

Changes to the Planning system - the relaxation of Permitted Development Rights

What are Permitted Development (PD) rights?

Permitted development rights allow for a whole range of minor building works by householders, parish councils, schools and business. It also allows for some changes of use of buildings and land without the need to apply for planning permission. These rights are set out in the Town and Country (General Permitted Development) Order 1995 (as amended) (GPDO) and the Use Classes Order 1987 (as amended) (UCO).

Building works or changes of use that are undertaken as permitted development do not require planning permission from the district council as the Local Planning Authority (LPA) so the district council and the relevant town/parish council has no direct control over building works and changes of use falling within the rights.

Additional Permitted Development from 30 May 2013

The Government has introduced extensive measures to increase the scope of development that can be undertaken as permitted development (under section 4 of the Growth and Infrastructure Act 2013). The Government believes a swift and responsive planning system is vital for securing sustainable development. These changes are intended to 'unblock the planning system' and promote growth. The new rights became effective from 30 May 2013. This note provides an overview of the main changes.

Householder extensions (Part 1, Class A, GDPO)

For a period of three years, between 30 May 2013 and 30 May 2016, householders can build larger single-storey rear extensions. This change does not apply to houses in a conservation area or in an Area of Outstanding Natural Beauty. The length of the extension has doubled from 4 metres to 8 metres for detached houses and from 3 metres to 6 metres for all other houses. A homeowner wishing to build a larger single-storey rear extension must go through a new notification process with LPA and provide:

- a written description of the proposal which includes the length that the extension extends beyond the rear wall of the original house, the height at the eaves and the height at the highest point of the extension
- a plan of the site, showing the proposed development
- the addresses of any adjoining properties
- a contact address for the developer

In turn the LPA will notify adjoining owners or occupiers of those properties sharing a boundary. This provides the address of the site and a description of the proposed development. It will also set out when the determination period ends and how long neighbours have to make objections (twenty one days) and the date by which these must be received.

If any adjoining neighbour raises an objection within the twenty one day period, the LPA will take this into account before making a decision about whether the impact on the amenity of all adjoining properties is acceptable. No other issues will be considered. At this stage the LPA may ask for further information if it needs it to make a decision about the impact of the development on the amenity of adjoining properties.

The householder can carry out the development if the LPA confirms either:

- a) that, as no objections were received from adjoining neighbours, it is not necessary to consider the impact on neighbours amenity, or
- b) that it has decided that the effect on the amenity of neighbours is acceptable.

If the LPA does not notify the developer of its decision within the forty two day determination period, the development may go ahead. If the LPA refuses to give approval the developer may appeal.

To benefit from these new permitted development rights, the extension must be completed on or before 30 May 2016.

Change of use from Office to Residential (Part 3, Class J, GDPO)

This permits a change of use from offices (Class B1 a) to a dwelling house (Class C3). This right applies where the building was either in use as an office before 30 May 2013 or, if vacant, was last used as an office. There is no limit on the number of units that can be applied for but the new right does not allow for changes to be made to the exterior of the building.

This right can cumulatively lead to a loss of employment floorspace. The council applied for and was successful in obtaining an exemption to this change at our Enterprise Zone; Milton Park and Harwell, Oxford. Seventeen Councils were granted exemptions for parts of their areas and the four successful rural councils included the Vale of the White Horse, Enterprise Zone.

The Government said that the areas that had been exempted would cause "either the loss of a nationally significant area of economic activity or a substantial adverse economic consequences at the local authority level which are not offset by the positive benefits the new rights would bring".

The permitted right to change of use only applies where the use as a dwelling house commences after 30 May 2013. It is also subject to a prior approval procedure in which the LPA can only consider transport and highway impacts, contamination and flooding risks. Where the LPA considers that it can not give prior approval for one or more of those three matters, it is able to ask the applicant to submit a formal planning application

Change of use of Agricultural Buildings (Part 3, Class M, GDPO)

These rights permit a change of use from an agricultural building to a flexible use including shops, financial and professional services, restaurants and cafés, business, storage & distribution, hotels or assembly & leisure use.

The right only applies to buildings that have been solely in agricultural use since 3 July 2012 or, in the case of buildings that did not come into use until after that date, they must have been used for an agricultural use for at least ten years before they will benefit from the right. There is a cumulative limit of up to 500 square metres within an agricultural unit that may benefit from this right. Flexible use means that subsequent changes to any of the other uses are also permitted.

This right is also subject to a prior approval process but this only allows the LPA to consider transport and highway, noise, contamination and flooding impacts. Where the LPA considers that it can not give prior approval for one or more of these matters it is able to ask the applicant to submit a formal planning application.

For initial and subsequent changes of use of buildings where the cumulative area of floor space to be changed is up to 150 square metres the developer must notify the LPA. Where the cumulative floor space is between 150 and 500 square metres the prior approval provisions apply.

Change of use to school (Part 3, Class K, GDPO)

This allows for a permanent change of use from business, hotels, residential institutions or assembly and leisure uses to a state funded school. The permitted use is limited to use as a state funded school or uses ancillary to that use.

This change of use is subject to a prior approval procedure in which the LPA can only consider transport and highway impacts, noise and contamination risks. There is also a right to change the use of land from a school permitted under this new right, back to the previous lawful use of the land.

Fences (Part 2, Class A, GDPO)

The rights for “minor operations” have been amended to allow schools to erect fences alongside highways up to two metres high, where before all such fences were limited to a height of one metre.

Business change of use thresholds (Part 3, Class B, GDPO)

The permitted change of use from general industrial or storage and distribution to business is now up to 500 square metres (previously it was 235 square metres).

Use for Temporary State Funded School (Part 4, Class C, GDPO)

A new right has been created for the use of any building and any land within its curtilage as a state funded school for a single academic year. The right does not apply to listed buildings or scheduled monuments. It permits use as a school together with ancillary uses. The rights last for one academic year after which the site reverts to its previous lawful use and they can only be used once in relation to a particular site.

Temporary changes of use for new and start-up businesses (Part 4, Class D, GDPO)

This is aimed at people looking for premises to test new business ideas and other popup ventures. For a period of up to two years, starting on the date the change of use commences, it allows for a change of any building from shop, financial and professional services, restaurant and café, drinking establishment, hot food takeaway, business, non residential institution and assembly and leisure to a flexible shop, financial and professional service, restaurant & café or business use. There is a limitation of up to 150 square metres.

Development by electronic communication code operators (Part 24, Class A, GDPO)

There are more generous allowances for communication code operators to allow for works and equipment to help deliver broadband.

Consultation on the further relaxation of permitted development rights in October 2013

The Government has recently consulted on a further set of proposals and these comprise:

- Change of use from a small shop or provider of professional/financial services to residential use
- Change from retail use to a bank or building society
- Change of use for buildings used for agricultural purposes to up to three residential units, including building works
- Change from offices, hotels, residential, non-residential institutions and leisure and assembly to a state funded school or nurseries providing childcare
- Change from an agricultural building up to 500sqm to a new state funded school or nursery providing childcare

For more information please see

www.gov.uk/government/uploads/system/uploads/attachment_data/file/226632/Greater_flexibilities_for_change_of_use.pdf