
STATUTORY INSTRUMENTS

2024 No. 412

The Town and Country Planning (Former RAF Scampton) (Accommodation for Asylum-Seekers etc.) Special Development Order 2024

Citation, commencement, extent and application

1.—(1) This Order may be cited as the Town and Country Planning (Former RAF Scampton) (Accommodation for Asylum-Seekers etc.) Special Development Order 2024.

(2) This Order comes into force on 11th April 2024.

(3) This Order extends to England and Wales.

(4) This Order applies to the land at Former RAF Scampton, near Lincoln, Lincolnshire LN1 2ST, shown bounded externally by the outer edge of a bold red line on the Map (the “Order land”).

Interpretation

2.—(1) In this Order—

“the 2015 Order” means the Town and Country (General Permitted Development) (England) Order 2015(1);

“adjoining owner or occupier” means any owner or occupier of any land adjoining the Order land;

“approved document” means any document listed in Schedule 1 (documents submitted by the Home Secretary), or any document in respect of which the Secretary of State has given subsequent approval, and where the Secretary of State—

(a) gives subsequent approval in respect of a replacement for an approved document, the approved document is the document in respect of which such subsequent approval was most recently given;

(b) gives variation approval in relation to an approved document, the approved document is the version of that document that reflects the cumulative effect of all the amendments to it in respect of which the Secretary of State has given such approval,

and if both subsequent approval as described in paragraph (a) and variation approval have been given in relation to an approved document, the approved document is the document or version that reflects the cumulative effect of all approvals, of either kind, that have been given, and references to any particular approved document are to be construed according to the same principles;

“authorised development” has the meaning given in article 4(1) (grant of temporary planning permission);

(1) 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, 2021/814, 2022/278, 2023/747, 2023/1279, 2024/141.

“CEMP” means a construction and environmental management plan submitted and approved in accordance with condition 15 (construction and environmental management plan);

“construction” includes installation, provision, operation, maintenance, improvement or alteration, decommissioning or removal (demolition), or any other building or engineering operations, and “constructed” is to be construed accordingly;

“contamination expert” means a person—

- (a) with suitable knowledge, skills and experience in relation to the assessment and mitigation of relevant contamination risks, and
- (b) who is a registered Specialist in Land Condition(2), or holds another qualification indicating a similar level of expertise in relation to such risks;

“existing” means, in relation to anything on the Order land, that it was present on the Order land on 10th April 2024;

“heritage assets” means the following buildings or structures at Former RAF Scampton—

- (a) the four “C-type” aircraft hangars;
- (b) the Officers’ Mess;
- (c) the grave of Wing Commander Guy Gibson’s dog;

“the Home Secretary” means the Secretary of State for the Home Department;

“the Map” means the document numbered Figure 2 in Schedule 1;

“Multi-Agency Forum” means the group to be established by the Home Secretary under condition 27 (Multi-Agency Forum);

“OMP” means an operational management plan submitted and approved in accordance with sub-paragraph (1) of condition 21 (OMP: establishment and review);

“Order land” has the meaning given in article 1(4);

“reinstatement works” means development(3) for which planning permission is granted by article 4(1)(c);

“relevant contamination risk” means a risk to human health or the environment posed by hazardous substances including gases, vapour concentrations and radiological contamination in, on, under or over the Order land;

“relevant duty” means a duty imposed by an enactment (other than this Order) that applies to the Home Secretary when the Home Secretary carries out relevant functions;

“relevant functions” means providing, or arranging for the provision of, accommodation and support under section 4 (accommodation), section 95 (persons for whom support may be provided) or section 98 (temporary support) of the Immigration and Asylum Act 1999(4);

“relevant ordnance risk” means a risk to human health or the environment associated with the presence of unexploded ordnance in, on, under or over the Order land;

-
- (2) The register of Specialists in Land Contamination is administered by a Professional and Technical Panel. A list of those on the register may be obtained from <https://www.silc.org.uk/> or from Forum Court Associates Ltd, Office 2FF, Saphir House, 5 Jubilee Way, Faversham, Kent, ME13 8GD.
 - (3) As defined in section 55 of the Town and Country Planning Act 1990. Section 55 was amended by the Planning and Compensation Act 1991 (c. 34), sections 13(1) and (2) and 14, Schedule 6, paragraph 9, and Schedule 19, Parts 1 and 2, and by the Planning and Compulsory Purchase Act 2004 (c. 5), Schedule 6, paragraphs 1 and 2 and Schedule 9. There are further amendments which are not relevant to this Order.
 - (4) 1999 c. 33. Section 4 was amended by the Nationality, Immigration and Asylum Act 2002 (c. 41) (“the 2002 Act”), section 49; the Asylum, Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), section 10(1); the Immigration, Asylum and Nationality Act 2006 (c. 13), section 43(7); the Immigration Act 2016 (c. 19) (“the 2016 Act”), Schedule 11, paragraph 1; the Nationality and Borders Act 2022 (c. 36) (“the 2022 Act”), section 17(1) and (2). Section 95 was amended by the 2002 Act, section 50(1), and by the 2016 Act, section 61(1) and (2)(b) and Schedule 10, paragraphs 26 and 29. Section 98 was amended by the 2016 Act, section 66 and Schedule 11, paragraphs 5 and 12, and by the 2022 Act, sections 13(3) and (4).

“relevant person” means a person who—

- (a) is male,
- (b) is at least 18 years old and no more than 64 years old,
- (c) has no dependants within the meaning of section 94(1) of the Immigration and Asylum Act 1999 (interpretation of Part VI)(5), and
- (d) is—
 - (i) an asylum-seeker within the meaning of that section, or
 - (ii) otherwise receiving accommodation or support under section 4 of that Act;

“relevant risk” means a relevant contamination risk or a relevant ordnance risk;

“remedial step” means any step, the taking of which by the Home Secretary secures compliance with a duty imposed on the Home Secretary, by an enactment (other than this Order) or a rule of common law, to prevent or mitigate a relevant risk;

“resident service user” means a service user who is accommodated on the Order land;

“the Secretary of State” means, except in the definition of “Home Secretary”, the Secretary of State for Levelling Up, Housing and Communities;

“service user” means a person in respect of whom the Home Secretary carries out relevant functions;

“site operator” means the person designated as such under condition 1 (site operator);

“subsequent approval” means the Secretary of State’s approval, after the date on which this Order is made, in respect of a plan, report, scheme or programme that this Order requires or permits the Home Secretary to submit for the Secretary of State’s approval, where—

- (a) the plan, report, scheme or programme is submitted for such approval for the first time, or
- (b) approval is sought in respect of a replacement for such a plan, report, scheme or programme under sub-paragraph (3) of condition 2 (approved documents);

“unsuitability criterion” means any of the criteria specified, on pages 17 to 22 of the Home Office publication “Allocation of asylum accommodation policy”, version 11.0, dated 12th February 2024(6), as making a person potentially unsuitable (either generally, or in certain circumstances) to be accommodated on an “ex-MoD site”, or to share a room;

“variation approval” means the Secretary of State’s approval in respect of an amendment, proposed by the Home Secretary, to the details of a matter set out in an approved document.

(2) A reference in this Order to a numbered “condition” is to the paragraph that is so numbered in Schedule 3 (conditions subject to which planning permission is granted).

(3) A reference in this Order to the height of a building or other structure is a reference to its height when measured from ground level, and in this paragraph “ground level” means—

- (a) the level of the surface of the ground adjoining the building or structure;
- (b) if the level of the surface of the ground where the building or structure is situated or is to be situated is not uniform, the level of the highest part of the surface of the ground adjacent to it.

Application of the 2015 Order

3.—(1) Subject to the provisions of this Order, the 2015 Order applies to the Order land.

(5) Section 94 was amended by the 2002 Act, sections 44, 60(2), 161 and Schedule 9, the 2022 Act, sections 17(1) and (3) and 49(5), and [S.I. 2008/2833](#).

(6) See <https://assets.publishing.service.gov.uk/media/65c6483d14b83c000ca71658/Allocation+of+accommodation.pdf>. Hard copies are available from the Home Office, 2 Marsham Street, London SW1P 4DF.

(2) Planning permission granted by article 3(1) of the 2015 Order (permitted development) does not apply to development carried out in, on, under or over the Order land during the period beginning with 11th April 2024 and ending with 10th October 2027, unless it is—

- (a) development of a class that is described as permitted development in Part 13 (water and sewerage), Part 15 (power related development) or Part 16 (communications) of Schedule 2 to the 2015 Order (permitted development rights);
- (b) the replacement of a window or door as part of refurbishment of a building or structure.

(3) Planning permission granted by article 3(1) of the 2015 Order for development of a type specified in Schedule 2 to this Order that was carried out on or before 10th April 2024—

- (a) ceases to apply on 11th April 2024;
- (b) applies again on and from 11th April 2027, but only if, and to the extent that, the planning permission granted for it by article 3(1) of the 2015 Order would not, but for this Order, have ceased before that date.

Grant of temporary planning permission

4.—(1) Subject to the provisions of this Order, planning permission is granted for—

- (a) the making of any material change in the use of any buildings or other land of a type specified in paragraph 1 of Schedule 2;
- (b) the carrying out of building, engineering or other operations of a type specified in paragraph 2 of Schedule 2;
- (c) development comprised in—
 - (i) the cessation, decommissioning or removal of development within sub-paragraph (a) or (b);
 - (ii) the reversion of the Order land and any buildings in, on, under or over it to their previous lawful use

(“authorised development”).

(2) The planning permission granted by paragraph (1)—

- (a) is subject to—
 - (i) the conditions specified in Schedule 3;
 - (ii) such additional conditions as the Secretary of State may impose when giving subsequent approval or variation approval under article 6 (authorised development: decisions of the Secretary of State);
- (b) includes, as regards paragraphs (1)(a) and (b), planning permission for the retention and continued operation, after 10th April 2024, of development of a type specified in Schedule 2 that was first carried out on or before 10th April 2024 under planning permission granted by article 3(1) of the 2015 Order;
- (c) does not include planning permission for any material change in use, or building, engineering or other operations to take place, in respect of any heritage asset, other than the works that are to be undertaken by virtue of sub-paragraph (2)(b) of condition 10 (fencing) or sub-paragraph (2) of condition 12 (heritage management scheme).

(3) The conditions referred to in paragraph (2)(a) apply to development within paragraph (2)(b) if and to the extent that it is retained and continues to operate after 10th April 2024, but they do not apply as regards its construction before that date.

(4) Authorised development may only be carried out by or on behalf of the Home Secretary.

(5) The planning permission granted by paragraph (1)(a) and (b) ceases at the end of 10th April 2027, and any development within those paragraphs must cease by that time.

(6) The planning permission granted by paragraph (1)(c) ceases at, and reinstatement works must be completed by, the end of 10th October 2027.

Subsequent approval and variation approval

5.—(1) A replacement for an approved document has no effect for the purposes of this Order unless the Home Secretary has submitted it for subsequent approval under sub-paragraph (3) of condition 2, and the Secretary of State has given subsequent approval in respect of the replacement.

(2) An amendment to an approved document has no effect for the purposes of this Order unless the Home Secretary has sought, and the Secretary of State has given, variation approval in respect of that amendment.

(3) Where the Home Secretary submits a document for subsequent approval or seeks variation approval, the Home Secretary must make an application—

- (a) to the Secretary of State in writing, signed by the site operator on behalf of the Home Secretary;
- (b) including a copy of any document that it is proposed should be an approved document following the giving of subsequent approval or variation approval as requested.

(4) No subsequent approval or variation approval may be sought or given in respect of any replacement of, or amendment to, the Map.

Authorised development: decisions of the Secretary of State

6.—(1) When giving or declining to give subsequent approval or variation approval, the Secretary of State must give the Home Secretary a written notice of the Secretary of State's decision on the application made under article 5(3) (subsequent approval and variation approval).

(2) The Secretary of State may give subsequent approval or variation approval either unconditionally, or subject to conditions set out in a notice given under paragraph (1).

(3) The Secretary of State must not give—

- (a) subsequent approval or variation approval;
- (b) any other consent or agreement provided for under this Order or an approved document in relation to the authorised development

(each a “relevant approval”), unless the condition specified in paragraph (4) or the condition specified in paragraph (5) is satisfied.

(4) The condition is that the Secretary of State has concluded that—

- (a) the giving of the relevant approval will not result in the authorised development having any impacts that are materially new, or materially different, as compared with the impacts that the Secretary of State took into account before making this Order,
- (b) the authorised development will not, as a result of the relevant approval, be EIA development as defined in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment Regulations 2017(7) (the “2017 Regulations”), and
- (c) development carried out as a result of the relevant approval will not otherwise give rise to any significant environmental effect.

(5) The condition is that the Secretary of State has directed under regulation 63(1) of the 2017 Regulations (exemptions) that the authorised development is exempt from the requirements of those Regulations.

Documents to be made available by the Secretary of State

7.—(1) This paragraph applies to—

- (a) approved documents;
- (b) notices given under article 6(1).

(2) Subject to paragraph (4), the Secretary of State must arrange for a copy of each document to which paragraph (1) applies to be made available for inspection by the public—

- (a) on a website maintained by or on behalf of the Secretary of State⁽⁸⁾;
- (b) in person, upon giving reasonable notice to the Department for Levelling Up, Housing and Communities, at 2 Marsham Street, London SW1P 4DF.

(3) This paragraph applies to information contained in a document to which paragraph (1) applies, where the Secretary of State is satisfied that that information relates to—

- (a) matters of national security;
- (b) measures taken or to be taken to ensure the security of any premises or property, whose efficacy may be impaired by the disclosure of that information.

(4) Where paragraph (3) applies—

- (a) the Secretary of State may redact the information to which it applies from any copy of the document that is made available under paragraph (2);
- (b) if the Secretary of State considers that it is appropriate, having regard to national security or other security considerations, to redact the entire contents of a document under subparagraph (a), the Secretary of State may make available a statement to that effect, identifying the document, instead of making available a copy of the document with the contents entirely redacted.

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

Lee Rowley
Minister of State
Department for Levelling Up, Housing and
Communities

20th March 2024

⁽⁸⁾ This will be within www.gov.uk, and capable of being quickly located through its search page.