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STATUTORY INSTRUMENTS

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**2021 No. 962**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Town and Country Planning (Napier Barracks) Special Development Order 2021**

*Made - - - - 26th August 2021*  
*Laid before Parliament 27th August 2021*  
*Coming into force in accordance with article 1(2) and the Schedule*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 59(1), (2)(a), (3)(b) and 60(1) of the Town and Country Planning Act 1990(1):

**Citation, commencement, extent and application**

1.—(1) This Order may be cited as the Town and Country Planning (Napier Barracks) Special Development Order 2021.

(2) This Order comes into force on 21st September 2021, except that a provision of this Order listed in the first column of the table in the Schedule (commencement) comes into force at the same time as the provision listed in the corresponding row of the second column of that table.

(3) This Order extends to England and Wales.

(4) This Order applies to land comprising the land (together with any buildings on the land) at Napier Barracks, Gate 14, North Road, Folkestone, Kent, CT20 3EZ, shown on the map bounded externally by the outer edge of the bold red line and referred to in this Order as “Napier Barracks”.

**Interpretation**

2. In this Order—

“the 1999 Act” means the Immigration and Asylum Act 1999(2);

“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002(3);

“the 2016 Act” means the Immigration Act 2016(4);

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(1) 1990 c. 8. There are amendments to sections 59 and 60, which are not relevant to this Order.

(2) 1999 c. 33.

(3) 2002 c. 41.

(4) 2016 c. 19.

“the map” means the map marked “Map referred to in the Town and Country Planning (Napier Barracks) Special Development Order 2021” a copy of which, signed by a member of the Senior Civil Service in the Home Office, is available for inspection at 2 Marsham Street, London, SW1P 4DF;

“Napier Barracks” has the meaning given in article 1(4).

### **Application of the Town and Country Planning (General Permitted Development) (England) Order 2015**

3. Subject to the provisions of this Order, the Town and Country Planning (General Permitted Development) (England) Order 2015(5) applies to Napier Barracks.

### **Grant of temporary planning permission**

4.—(1) Planning permission is granted for development consisting of a change of use of Napier Barracks to use for—

- (a) providing facilities for the accommodation of a person under section 4(6) (accommodation for failed asylum-seekers and their dependants) of the 1999 Act;
- (b) providing support for a person under the following provisions of the 1999 Act—
  - (i) section 95(7) (support for asylum-seekers and their dependants);
  - (ii) section 95A(8) (support for failed asylum-seekers, etc who are unable to leave UK);
  - (iii) section 98 (temporary support for asylum-seekers and their dependants);
  - (iv) section 98A(9) (temporary support for failed asylum-seekers and their dependants);
- (c) providing accommodation for a person in an accommodation centre under section 17(10) (support for destitute asylum-seekers and their dependants) of the 2002 Act;
- (d) providing accommodation for a person in an accommodation centre, or any other support or assistance for a person, under section 24(11) (provisional assistance) of the 2002 Act;
- (e) providing—
  - (i) to a resident of an accommodation centre anything under subsection (1) of section 29(12) (facilities) of the 2002 Act;
  - (ii) under section 29(3) of the 2002 Act, facilities in an accommodation centre for the use of a person in providing legal advice to a resident of the centre;
- (f) providing facilities for making or determining a protection claim or a connected appeal;

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- (5) S.I. 2015/596, 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.
  - (6) Section 4 has been amended by section 49 of the 2002 Act, section 10(1) of the Asylum, Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), section 43(7) of the Immigration, Asylum and Nationality Act 2006 (c. 13) and paragraph 1 of Schedule 11 to the Immigration Act 2016 (“the 2016 Act”).
  - (7) Section 95 has been amended by section 50(1) of the Nationality, Immigration and Asylum Act 2006 (“the 2002 Act”) and paragraph 29 of Schedule 10 to the 2016 Act.
  - (8) Section 95A is to be inserted by paragraph 9 of Schedule 11 to the 2016 Act and is to come into force on a date to be appointed by regulations under section 94(1) of that Act.
  - (9) Section 98A is to be inserted by paragraph 13 of Schedule 11 to the 2016 Act and is to come into force on a date to be appointed by regulations under section 94(1) of that Act.
  - (10) Section 17, 24 and 29 of the 2002 Act are to come into force in accordance with provision made by order under section 162(1) of that Act.
  - (11) Section 24 is to come into force in accordance with provision to be made by the Secretary of State by order under section 162 of the 2002 Act.
  - (12) Section 29 is to come into force in accordance with provision to be made by the Secretary of State by order under section 162 of the 2002 Act, and is to be amended by paragraph 36 of the 2016 Act on a date to be appointed by regulations under section 94(1) of that Act.

- (g) any function or activity ancillary to the uses described in sub-paragraphs (a) to (f).
- (2) The planning permission granted by paragraph (1) ceases, and Napier Barracks immediately reverts to its previous lawful use, on the sooner of—
  - (a) the date on which the Secretary of State permits possession of the whole of Napier Barracks to enable building operations to be undertaken in accordance with phase 4 of the outline planning permission granted by Shepway District Council pursuant to application number Y14/0300/SH, or
  - (b) the end of 20th September 2026.
- (3) In paragraph (1)—
  - (a) “protection claim” has the meaning given by section 82(2)(a)(13) of the 2002 Act;
  - (b) a reference to providing facilities, support or accommodation under a provision of an Act includes a reference to providing facilities, support or accommodation under arrangements made under that provision.

### **Condition**

- 5.—(1) The development permitted by article 4 may not take place unless—
  - (a) an operational management plan is approved in writing by the Secretary of State,
  - (b) a copy of the operational management plan is kept at all times at Napier Barracks, and
  - (c) the operations at Napier Barracks are managed in accordance with the operational management plan.
- (2) In this article, “an operational management plan” means a plan for the use of Napier Barracks which comprises policies and procedures in relation to—
  - (a) engagement with emergency services, the local community and local business;
  - (b) hours for on-site deliveries and removal of waste;
  - (c) signage for drivers of vehicles entering and exiting the land;
  - (d) a local employment strategy for staff and staff training;
  - (e) local public and private transport services and facilities for persons accommodated at Napier Barracks;
  - (f) staff travel;
  - (g) on-site educational and recreational provision;
  - (h) the management of public demonstrations and protests;
  - (i) pollution prevention and control;
  - (j) the management of fire risks;
  - (k) the reinstatement of Napier Barracks following cessation of the uses permitted under article 4.

26th August 2021

*Greenhalgh of Fulham*  
Minister of State  
Home Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Article 1(2)

## Commencement

<i>Provision of this Order</i>	<i>Provision of other legislation to which the entry into force of the provision of this Order is linked</i>
Article 4(1)(b)(ii)	Paragraph 9 of Schedule 11 to the 2016 Act
Article 4(1)(b)(iv)	Paragraph 13 of Schedule 11 to the 2016 Act
Article 4(1)(c)	Section 17(1) of the 2002 Act
Article 4(1)(d)	Section 24(1) of the 2002 Act
Article 4(1)(e)(i)	Section 29(1) of the 2002 Act
Article 4(1)(e)(ii)	Section 29(3) of the 2002 Act

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order grants temporary planning permission in relation to the land and buildings at Napier Barracks, Gate 14, North Road, Folkestone, Kent, CT20 3EZ (“Napier Barracks”).

Article 3 preserves the effect of the Town and Country Planning (General Permitted Development) (England) Order 2015 No. 596 to ensure that the development rights permitted under that Order continue to apply in relation to Napier Barracks.

Article 4 grants planning permission for development consisting of a change of use of Napier Barracks to use for the provision of facilities, support or accommodation to certain asylum seekers or failed asylum seekers, together with their dependants.

Article 5 imposes a condition that the use of Napier Barracks under article 4 is only permitted where the Secretary of State approves an operational management plan in relation to the site, and where Napier Barracks is operated in accordance with that plan.

The permission granted by article 4 ceases at the end of 20th September 2026, or before that date if the Secretary of States permits possession of the whole of Napier Barracks to enable building operations to be undertaken pursuant to a specified outline planning permission.

The land to which this Order applies is shown on the map marked “Map referred to in the Town and Country Planning (Napier Barracks) Special Development Order 2021”, a copy of which is available for inspection at 2 Marsham Street, London, SW1P 4DF.

A full regulatory impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sector is foreseen. An explanatory memorandum is published alongside this Order at [www.legislation.gov.uk](http://www.legislation.gov.uk).