and B of this Part 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 to an underground mine which, on 5th December 1988, was in use for the purposes of that mine, in connection with the purposes described in paragraph A.1(b)(i) or (ii) or paragraph B.1(b)(i) to (iii) of this Part.

(18) See in particular section 58; which was amended by Schedule 12 to the Localism Act 2011 (c. 20) and Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27).

(2) Subject to sub-paragraph (3), land is an authorised site for the purposes of Class D and F of this Part 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.

(3) For the purposes of sub-paragraph (2), 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.