

Planning Service

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Relaxations in Permitted Development Rights for Changes of Use

In 2011 and 2012 the Government published consultations on *the reuse of existing buildings*. The consultations proposed to create new permitted development rights to assist change of use from existing buildings. This bulletin will sets out how the amendments affect proposals for the change of use of agricultural buildings and business premises in the National Park.

The changes to the permitted rights came into force on 30 May 2013. The amendment also introduced changes to permitted development rights to extend houses, but this relaxation does not apply in the National Park (or other Article 1(5) designations, such as Conservation Areas).

The *Town and Country Planning (Use Classes) Order 1987* puts uses of land and buildings into various categories known as "Use Classes". The categories give an indication of the types of use which may fall within each use class. There are four main categories:

- Class A covers shops and other retail premises such as restaurants and bank branches;
- Class B covers offices, workshops, factories and warehouses;
- Class C covers residential uses; and
- Class D covers non-residential institutions and assembly and leisure uses.

Permitted development rights are basically a right to make changes to a building without the need to apply for planning permission. Under this order planning permission is not needed for changes in use of buildings within each class and for certain changes of use between some of the classes. A table on the Government's [Planning Portal website](#) sets out which changes of use between classes are permitted. Some uses are *sui generis*, which means they do not fall into any use class.

Conversion of offices to residential

Under a new Class J it will be permitted to change the use of any building and any land within its curtilage falling within B1 (a) offices to Class C3 dwelling(s) without needing to apply for full planning permission for a period of three years between 30 May 2013 and

30 May 2016 only. A small number of Local Planning Authorities (17 out of a total of 165 applications) were granted exemptions from the new permitted development rights; the National park Authority was not successful in seeking an exemption.

The change of use is not permitted development (and would require planning permission) where:

- The building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order immediately before 30 May 2013 or, if the building was not in use immediately before that date, when it was last in use
- The use of the building falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order was begun after 30 May 2016
- The site is or forms part of a safety hazard area
- The site is or forms part of a military explosives storage area
- The building is a listed building or a scheduled monument

The change of use cannot take place until the completion of a “prior notification procedure”. This process currently applies to a limited number of developments, such as agricultural buildings under a certain size. It is not a planning application and the Authority cannot question the principle of the development. This process is usually known as “prior notification” or “prior approval”. If this does not take place before the development begins, the change of use will not be lawful. It is not possible to retrospectively do this and a full application for planning permission will be necessary.

Under the prior approval process the developer must apply to the Authority for a determination as to whether the prior approval of the Authority will be required with regard to:

- Transport and highways impacts of the development
- Contamination risks on the site
- Flooding risks on the site.

The application must be accompanied by a written description of the proposed development, a plan indicating the site and showing the proposed development, the developer’s contact address or email address and the fee required to be paid (£80 per notification from 1 October 2013).

The Authority will consult with the statutory consultees and will display a site notice for at least 21 days, and serve a notice on any adjoining owner or occupier. The Authority may require the developer to submit information regarding the impacts and risks referred to above as they may reasonably require in order to determine the application, which may include assessments of impacts or risks and statements setting out how impacts or risks are to be mitigated.

The amendment order does not authorise any external works in connection with the permitted change of use, and so planning permission will be required for any such external alterations.

Any conversion work cannot begin until the applicant receives from the Authority a written notice of their determination that prior approval is not required, or giving their prior approval within 56 days following the date on which the application was received by the Authority. If that period expires without the Authority notifying the applicant as to whether prior approval is given or refused, then the applicant is entitled to go ahead with the conversion.

Change of Use of Agricultural Buildings:

The new Class M in the General Permitted Development Order (GPDO) relates to: Change of use of Agricultural Buildings to Shops, Financial and Professional Services, Restaurants and Cafes, Business, Storage or Distribution, Hotels, or Assembly or Leisure (see the summary of use classes above)

From the 30 May 2013 it will be allowed to change the use of agricultural buildings to uses falling under the new flexible uses category. There is no time limit on this relaxation (unlike the 3 year limit on offices to residential use)

The development will not be permitted if:

- The building has not been solely in agricultural use:
 - Since 3 July 2012; or
 - Buildings first brought into use after 3 July 2012, for ten years;
- The cumulative floor space of the buildings which have change use under Class M within the original agricultural unit exceeds 500 square metres
- The site is or forms part of a safety hazard area
- The site is or forms part of a military explosives storage area
- The building is a listed building or a scheduled monument

For buildings up to 150 square metres it is necessary to notify the Authority of:

- The date the site will begin to be used for any of the flexible uses
- The nature of the use or uses and
- A plan indicating the site and which buildings have changed use

For buildings between 150 and 500 square metres, prior to the change of use taking place the developer must apply to the Authority for a determination as to whether prior approval of the Authority will be required in respect of:

- Transport and highways impact of the development
- Contamination risks on the site
- Noise impacts of the development
- Flooding risks on the site

The application must be accompanied by a written description of the proposed development, a plan indicating the site and showing the proposed development, the developer's contact address or email address and the fee required to be paid (£80 per notification from 1 October 2013).

After a site has changed use under Class M it is to be treated as having a *sui generis* use, so this precludes any other change of use that might otherwise have been permitted development outside the use classes specified in this permitted flexible use.

Flexible uses (Class D)

For a temporary period of up to two years from May 2013 it will be allowed to change the use of a building and any land within its curtilage to a "flexible use" without requiring full planning permission of the following various uses:

Change from:

A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), Class A5 (hot food takeaways), B1 (business), D1 (non-residential institutions) and D2 (assembly and leisure)

Change to:

Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1 (business)

Development will be permitted subject to meeting certain conditions and provided that:

- the change of use relates to no more than 150 square metres of floor space in the building;
- the site has at no time in the past relied upon the permission granted by Class D;
- the site is not and does not form part of a military explosives storage area;
- the site is not and does not form part of a safety hazard area;
- the building is not a listed building or a scheduled monument.

The developer must notify the Authority of the date the site will begin to be used for one of the flexible uses before the new use begins, describing what that use will be.

Prior Approval Notifications: General considerations

When determining the application, the Authority must take into account any representations made to them as a result of any consultation giving due regard to the National Planning Policy Framework as if the application were a planning application, but it has been clarified with the Department of Communities and Local Government that this is only in respect of those matters which the Authority can consider under the notification, such as highways, flood risk and contamination. This is important as it means that the Authority cannot consider the principle of the development or take into account other matters, such as the impact on neighbours.

In all cases anyone considering making use of the relaxations in the GPDO should check whether there are any specific restrictions on previous planning permissions relating to the site or building as these may restrict the use of permitted development rights. For example, many offices in the National Park have a planning condition which restricts the building to Class B1 office use only – this would mean that, notwithstanding the new Class J, planning permission would be required for change of use of the building to residential use.

Article 4 Directions

In some circumstances local planning authorities can withdraw permitted development rights under Article 4 of the *1995 Order*. While article 4 directions are confirmed by the local planning authority, the Secretary of State must be notified. Article 4 directions must be made in accordance with Government guidance given in the *National Planning Policy Framework* which directs that there must be a clear justification for removing national permitted development rights. Government advice is that the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. Compensation may be payable, unless 12 months' notice is given.

Further Proposed Relaxations

On 6 August 2013 the Government published a consultation, *Greater flexibilities for change of use*. The consultation proposes new permitted development rights in five areas:

1. Shops and financial and professional services to change use to a dwelling house;
2. Existing buildings used for agricultural purposes of up to 150 square metres to change to residential use;
3. Retail uses to change to banks and building societies;
4. Premises used as offices, hotels, residential and non-residential institutions, and leisure and assembly to change to nurseries providing childcare; and
5. A building used for agricultural purposes of up to 500 square metres to change to a new state funded school or a nursery providing childcare.

With the exception of (1) above (shops/banks/estate agents to dwellings) it is proposed that these changes would all apply in National Parks.

The new permitted development right allowing an **agricultural building to change to residential use** would also include the associated physical development to facilitate conversion, which would include demolition and rebuild of a farm building for use as a dwelling. The details of this proposed new permitted development right would:

- Allow up to 3 additional dwelling houses (which includes flats) to be converted on an agricultural unit;
- Have an upper threshold of 150 square metres for a single dwelling house;
- Enable the physical development necessary to allow for the conversion, and where appropriate the demolition and rebuild, of the property on the same footprint;
- Require local planning authority prior approval for siting and design to ensure physical development complies with local plan policies on design, materials and outlook;
- Require local planning authority prior approval for transport and highways impact, noise impact, contamination and flooding risks to ensure that change of use takes place only in sustainable locations; and
- Apply to agricultural buildings constructed prior to 20 March 2013.

The consultation document goes into more detail about what each of these new permitted development rights would allow and the circumstances in which they could happen. The consultation period ends on 15 October 2013. The Government has said that any changes would be made “for April 2014”.

NB: Please note that this is a summary of the relaxations. Refer to the order itself for full details

Feedback:

The Planning Service is committed to listening to customer feedback to help us to identify any positives or negatives or areas for service improvement. We encourage you to provide feedback to us so that where workable, we can refine our procedures accordingly.

Please contact the Planning Liaison officer diane.jackson@peakdistrict.gov.uk