

## OFFICES TO RESIDENTIAL PERMITTED DEVELOPMENT RIGHTS

### New legislation

Earlier this year, the Government as part of its agenda to promote economic growth announced details of its proposal to introduce **new permitted development rights** which would allow a change of use of a property from office use (use class B1(a)) to residential use (use class C3) without the need to obtain planning permission.

The Government has now issued legislation, the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 (**the Amendment Order**). These new rights will come into force on **30 May 2013** and will expire on **30 May 2016**, although the Government has indicated that it will consider whether to extend these rights towards the end of the 3 year period.

### Exemptions for local authorities

It is not the case that the new rights will operate in all areas. The Government has now considered the applications made by local authorities to be excluded from the operation of the new rights and has granted exemptions to 17 authorities. Within London, there are 11 authorities which have been granted exemptions, including the City of London, Camden, Islington, Hackney, Tower Hamlets, Southwark, Lambeth, Wandsworth, Westminster, Newham and Kensington and Chelsea. Outside of London, there are 6 authorities which have been granted exemptions, including Vale of the White Horse, Stevenage, Ashford (Kent), Sevenoaks, East Hampshire and Manchester. The Government has published maps which show the extent of the geographical areas within the administrative areas of these authorities that are exempt.

### Limitations on the new rights

There are the following limitations which will apply to the new rights:

- The existing building must be or have been in lawful use as offices (use class B1(a)) as at 30 May 2013, or if vacant on that date, its last use must have been as offices.
- The new rights are subject to a prior approval procedure carried out by the local authority, whereby the authority will assess any significant impacts of the change of use relating to transport and highways impacts, contamination risk and flood risk. This prior approval procedure notably does not refer to affordable housing, however we wait to see how in practice local authorities will implement this approval procedure and what requirements they will impose.
- The new rights are further limited in that they will only authorise the change of use of an existing building. Planning permission will still be required for any associated operational development, including conversion works, which materially affect the appearance of the building.
- The new rights will not apply to listed buildings or scheduled monuments.

### Timing and other implications

The new rights will have timing and other implications for developers, housing associations and local authorities.

**Developers and housing associations** which have sites containing office buildings they wish to convert to residential use will need to implement the change of use to residential before 30 May 2016 in order to take advantage of the new rights (this means that any conversion works may need to be completed at an earlier date). They will also need to satisfy the prior approval procedure, and therefore it is not simply a matter of implementing a change of use as soon as the new rights come into force.

There are also implications for **local authorities**. They will need to consider the extent of any exemptions granted to the new rights which apply to their administrative areas and also take steps to put in place a system for implementing the prior approval procedure.

### Other changes to permitted development rights

Apart from the new rights for a change from office to residential use, the Amendment Order also includes the following amendments to permitted development rights:

- There is an increase in the floorspace threshold for a change of use allowed between use classes B1 (business) or B2 (general industrial) to use class B8 (storage and distribution), or from use classes B2 or B8 to use class B1, from 235 sq m to 500 sq m of floorspace.
- There are new permitted development rights allowing a temporary change of use of buildings within use classes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), A5 (hot food takeaway), B1 (business), D1 (non-residential institutions) and D2 (assembly and leisure) to a use within use classes A1, A2, A3 or B1. The new use may only be for a single period of up to 2 years and is limited to 150 sq m of floorspace.

There are new permitted development rights allowing the change of use of existing agricultural buildings to uses within use classes A1, A2, A3, B1, B8, C1 (hotels) or D2, but notably not residential use within use class C3. No more than 500 sq m of floorspace can be converted to the new use.

*For more information, please contact Chad Sutton, Planning Partner at Maples Teesdale LLP on 020 3465 4340 or [csutton@maplesteesdale.co.uk](mailto:csutton@maplesteesdale.co.uk)*

