

Town Planning Update – 30 July 2020

The Government has published new statutory instruments which amend both The Town and Country Planning (General Permitted Development) (England) Order 2015 and The Town and Country Planning (Use Classes) Order 1987 (“the Use Classes Order”). These amendments were all laid before Parliament on the 21st July 2020 and this guide provides a brief overview of the changes.

Changes to the Use Classes Order from the 1st September 2020

DESCRIPTION	CURRENT USE CLASS	NEW USE CLASS (From 01/09/2020)
Shops	A1	E
Financial and Professional Services	A2	E
Food & Drink	A3	E
Offices, R&D & light industrial	B1	E
Health Centre, Clinics, Creches, Day Nurseries	D1	E
Gyms, indoor recreation	D2	E
Education, Museums, Places of Worship, Law Courts, Public/Exhibition Halls, Public Libraries	D1	F1
Outdoor sport/recreation, swimming pool, skating rink, Community Hall	D2	F2
Shop <280sqm (primarily essential goods & 1km+ away from similar shop)	A1	F2
Drinking Establishment	A4	Sui Generis
Hot Food Take Away	A5	Sui Generis
Cinemas, Bingo Halls, Concert Halls, Music Venues	D2	Sui Generis

Figure 1: Summary table of changes to the UCO from 1st September 2020

Parts A and D of the original Schedule to the UCO are being entirely revoked, which puts an end to Use Classes A1, A2, A3, A4 and A5, and Classes D1 and D2. In their place will be the provision for three new use classes; Class E (Commercial, business and services), Class F.1 (Learning and non-residential institutions) and F.2 (Local community).

The creation of Class E (Commercial, business and service) will incorporate and replace the existing use classes such as shops (A1), finance and professional services (A2), restaurants and cafes (A3) and offices (B1), with one new use class. Uses such as health centres, gyms and nurseries (previously in use classes D1 Non-residential institutions and D2 Assembly and Leisure) and other uses that are suitable for a town centre are also included in the new use Class E.

This is of particular importance for NHSPS, as within Class E will sit ‘medical or health services’, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner [formerly D1(a)].

As planning permission is not normally required to change use within the same use class (except where there are restrictive planning conditions etc.), it will be difficult for Local Planning Authorities to resist the loss of medical and health service uses (new Class E – Commercial, Business and Service) via a change of use within the new Class E.

In addition, where NHSPS is seeking to dispose of a facility for an alternative use, Local Planning Authorities will find it more difficult to apply existing planning policies which restrict the loss of community uses in the same way. This is because health facilities will sit within Class E, rather than Class F.1 and Class F.2, which now include the majority of community uses previously in Use Class D1.

Councils may seek to argue that “community use” policies still apply in the consideration of other types of proposal, for example the residential-led redevelopment of a site. In such cases policy wording may be important, and councils could conceivably argue that there would still be the loss of some space protected by a “community use” policy, which would therefore be engaged.

It will therefore be important to ensure that well the wording of future development plan policies are appropriately worded and planning conditions are not attached to the development of new NHS facilities which restrict uses within Class E.

Part C is not affected by the amendment regulations. Use Classes C1, C2, C2A, C3 and C4 therefore continue unchanged.

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 can be read [here](#).

Changes to the GPDO from the 31st August 2020

Demolition of buildings and construction of new dwelling houses in their place

From the 31st August 2020, PD rights will enable the demolition of vacant buildings and their replacement with new dwelling houses, subject to limitations and prior approval consent.

The Government’s Explanatory Memorandum states that the new PD right will apply to “vacant and redundant free-standing buildings” that fell within the following use classes on the 12th March 2020: B1(a) offices, B1(b) research & development, B1(c) light industrial and free standing purpose-built residential blocks of flats (C3).

Notably, the PD right only applies to a building that has been entirely vacant for at least six months prior to the date of the prior approval application. The existing building must have also been constructed before 1st January 1990.

The replacement building must not exceed the footprint of the existing building and must be less than 1000 square metres. It can be up to 7 metres above the height (not including plant) of the existing building to accommodate up to 2 additional storeys to provide additional homes, with an overall maximum height of 18 metres.

The prior approval application will require the LPA to consider the following matters:

- Transport and highways impacts of development;

- Contamination and flooding risks in relation to the new building;
- Air traffic and defence asset impacts of the development;
- Design and external appearance of the new building;
- Adequacy of natural light in all habitable rooms
- Impact on the amenity of the new building and neighbouring premises including overlooking, privacy and the loss of light;
- Impact of noise from any commercial premises on future residents;
- Impact on business and future residents of the development's introduction of, or increase in, residential use in the area in which the development is to take place;
- Impact of the development on heritage and archaeology;
- Method of demolition of the old building;
- Plans for landscaping of the development, including the planting and maintenance
- Air traffic and defence asset impacts of the development; and
- Impacts a taller building may have on protected vistas.

Once prior approval is granted, the demolition and replacement build must be **completed** within the 3-year period starting from the date the prior approval is granted.

The full legislation can be read [here](#).

Upwards Extensions

From the 31st August 2020, PD rights will come into force in relation to upwards extension to existing buildings of various types, subject to limitations and prior approval consent.

PD Rights to Extend Existing Dwelling houses

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2020 introduces a permanent PD right in relation to existing houses that are detached, semi-detached or in a terrace to be extended upwards to provide additional living space by constructing additional storeys.

The Government's Explanatory Memorandum explains that the PD right allows the construction of up to 2 additional storeys on the topmost storey of a detached house of 2 storeys or more, or 1 additional storey on a detached house of 1 storey, above ground level. The PD right is also subject to a maximum height limit of 18 metres, and where the existing dwelling house is in a terrace its height cannot be more than 3.5 metres higher than the next tallest house in the terrace.

Notably, the PD right applies to a house built between 1st July 1948 and 28th October 2018.

The prior approval application will require the LPA to consider the following matters:

- Impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light;

- External appearance of the dwelling house, including the design and architectural features of the principal elevation of the dwelling house, and any side elevation of the dwelling house that fronts a highway;
- Air traffic and defence asset impacts of the development; and
- Impacts a taller builder may have on protected vistas.

The full legislation can be read [here](#).

PD Rights for the Construction of New Homes

The Town and County Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 introduces four new PD rights which are as follows:

- **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 dwelling houses (including semi-detached houses)”
- **Class AD** “permits the construction of new flats on top of detached dwelling houses.”

In the new Classes AB-AD, 2 storeys may be added if the existing building is 2 more storeys tall, or 1 additional storey where the building consists of one storey. All four new PD rights are subject to maximum height limits.

Notably, the PD right only applies to an existing building constructed between 1st July 1948 and 28th October 2018.

The prior approval application will require the LPA to consider the following matters:

- Transport and highways impacts of the development;
- Contamination and flooding risks in relation to the building;
- Air traffic and defence asset impacts of development;
- Design and external appearance of the new building;
- Adequacy of natural light in all habitable rooms of each new dwelling house;
- Impact on the amenity of the new building and neighbouring premises including overlooking, privacy and the loss of light;
- whether, because of the siting of the building, the development will impact on a protected views.

The full legislation can be read [here](#).

This is a general guide only and is not intended to be comprehensive or a substitute for taking detailed professional advice. No liability is accepted for the information it contains or any errors or omissions.

For further advice or support please get in contact with a member of the Town Planning team using the details below:

Aahsan Rahman | Department Head – Town Planning

E: Aahsan.Rahman@property.nhs.uk

Anna McComb | Senior Town Planner

E: Anna.McComb@property.nhs.uk

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