

Planning Legal Update

April 2016

Offices to Residential Permitted Development Rights

Existing PDR

Class O of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015) contains permitted development rights (PDR) allowing a change of use from offices (B1(a)) to residential (C3) without the requirement to obtain planning permission. These PDR are subject to a prior approval process and are currently temporary as they were initially introduced in May 2013 for a three year period (due to expire on 30 May this year).

Making the PDR permanent

In October last year, the Government announced that these PDR would become permanent, however we have had to subsequently endure a long wait to see whether the legislation to actually provide for this would be introduced by the Government.

The wait is now finally over as the Government on 10 March made The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 (2016 Order). The 2016 Order comes into force on 6 April 2016 and will put into legal effect the Government's intention to make permanent the PDR for a change from office to residential use.

There are also some new requirements which will apply to the permanent PDR which we discuss below.

Deadline for completing the change to residential use

The 2016 Order introduces a new condition attached to the PDR which provides that the change of use to residential must be completed within a period of three years starting with the prior approval date. This will apply even where prior approval has already been granted.

Impact of noise from commercial premises

The local planning authority as part of the prior approval process for the PDR will now be able to consider the impacts of noise from commercial premises on the intended occupiers of the residential development.

"Commercial premises" is defined in the 2016 Order to mean any premises normally used for the purpose of any commercial or industrial undertaking which existed on the date of the prior approval application, and includes any premises licensed under the Licensing Act 2003 or any other place of public entertainment.

No PDR for demolition and rebuild

Notably, there are no provisions in the 2016 Order which will allow demolition or rebuilding of offices under the PDR, despite the Government announcing in October last year that it would do so. Therefore, the position remains that any building operations which are development (whether for partial or more substantial demolition, or for any new build, even of a minor nature) will still require planning permission.

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Exempt areas

The existing exempt geographical areas listed in Part 3 of Schedule 1 of the GPDO 2015 where the PDR do not currently apply are to be retained until 30 May 2019, after which time local planning authorities will need to use their powers to make Article 4 Directions to remove the PDR and create exempt areas within their administrative boundaries.