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# Homes and The Countryside



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One of the much talked about property development opportunities arising from the Government's July 2023 White Paper has finally landed.

On 30 April 2024, Government made the Town and Country Planning (General Permitted Development Etc.) (England) (Amendment) Order 2024 (SI 2024 No. 579). This has introduced changes to the following permitted development rights, which will come into force on 21 May 2024:

- ◆ Class Q: agricultural buildings to dwellings
- ◆ Class R: agricultural buildings to a flexible commercial use

## What does the legislation do?

This Order makes changes to permitted development rights that allow for agricultural development and the change of use of agricultural buildings to flexible commercial uses and dwellinghouses. The changes will provide greater planning flexibility to encourage rural growth, housing delivery and support the agricultural sector. The extent of this instrument is England and Wales.

## Why are these new rules important?

These changes create new opportunities for residential and commercial development on sites in the countryside. This is especially useful given that many local authority planning policies discourage new dwellings in 'countryside' locations, i.e. outside the established settlement boundaries as shown on the local plan proposal map. However, under PD rights, such 'in principle' policy objections are not relevant and new dwellings or groups of new dwellings can be created in very desirable countryside settings.

As stated in the Explanatory Memorandum to the new law:

"Permitted development rights have an important role to play in the planning system. They are a tool to support growth, by providing certainty and removing the time and money needed to submit



a planning application. Permitted development rights can incentivise certain forms of development and provide flexibilities and planning freedoms to different users, including businesses and local authorities."

The four stated aims of this Order are as follows:

1. Support the agricultural sector and rural communities by providing further flexibility for farmers to undertake works on their agricultural units.
2. Enable development of former agricultural buildings.
3. Enable farm diversification and,
4. Deliver new homes without having to submit a planning application.

## The 'new' Class Q rights

Class Q of Part 3 of the General Permitted Development Order allows agricultural buildings to change use to dwellinghouses.

The Government has now substituted the former Class Q for this amended version. The table highlights the key differences.

The provisions for larger and smaller dwellinghouses are replaced by a maximum floor space per dwellinghouse of 150sqm.

The intention behind this change, as noted in the July 2023 White Paper, is to deliver smaller homes of 2-bedrooms and 3-bedrooms in the countryside, rather than enclaves of larger expensive mansions.

The amended right also permits, as part of the change of use, the erection of a single storey rear extension that does not extend beyond the rear wall of the existing building by more than 4 metres and is on land covered by an existing hard

'OLD' CLASS Q (Before 21.05.24)	'NEW' CLASS Q (On/after 21.05.24)
Up to 5 dwellings allowed	Up to 10 dwellings allowed
Up to 865sqm allowed to change use	Up to 1,000sqm allowed to change use
Separate, complicated provisions for 'larger' and 'smaller' dwellings	Simplified maximum floorspace per dwelling of 150sqm
No further extensions allowed	Rear ground floor extensions of up to 4 metres permitted on existing hard surfacing
No requirement for existing suitable highways access	Requirement for existing suitable highways access
Agricultural units to be converted have to be in place by 20 March 13	Agricultural units to benefit from the new Class Q rights subject to date of 24 July 23

surface. The extension must be developed at the same time as the change of use, and cannot for example be added to an existing dwellinghouse that has previously been developed under Class Q. Where an extension is incorporated as part of the change of use, a determination on prior approval as to the impact of the proposed extension on the amenity of any adjoining premises is additionally required.

To support operations for the change of use, the right allows protrusions to the external dimensions of the building of up to 0.2 metres to accommodate fixtures and fittings, such as windowsills and guttering.

In addition, the amended right requires that the existing building (pre-development) must be capable of complying with the nationally described space standards and have existing suitable access to a public highway in order to benefit from the right.

In the case of both the Class Q versions, developers can benefit from these rights in respect of 'new' agricultural buildings where erected after the relevant dates in both cases. In future, any new agricultural buildings that were erected on agricultural land after 24 July 2023 will have to be in existence for at least 10 years before they can benefit from the Class Q rights - assuming that this right is not withdrawn by planning condition attached to permission for the new building or Article 4 Direction in the meantime. Notwithstanding, such changes in the countryside can be difficult to detect in many cases and, after 10 years, an unlawfully erected new building becomes lawful in any event (s.171B(1)(a) of the Town and Country Planning Act 1990).

**Phasing out of the 'old' Class Q rights**

Any development that was permitted under Class Q immediately before 21 May 2024, but is no longer permitted as a result of this Order, will continue to be permitted for a further 12 months.

This will allow time for any applications for prior approval prepared under the existing right's conditions and limitations to be submitted and decided under those conditions and limitations. This includes for example the delivery of larger and smaller homes but does not include the requirement for suitable existing access to a public highway.

Those homes must be delivered within three years of the prior approval date. However, it should be noted that any

additional flexibilities being introduced - such as the ability to erect an extension as part of the change of use - will not be applicable to any scheme that delivers dwellinghouses with a floorspace over 150sqm for this transitional period.

**Changes in rights of agricultural to commercial use (Class R)**

Class R of Part 3 of Schedule 2 of the General Permitted Development Order permits the change of use of agricultural buildings to a range of commercial uses.

The amended permitted development right to increase the amount of floorspace that can change use from 500sqm to 1,000sqm. This will enable farmers to make the best use of their agricultural buildings.

This Order also expands the range of changes of use in relation to an agricultural building and any land within its curtilage. These new changes of use include general industrial purposes, the provision of agricultural training, and use as an area or place for outdoor sports or recreation. The expansion of this right to allow a greater

**“ Deliver smaller homes of 2-bedrooms and 3-bedrooms in the countryside, rather than enclaves of larger expensive mansions ”**

breadth of flexible commercial uses will support the rural economy by providing more options for farm diversification.

Class A of Part 6 of the General Permitted Development Order allows for development on agricultural units of 5 hectares or more, including the erection, extension and alteration of agricultural buildings. Article 7 of this Order increases the ground area, which may be covered by any building erected, extended or altered by virtue of Class A from 1,000-1,500sqm. As above, under Class Q, transitional provisions will apply to applications that may have qualified under the former Class R rules for a further 12 months.

Class B of Part 6 of the General Permitted Development Order allows for development on agricultural units of less than 5 hectares and permits the extension or alteration of existing buildings (but not the erection of new buildings), amongst other works. Article 8 of this Order increases the limit

on the maximum cubic content by which a building may be increased under Class B from 20% to 25% and increases the limit on the ground area of any building extended under Class B from 1,000sqm 1,250sqm. Any development that was permitted under Class B immediately before this Order comes into force but is no longer permitted as a result of this Order (for example, the ability to extend a building that is a scheduled monument) will continue to be permitted for a further 12 months.

**Comments on differences from the White Paper**

The July 2023 consultation sought views on applying the right in certain protected landscapes, including National Parks, The Broads and Areas of Outstanding Natural Beauty. Those that did not support the proposal thought that development could undermine the significance of these landscapes, and that decisions should be made through the submission of a planning application on a case-by-case basis. Those that supported the proposal thought it would support housing and growth in these protected landscapes.

The consultation sought views on allowing other buildings on agricultural units and allowing other predominantly rural land uses such as forestry or equestrian uses, to benefit from the right. Some thought that this would promote the reuse of empty buildings and buildings that may have been used for unsuccessful farm diversification projects. Those that did not support the proposal were concerned about unsuitable buildings changing use to housing and the long-term impacts on rural employment opportunities.

Most proposals are being implemented as consulted on, with the exception of applying the right in certain protected landscapes and allowing buildings in other predominantly rural land uses to benefit from the right. The decision not to allow other rural buildings to be brought into this permitted development right is regrettable, as this could have further simplified the application of these rights, especially given the wide mix of dominant and ancillary uses often found on rural sites and the complexity that then arises in trying to distinguish between those buildings that could benefit from Class Q rights and those that do not.

Lastly, there are no plans to issue specific guidance for this instrument.

