

Government Consultation on Changes to Permitted Development Rights

Briefing Note

04/08/2023

Ref No : 389

Introduction

As recently trialled in their 'Long Term Plan Housing Plan', the Government has launched a consultation on proposed changes to certain permitted development rights which are designed to promote the delivery of well-designed development, support housing delivery, the agricultural sector and economic growth.

Permitted development rights are set out within the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. They are an important tool to support growth by providing certainty and removing the time and money needed to submit a planning application.

We have provided a summary of some of the key changes proposed in the consultation below:

Extending the scope of Class MA: Commercial, Business and Service use class (Class E) to Residential (C3)

Class MA of Part 3

Effective from August 2021, existing Class MA allows for the change of use of premises in the Commercial, Business and Service use class (Use Class E) to residential use. This broad use class includes a range of uses commonly found on the high street, such as shops, restaurants, offices, as well as gyms and light industrial buildings.

The permitted development right currently allows for up to 1,500sqm of Class E use to change to residential use. However, the Government is seeking views on whether this limit should be increased to 3,000sqm, or removed to provide no limitation on the amount of floorspace that can change use. It is also proposed that the current vacancy requirement for a continuous period of at least 3 months is removed.

Another change would allow for the permitted development right to apply in all article 2(3) land¹ (except World Heritage Sites). This right currently applies to conservation areas, however, is subject to a prior approval process which allows local areas to take a view on the impacts of the change of use of the ground floor on the "character or sustainability of the conservation area".

The consultation is also seeking views as to how the prior approval is operating in practice.

Greater opportunities under Class Q; Agricultural buildings to dwellinghouses (C3)

Class Q (Agricultural buildings) of Part 3

This permitted development right seeks to bring underused or redundant agricultural buildings into effective use and support the delivery of homes in rural areas. The right was introduced in 2014 and expanded in 2018 to encourage the development of smaller homes for rural workers.

The Government is proposing to remove the existing limitations on smaller and larger homes and proposes to introduce a single maximum floorspace limit of either 100sqm or 150sqm per home. It is also proposed to increase the maximum number of homes that can be delivered on an agricultural unit from 5 to 10. In addition, an overall floorspace limit of 1,000sqm is proposed.

Consultation is also running for a proposal to allow for single storey rear extensions to the original building, as part of the change of use, of up to 4m on previously developed land (including hardstanding). This would include limits on the maximum height of the roof and other householder restrictions would also apply. The consultation includes the introduction of a prior approval that allows for the consideration of the impacts of the extension on the amenity of neighbouring premises, including overlooking, privacy and light. This would not apply to article 2(3) land.

The Government is asking whether the right should apply to article 2(3) land (except World Heritage Sites); to buildings on agricultural units that may not have been solely used for agricultural purposes; and former agricultural buildings no longer on an established agricultural unit.

It is proposed that this right would not apply to buildings with a floorspace of less than 37sqm and any existing building must have existing suitable access to a public highway to benefit from the right.

The consultation is seeking views on the scope of the building operations reasonably necessary in enabling the conversion of existing buildings and whether amendments are required to the PPG. Further, views are being sought on applying additional flexibilities for other rural uses to change use to residential, such as buildings in forestry or equestrian use.

¹ Article 2(3) land is defined in Part 1 of Schedule 1 to the General Permitted Development Order as conservation areas, areas of outstanding natural beauty, areas designated under s.41(3) Wildlife and Countryside Act 1981, National Parks, the Broads and World Heritage Sites

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Classes M, N and G

Changes are also being proposed to Classes M, N and G. Please get in touch should you require any further information in relation to these proposed changes.

Increased flexibility for diversification and development on agricultural units.

Class R of Part 3 (Agricultural buildings to a flexible commercial use)

The proposed changes include expanding the type of buildings that can benefit from the right to other rural uses; increasing the uses permitted to allow for outdoor sports, recreation or fitness such as paintballing (but not including motor sports); allowing the processing of raw goods produced on the site, and to be sold on the site (excluding livestock) under B2 uses; allow for mixed uses (instead of one use at a time); and increasing the floorspace limit to allow for 1000sqm to change use.

The consultation is seeking views on the other flexible commercial uses the right could allow the change of use to, in addition to how the prior notification/ approval process works in practice (which is triggered if more than 150 sqm of floorspace is changing use).

Changes are also proposed to Classes A and B of Part 6 (Agricultural and forestry) of the GPDO to increase the size limits of new buildings and extensions. However, it is proposed to remove the rights in sites designated as a scheduled monument.

Expanding PD rights for commercial premises

Class A of Part 7 – Commercial, Business and Service Use Extensions

It is proposed for the current floorspace limit to be increased from 50% or 100 square metres of floorspace (whichever is the lesser) to 100% or 200 square metres of floorspace (whichever is the lesser) on non-protected land (land that is not article 2(3) land or a site of special scientific interest).

Class H of Part 7 – Industrial and Warehousing Extensions

It is proposed for the current floorspace threshold of new buildings permitted under the right in non-protected areas to be increased from 200sqm to 400sqm.

It is further proposed that the floorspace thresholds of extensions erected in non-protected areas should be increased to 1,500 square metres of floorspace or a 75% increase over the original building (whichever is lesser).

Application of local design codes to certain permitted development rights

The Levelling Up and Regeneration Bill is seeking for local councils to produce local design codes at the spatial scale of their authority area. It is suggested that these will form part of the Development Plan and therefore will be afforded significant weight in the determination of planning applications.

The proposed changes consider whether permitted development prior approvals on grounds of design or external appearance (e.g., the change of use from agricultural buildings to residential in Part 3, Class Q) could be replaced with the consideration of a local design code. This would allow for consideration specifically on whether the external appearance of the building meets the local design code requirements.

Applying design codes could give developers certainty of the design and appearance that would be acceptable, whilst providing local authorities confidence that homes delivered under permitted development rights will align with the design expectations of the local area.

Summary

Subject to the outcome of the consultation, any changes would be brought forward via secondary legislation as an amendment to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, when parliamentary time allows.

Overall, the additional flexibility and scope of the changes proposed, particularly to classes MA and Q, is generally welcomed and in our view will maximise opportunities to use underutilised commercial and agricultural buildings to help deliver much needed houses.

The suggested use of design codes as a consideration under PD Prior Notification process should help raise standards of design and ensure better quality conversions, but will risk bringing an added layer of complexity to what is meant to be a light touch process.

The consultation is open from **24th July 2023 to 25th September 2023.**

For further information or if you would like us to make a response to the consultation on your behalf, please get in touch at enquiries@dipconsultants.co.uk