

EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) (AMENDMENT) ORDER 2024

2024 No. 141

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 This Order amends the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596), as amended (“the General Permitted Development Order”) to make changes to the permitted development right that permits the change of use of commercial, business and service uses to dwellinghouses.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument is England and Wales.
4.2 The application of this instrument is England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Under Part 3 of the Town and Country Planning Act 1990 (“the 1990 Act”) planning permission is required for the development of land. Planning permission may be granted on application to a local planning authority or by a development order made under the 1990 Act.
- 6.2 The General Permitted Development Order grants planning permission for a range of specific classes of development, subject to certain limitations and conditions. Planning permission granted under the General Permitted Development Order is known as a “permitted development right”. The effect is that an application for planning permission does not need to be made to the local planning authority, although in some cases permitted development rights require the local planning authority to approve certain key planning matters before development can proceed. This is known as “prior approval”.

7. Policy background

What is being done and why?

- 7.1 Permitted development rights have an important role to play in the planning system. They are an important tool to support growth by providing certainty and removing the time and money needed to submit a planning application. Permitted development rights can incentivise certain forms of development and provide flexibilities and planning freedoms to different users, including businesses, local authorities and local communities.
- 7.2 There are a number of permitted development rights that allow for the change of use from a variety of existing uses to dwellinghouses. These rights make an important contribution to housing delivery. In the eight years to March 2023, permitted development rights for the change of use have delivered 102,830 new homes to rent or to buy. In the last year 9,492 homes were delivered under these rights, representing 4% of overall housing supply.
- 7.3 Permitted development rights are subject to conditions and limitations to control impacts and to protect local amenity.
- 7.4 Class MA of Part 3 of Schedule 2 of the General Permitted Development Order permits the change of use of commercial, business and service uses to use as dwellinghouses. To further support housing supply, Article 3 amends the permitted development right to remove the limit on the cumulative floor space of the existing building changing use under Class MA. It also removes the requirement that a building must be vacant for a continuous period of at least 3 months immediately prior to the date of an application for prior approval.
- 7.5 These changes will bring additional premises into scope of the right and deliver more homes to buy or to let than would otherwise have been the case.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The General Permitted Development Order was consolidated in 2015. This is the twenty-ninth amending instrument to the General Permitted Development Order. There are no current plans for a consolidation.

10. Consultation outcome

- 10.1 The consultation on additional flexibilities to support housing delivery, the agricultural sector, businesses, high streets and open prisons; and a call for evidence on nature-based solutions, farm efficiency projects and diversification (“the consultation”) ran from 24 July 2023 to 25 September 2023.
- 10.2 There were just under 1,000 consultation responses received. The Government response to the consultation will be published in due course. A summary of responses to the relevant Class MA questions is provided below.
- 10.3 The consultation sought views on either removing or doubling the limit on the cumulative floor space of an existing building that can change use. Those that

supported removing or doubling the floor space limit cited positive impacts on housing supply, with greater flexibility and planning certainty encouraging the delivery of dwellinghouses that might not otherwise have come forward under a planning application. Those that did not support amending the floorspace limit thought that larger schemes would benefit from local authority consideration under a planning application owing to the greater number of planning matters that can inform the decision making process. It was also noted that the permitted development right could impact on the quality of housing delivered.

- 10.4 The consultation sought views on removing the requirement that a building must have been vacant for a continuous period of at least 3 months immediately prior to the date of an application for prior approval. Those that supported the removal of the vacancy requirement considered that it would streamline the permitted development right for the change of use of commercial, business and service uses to dwellinghouses, speeding up housing delivery, and avoiding unnecessary periods of vacancy. Those that did not support the proposal were concerned that removing the vacancy requirement would result in viable businesses closing or being displaced.

11. Guidance

- 11.1 There are no plans to issue specific guidance for this instrument.

12. Impact

- 12.1 The amended permitted development right is deregulatory in effect, reducing bureaucracy and planning costs. The main impact is a land value uplift, from the change of use of additional properties from commercial, business and service uses to use as dwellinghouses, which is likely to accrue to owners of buildings in commercial, business and service use. There will also be a small decrease in cost and time burdens to businesses in no longer having to submit a planning application in more cases for the change of use of a building in commercial, business or service uses to use as dwellinghouses. There is no significant impact on charities or voluntary bodies.
- 12.2 There is no significant impact on the public sector. The impact on local planning authorities is a reduction in administrative cost and time of processing planning applications, where the development would otherwise have come forward through a planning application. For example, currently where a landlord seeks to change the use of a building in commercial, business or service use to use as dwellinghouses where the floor space is more than 1,500 square metres, a planning application is required. Permitting more schemes through the existing national permitted development right, whilst requiring prior approval from the local authority on only certain matters, will likely result in small savings for the local authority. These savings will be offset by the loss of fees, since the fees payable to the local authority for each dwellinghouse delivered are lower for the permitted development right than through the planning system.
- 12.3 An assessment of impact has been carried out and a full Regulatory Impact Assessment will be published in due course.

13. Regulating small business

- 13.1 The impact of the change is deregulatory, providing a small reduction in bureaucracy and cost in the planning system, so small businesses have not been exempted as they are expected to benefit. Small housebuilders and developers, who are affected by the

costs and uncertainty of full planning applications, are particularly likely to benefit from the amendments to the permitted development right. In addition, some small businesses own the building they are based in - if they choose to make use of the permitted development right by changing the use of their property to residential, they will benefit from the associated land value uplift. There is a risk that removing the vacancy requirement will expose small businesses renting premises to closing or being displaced in order to allow the property to be converted into residential use.

14. Monitoring & review

- 14.1 The Department for Levelling Up, Housing and Communities will continue to monitor permitted development rights with changes made accordingly to ensure intended outcomes are achieved. A statutory review clause has not therefore been included for this particular instrument.

15. Contact

- 15.1 Stuart Moseley at the Department for Levelling Up, Housing and Communities, Telephone: 0303 444 6697 or email: stuart.moseley@levellingup.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Lucy Hargreaves, Deputy Director for Planning – Development Management, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lee Rowley, Minister of State at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.