

Planning Alert

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Business means Business: Limits on the Use of Residential Permitted Development Rights

The liberalisation of the planning general permitted development order which, through the prior notification process, grants permission to change the use of a building from office to dwelling house has now become an accepted part of the planning system. Its introduction was at first controversial and was resisted by many local authorities. However, following the end of the initial three year temporary period it is now more widely accepted. That is not to say, however, that planning authorities are not continually vigilant in looking for ways to limit the scope to which these permitted development rights apply, such that they are able to retain control over changes to land uses.

A recent example of this was a Court of Appeal case which upheld the view that where there is a planning condition attached to the original grant of a Class B1 planning permission, which stipulates that the building should be used for business purposes and no other purpose, the effect of such a condition is to remove altogether the ability to use the permitted development rights to change the use of an office building to residential. As the Court said "the wording of the condition is clear and precise, not to say emphatic, with its phrase "and for no other purposes whatsoever"". The words used meant that the planning permission was granted solely for B1 business use and nothing else, and the later introduction of permitted development rights could not change that.

Whilst such conditions will often have been imposed under a different policy regime and long before there was ever any suggestion of permitted development rights allowing a change of use from B1 to dwelling house use such conditions will continue to have the effect of removing such permitted development rights. In these cases an application for planning permission will be needed either to remove the condition or to change the use. Inevitably this process will allow the authority greater freedom over the matters that it can take into account when deciding the application and any conditions or other obligations that it may wish to impose in respect of it.