

Report to Planning Committee

Briefing Note for Members

Changes to the Permitted Development under the Town and Country Planning (General Permitted Development) (England) Order 2015

1 Introduction

- 1.1 From 31 August 2020, the Government introduced new permitted development rights, changing the way in which the use of commercial buildings is controlled and giving developers greater flexibility in providing new residential dwellings and increasing the height of an existing dwellinghouse.
- 1.2 'Permitted development' is a right to carry out development without needing to apply for planning permission. Some permitted development rights are subject to a 'prior approval' process, where the Council can consider limited aspects of the development, such as design, the impact upon highway safety or the amenities of neighbouring properties, but cannot refuse the principle.
- 1.3 Planning permission is usually needed to make a significant change in the way land/buildings are used ('a material change of use'). However, not all changes of use need planning permission. The Use Classes Order groups activities into classes, and planning permission is not needed to go from one use to another in the same class. Many changes of use from one class to another are also covered by permitted development.

2 Upward extensions

- 2.1 The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 introduced new permitted development rights for buildings to be extended upwards.
- 2.2 The link for the legislation can be found here:

<https://www.legislation.gov.uk/ukxi/2020/755/contents/made>

Extensions to Dwellinghouses

- 2.3 For dwellinghouses, there is a new right to enlarge by the construction of new storeys on top of the highest existing storey of the dwellinghouse. Two storeys may be added if the existing dwellinghouse is two or more storeys tall, or one additional storey where the dwellinghouse consists of one storey.

2.4 This right is subject to a number of limitations, the main ones being:

- It does not apply in conservation areas;
- It does not apply to houses built before 1948 or after 2018, or to houses that have previously been extended upwards;
- There is a maximum total height of the building of 18m, but extensions to attached properties cannot be over 3.5m higher than the neighbouring house, or all other houses in a terrace;
- The floor to ceiling height of a storey cannot exceed the lower of 3m or the floor to ceiling height of any of the existing storeys;
- The extension can only be on the principal part of the roof;
- The roof pitch of the new storey(s) must be the same as the pitch of the original roof, and the materials must match existing;
- Windows in side elevations are not allowed;
- After extending, a house can only be used for C3 (dwellinghouse) purposes, so exercising this right would prevent a house from subsequently being used as a house in multiple occupation (HMO) unless planning permission is first granted.

2.5 This right is subject to a prior approval process, with the Council able to consider design (of the front of the extension), impact upon the amenity of neighbouring properties, air traffic and defence impacts, and impacts on any protected views. (Protected views are defined in Directions Relating to Protected Vistas dated 15th March 2012⁽¹⁾ issued by the Secretary of State). There are no such protected views in Gedling Borough as they predominantly relate to London landmarks.

Extensions to other buildings

2.6 A number of other permitted development rights for upward development are also introduced:

- Class AA permits construction of up to two new storeys of flats on top of detached buildings in commercial or mixed use, including where there is an element of residential use;
- Class AB permits the construction of new flats on top of terrace buildings (including semi-detached buildings) in commercial or mixed (including residential) use;
- Class AC permits the construction of new flats on top of terrace dwellinghouses (including semi-detached houses);
- Class AD permits the construction of new flats on top of detached dwellinghouses.

2.7 The new rights are subject to prior approval applications, relating to:

- the transport and highways impacts of the development;
- air traffic and defence asset impacts;

- contamination risks in relation to the building;
- flooding risks in relation to the building;
- the external appearance of the building, including the design and architectural features of the principal elevation and any side elevation that fronts a highway;
- the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- the impact on the amenity of neighbouring premises including overlooking, privacy and the loss of light;
- whether, because of the siting of the building, the development will impact on protected views.

2.8 Other limitations on the new rights include that they do not apply to buildings constructed before 1st July 1948 or after 5th March 2018.

3 Demolition and rebuilding of vacant buildings

3.1 The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020 adds a new permitted development right to demolish and rebuild a vacant building.

3.2 The link to the legislation can be found here:

<https://www.legislation.gov.uk/ukxi/2020/756/contents/made>

3.3 Class ZA allows for the demolition of a single detached building in existence on 12 March 2020 that was used for office, research and development or industrial processes, or a free-standing purpose-built block of flats, and its replacement by an individual detached block of flats or a single detached dwellinghouse within the footprint of the old building.

3.4 The new right is subject to a prior approval process and is subject to a number of limitations, the main ones being:

- It does not apply in conservation areas or listed buildings/land within the curtilage of a listed building;
- The building to be replaced must have been built before 1990 and have been vacant for at least six months before the date of the application for prior approval;
- The building to be replaced should have a footprint no larger than 1,000 square metres and be no greater than 18m in height
- There is a maximum total height of the proposed building should be no greater than 18m but can be up to two storeys higher than the building it replaces;
- The new building must be within the curtilage of the old building and must not extend further towards a highway than the building it replaces

3.5 As part of the prior approval process, the local planning authority can assess the proposal's impact upon the following:

- transport and highways impacts
- contamination and flooding risks
- the design, external appearance and landscaping of the new building;
- the impact of the development on the amenity of the new building and of neighbouring premises;
- impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;
- the impact on business and new residents of the development's introduction of, or increase in, residential use in the area in which the development is to take place;
- the method of demolition of the old building;
- air traffic and defence asset impacts;
- impact upon any protected views.

4 Changes to the Use Classes Order

4.1 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 has introduced three new broad use classes - Class E, Class F1 and Class F2.

4.2 The link to the legislation can be found here:

<https://www.legislation.gov.uk/ukxi/2020/757/contents/made>

4.3 Below is a summary of the new legislation

- Class E - "commercial, business and service" - use class subsumes the previous Class A1 (Shops), Class A2 (Financial and professional services), Class A3 (Restaurants and cafes), and Class B1 (Business) use classes.
- Class F1 relates to learning and non-residential institutions and includes any non-residential use for the "provision of education, for the display of works of art (otherwise than for sale or hire), as a museum, as a public library or public reading room, as a public hall or exhibition hall, for, or in connection with, public worship or religious instruction, as a law court".
- Class F2 relates to "local community" uses. These are listed as "a shop mostly selling essential goods, including food, to visiting members of the public in circumstances where the shop's premises cover an area not more than 280 metres square, and there is no other such facility within 1,000 metre radius of the shop's location".
- In Class F2 a 'shop' is defined "as a shop mostly for the sale of a range of essential dry goods and food to visiting members of the public". This is

intended to provide some protection for such shops while placing those shops found on high streets and town centres in the new 'commercial' class.

- F2 uses also includes "a hall or meeting place for the principal use of the local community, an area or place for outdoor sport or recreation, not involving motorised vehicles or firearms, an indoor or outdoor swimming pool or skating rink".

The following uses are excluded from any use class ("sui generis" uses) as they are regarded as "essential to the lifeblood of communities" (PM Press Release – Build, Build, Build. 30th June 2020):

- public houses, wine bars, or drinking establishments;
- drinking establishments with expanded food provision;
- hot food takeaways;
- live music venues, cinemas, concert halls, bingo halls and dance halls.

5.0 Conclusion

- 5.1 The Government has said that the new measures "Will both support the high street revival by allowing empty commercial properties to be quickly repurposed and reduce the pressure to build on green fields land by making brownfield development easier." (PM Press Release – Build, Build, Build. 30th June 2020).

Recommendation: To note the information.