

This article has been reproduced from the August 2023 issue of Property Investor News™.
To Subscribe go to: www.property-investor-news.com or contact us on 020 4537 4111

New Opportunities For Permitted Development



Planning consultant **David Kemp** BSc (Hons) MRICS Barrister* (*non-practising) and Director at DRK Planning Ltd, comments

On 24 July, Michael Gove MP announced a series of proposed reforms and initiatives aimed at delivering more housing, boosting the economy and reforming the planning system.

These initiatives include new allocations from the £1.5bn Brownfield, Infrastructure and Land Fund towards further funding in the West Midlands, Greater Manchester and more funding towards Homes England. Cambridge is also targeted as the Government seeks to enable more housing, infrastructure and high-end tech employment in this city to raise its status as 'Europe's science capital'.

However, at the heart of the proposed reforms in the current White Paper are the proposed changes to permitted development and prior approval, to introduce greater flexibility and relaxation in the planning system and speed up the delivery of additional homes in towns, cities and rural areas.

Floor space limits relaxed or abolished

The government is addressing changes in consumer behaviour that have impacted town centres and high streets by exploring amendments to change of use permitted development rights. These changes aim to create more resilient high streets by introducing a mix of residential, commercial, and leisure uses. To further support housing delivery, views are sought on amending existing permitted development rights in Part 3 of the General Permitted Development Order, which allows the change of use of certain buildings to residential.

To provide more flexibility and support housing delivery, the government proposes increasing or abolishing the floorspace limit for changing use to residential. For Class MA rights (use class E to C3 dwellings)



this is currently set at 1,500 square meters, but the limit could be doubled to 3,000sqm or removed entirely, allowing for more substantial housing developments, especially on larger sites.

Similarly, under Class M rights (betting shops and pay day loan shops) and Class N rights (casinos and amusement arcades), the current 150sqm limit could be doubled or abolished. The Government is considering removing PD rights entirely for launderettes (currently under Class M rights).

Vacancy requirement

The current Class MA permitted development right mandates that premises must be vacant for at least three months before applying for prior approval for change of use. This requirement was meant

to protect businesses from displacement, but it is deemed by the Government to be ineffective and may lead to prolonged vacancies. To increase flexibility for property owners, encourage more premises to change use, and facilitate the delivery of additional homes, the proposal suggests removing this vacancy requirement.

Conservation Areas and other Article 2(3) land

The Article 2(3) land includes conservation areas, areas of natural beauty, and other designated areas with special significance. The proposal seeks views on extending the Class MA, M and N PD rights to other Article 2(3) land to boost housing delivery and high street diversification, excluding World Heritage Sites, but potentially

including National Parks, AONB and The Broads. The focus is on supporting the vitality of protected landscapes and benefiting residents and businesses.

Furthermore, the Government is hinting at further deregulation in Conservation Areas. Change of use to Class C3 dwellings is already possible in the case of Class MA and Class N. The consultation gives no further details on what form this further relaxation might take.

Hotels, boarding houses and guest houses (Use Class C1) to dwellinghouses

The government proposes allowing the change of use of hotels, boarding houses, or guest houses (classified as C1 Hotels) to dwellinghouses through permitted development rights. This aims to address housing needs in areas with high demand. Specific safeguards and local planning authority consideration may be necessary, particularly regarding the impact on the local tourism economy. The homes created under this right would be limited to use as a C3 dwellinghouse and would not have permitted development rights for small House in Multiple Occupation or short-term lets. The change could be implemented by expanding the existing Commercial, Business, and Service uses to dwellinghouse right (Class MA of Part 3) or creating a new right. A different size limit might be applied to such a PD right.

Date the building was in use in order to benefit from the right

The government proposes introducing a two-year rolling requirement for the existing permitted development rights under Class M and N of Part 3. These rights currently apply to buildings that were in the specified uses on specific dates in the past – March 2013 for Class M and March 2014 for Class N. The new requirement would necessitate the building to be in the relevant use for at least two years continuously before applying for prior approval. This mirrors the approach used in the permitted development right for changing the use from Commercial, Business, and Service use to residential (Class MA of Part 3).

Commercial, Business and Service, betting office or pay day loan shop to mixed use residential (Class G of Part 3)

The long-standing permitted development right Class G of Part 3 allows the conversion of space above Commercial,

Business and Service (Class E) uses, betting offices, and payday loan shops to create new homes while retaining the ground floor business use. The government is exploring the possibility of extending this right to support the delivery of homes above other types of high street or town centre premises. Local consideration of noise impact through prior approval would be maintained to ensure effective integration with existing businesses and uses. The aim is to promote vibrant and thriving town centres and high streets while increasing housing opportunities.

Number of flats that can be delivered

The existing permitted development right (Class G of Part 3) enables the conversion of underused or empty storage space above certain commercial uses to create new homes. Currently limited to two flats, the proposal suggests doubling the number to four. Owners of premises in Commercial Business and Service use can also opt for the Class MA permitted development right for the change of use to residential, based on individual circumstances. All homes delivered under these rights must meet the nationally described space standards as a minimum requirement.

“ changes introducing new PD rights (e.g., C1 use to C3 use) or relax existing rights (e.g., vacancy periods and floor areas) will probably take effect on the same day on which the law is made ”

Agricultural buildings to dwellinghouses (Class Q of Part 3)

The government aims to support housing delivery in rural areas and farm diversification by allowing farmers greater freedom to change the use of existing buildings to residential use. Currently, there is an existing permitted development right (Class Q of Part 3) that allows agricultural buildings to change to residential use, subject to certain conditions and limitations. The consultation seeks views on amendments to this right to further support housing delivery, including expanding the type and location of

eligible buildings, extending the scope of permissible works, and simplifying the size limits and maximum numbers of homes delivered. The proposed changes would focus on providing smaller homes for rural workers and local communities while increasing the overall number of homes that can be delivered under the right, up to a maximum of 1,000sqm of floorspace.

The Government is also proposing to amend Class Q rights to increase the number of homes on each site that can be delivered from 5 to 10 but reduce the size limits of homes to a range between 100sqm and 150sqm. The intention is to provide more 'small' family homes of 2-bedrooms to 3-bedrooms in size instead of larger 4-bedrooms+ dwellings in rural areas.

Rear extensions

The current permitted development right for changing agricultural buildings to residential use does not allow for any increase in the building's external dimensions. To maximise the potential of previously developed rural land, the government is proposing an amendment to allow rear extensions to the original building during the change of use. The extension must be sited to the rear of the original building, be single storey, with a maximum depth of 4m, and extend the entire width of the existing rear elevation. To address potential impacts on neighbouring properties, a prior approval process is proposed to consider the extension's impact on their amenity.

Article 2(3) land

Certain landscape exclusions apply to specific permitted development rights, including the exclusion of article 2(3) land, which comprises conservation areas, Areas of Outstanding Natural Beauty, National Parks, the Broads, and World Heritage Sites. These areas are protected to preserve their sensitive and exceptional landscapes and protect their architectural and historic interest.

Currently, the Class Q PD right does not apply on article 2(3) land. However, the Government seeks views on amending the right to apply in these areas, allowing underused rural buildings to benefit from the right and provide much-needed rural homes while minimising greenfield development. Rear extensions would ▶

not be permitted under this right in article 2(3) land. The extension is not proposed for World Heritage Sites.

It appears that this will continue to be a useful way of establishing a 'residential use' on land that may be in the countryside or in the Green Belt, if the existing structures are there already.

Other possible new rural PD rights to residential use

The Government proposes amending the permitted development right for changing agricultural buildings to dwellinghouses (Class Q) to include buildings on agricultural units that have not been solely used for agricultural purposes, e.g., storage or livery uses.

Similarly, the Government is proposing to extend these rights to include former agricultural buildings no longer on established agricultural units, e.g., buildings no longer on a working farm such as empty barn outside village, as well as buildings used for forestry or equestrian purposes. This change aims to make it easier for these buildings to be brought back into use and benefit from the right, allowing them

to be converted into homes without a full planning application.

Of particular interest would also be the proposal to allow new buildings erected after the publication of this consultation to be brought into scope on a rolling ten-year basis. If the right is extended to apply in protected areas (article 2(3) land), it would also include former agricultural buildings in those areas.

Further restrictions on the use of Article 4 Directions

Although there is no detail on the continued use of Article 4 Directions in the consultation, the press release states the following: "The government will continue to ensure that local removal of permitted development rights through Article 4 Directions will only be agreed where there is evidence of wholly unacceptable impacts". The NPPF at paragraph 53 states that "an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts". Therefore, the Government appears likely to maintain this policy test in the NPPF, but it is possible that the Government might in practice take a more proactive or

interventionist approach with Councils that are not seen to be sufficiently selective and robust in their adoption of Article 4 Directions.

What's the next step?

The above is merely a summary of the White Paper and there are other reforms proposed within the consultation (e.g., changes to industrial and storage uses to allow extensions for continued commercial use) and alongside the White Paper, such as confirming the intention to mandate second staircases in new residential buildings above 18 metres.

The consultation closes on 25 September 2023. Thereafter, the Government will consider the responses and make changes to the current GPDO and PD rights, probably by the end of 2023 or early Spring 2024. Some changes might be enacted and come into force on different dates, especially if they introduce new restrictions or limits. However, changes introducing new PD rights (e.g., C1 use to C3 use) or relax existing rights (e.g., vacancy periods and floor areas) will probably take effect on the same day on which the law is made.

PIN

Jan

88.154

PROPERTY INVESTOR NEWS™

PROPERTY INVESTOR NEWS™

PROPERTY INVESTOR NEWS™

PROPERTY INVESTOR NEWS™

PROPERTY INVESTOR NEWS™

SUBSCRIBE

AUCTIONS

PODCASTS

VIDEOS

WEBINARS

PROPERTY INVESTOR NEWS™

www.property-investor-news.com