

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010:

Interim Guidance from Communities and Local Government on Amendments to Permitted Development Rights for:

Industrial and Warehouse Development;

Schools, Colleges, Universities and Hospitals;

Office Buildings;

Shops or Catering, Financial or Professional Services Establishments;

**Department for Communities and Local Government
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General Permitted Development Order: Interim Guidance on Changes to Permitted Development Rights

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General Permitted Development Order: Interim Guidance on Changes to Permitted Development Rights

Introduction

This document sets out guidance on changes made to the Town and Country Planning (General Permitted Development) Order 1995 by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 (SI 2010 No 654)¹. This Order (the “GPDO”) sets out details of those types of development (eg new buildings and extensions and alterations to existing buildings) that can be undertaken without the need to apply for planning permission. Such development is said to benefit from “permitted development rights”. This guidance covers the changes made to permitted development rights in 2010 for:

- Industrial and Warehouse Development (Part 8 of Schedule II to the GPDO);
- Schools, Colleges, Universities and Hospitals (Part 32);
- Office Buildings (Part 41); and
- Shops or Catering, Financial or Professional Services Establishments (Part 42).

This guidance sets out what development may be undertaken as permitted development and covers the limits and conditions that apply. A development will need to meet all the limits and conditions that are relevant in order to be permitted development; otherwise an application for planning permission will be required. The guidance also provides explanations of some of the terms used in the Order. It focuses on those Classes of permitted development where changes have been made through the 2010 Order.

Given the variety of development covered by these Parts of the GPDO, the guidance cannot cover all possible situations that may arise. Where there is any doubt as to whether a development would be permitted development, advice from the local planning authority should be sought. To be certain that a proposed development is lawful and does not require an application for planning permission, it is possible to apply for a “Lawful Development Certificate” from the local authority. Further information on this can be found on the Planning Portal.²

A local planning authority may also have removed some permitted development rights by issuing what is known as an Article 4 Direction or may have removed those rights on the original, or any subsequent, planning permission for the site. This will mean a planning application will be needed for development which normally does not need one. Before undertaking any development, checks should be undertaken with the local planning authority to determine whether any restrictions on permitted

¹ See: http://www.opsi.gov.uk/si/si2010/uksi_20100654_en_1

² See: <http://www.planningportal.gov.uk/england/public/buildingwork/responsibilities/workresppp/workrespppldc>

development have been made. Communities and Local Government will be publishing separate guidance in due course on the changes made in 2010 to procedures in respect of Article 4 Directions.

This guidance is “interim”. It may be amended in the future in light of practical experience of implementing the 2010 changes to the GPDO by planning authorities, and developers.

Part 8: Industrial and Warehouse Development

Class A

This provides permitted development rights for the erection, extension or alteration of an industrial building or a warehouse.

“Industrial building” and “warehouse” are defined in the 2010 Order as follows:

“industrial building” means a building used for the carrying out of an industrial process and includes a building used for the carrying out of such a process on land used as a dock, harbour or quay for the purposes of an industrial undertaking and land used for research and development of products or processes, but does not include a building on land in or adjacent to and occupied together with a mine;

“warehouse” means a building used for any purpose within Class B8 (storage or distribution) of the Schedule to the Use Classes Order³ but does not include a building on land in or adjacent to and occupied together with a mine.

The “erection” of a building or warehouse will involve the establishment of a new building that is not physically joined to any wall of an existing building on the site.

An “extension” will be a development to an existing building that creates additional floor space in an enlargement that extends the footprint of the existing building.

“Alterations” will be any development to a building that does not involve the creation of additional floor space.

Under Class A, the following limits and conditions apply.

A.1 Development is not permitted by Class A if-

- (a) the height of any part of the new building erected would exceed-***
 - (i) if within ten metres of a boundary of the curtilage of the premises, five metres;***
 - (ii) in all other cases, the height of the highest building within the curtilage of the premises or 15 metres, whichever is lower;***

- (b) the height of the building as extended or altered would exceed-***
 - (i) if within ten metres of a boundary of the curtilage of the premises, five metres;***
 - (ii) in all other cases, the height of the building being extended or altered;***

³ More guidance can be found on the Planning Portal at: <http://www.planningportal.gov.uk/england/public/planning/smallbusiness/bg13commontypesofapplication/bg138changeofuse/>

- (c) any part of the development would be within five metres of any boundary of the curtilage of the premises;**

If the height limits set out under (a) or (b) above are exceeded, or if any part of the development is within 5 metres of any boundary of the curtilage of the premises, then development is not permitted and an application for planning permission will be required.

The curtilage of premises will normally comprise the area of land surrounding the premises. It will, however, vary according to individual circumstances and in some cases, may not comprise all of the area of land in which the premises sit. Professional advice may therefore need to be sought on what defines the curtilage in a particular case.

When measuring the height of the highest building within the curtilage, that height should be calculated as the height of the ridge line of the **main** roof (even if there are roofs with ridge lines at a lower or higher level) or the height of the main roof where roofs on a building are flat or mono-pitched.

Any protrusions or other development (such as chimneys, flues, plant and machinery and antennae) above the roof should not be taken into account when considering the height of the highest building within the curtilage. However, when calculating the height of any building being erected, extended or altered, the measurement should be to the highest part of the new building, extension, or alteration and should include any protrusions above the roof.

- (d) the gross floor space of any new building erected would exceed 100 square metres;**

- (e) the gross floor space of the original building would be exceeded by more than-**

- (i) 10% in respect of development on any article 1(5) land or 25% in any other case; or**
(ii) 500 square metres in respect of development on any article 1(5) land or 1,000 square metres in any other case;

whichever is the lesser;

Any new building (or buildings) erected are limited to a gross floor space of 100 square metres per building. Gross floor space should be measured using the external dimensions of the building erected.

The limits in **(e)** restrict the cumulative amount of permitted development that would be available for a particular site by reference to the “original” building. The original building is defined⁴ as a building as it existed on 1 July 1948 where it was built

⁴ Article 1(2) of the GPDO

before that date, and as it was built, when built after that date. The “original” building does not, however, include any new building built as permitted development under this Class (see section **A.3(b)** below).

The absolute limits to the total floor space of new or extended buildings are:

- on land within National Parks, the Broads, areas of outstanding natural beauty, conservation areas, and land within World Heritage Sites (land defined in Article 1(5) of the GPDO) - the lesser of 10% of the floor space of the original building or 500 square metres.
- in all other areas - the lesser of 25% of the floor space of the original building or 1,000 square metres.

There may be more than one original building within the curtilage of the premises. Where this is the case, and the buildings are used for the same undertaking, they will be treated as a single original building for the purposes of measurement. Thus the gross floor space of the original building will be calculated on the basis of the gross floor space of every original building within the curtilage of the premises (see **A.3(a)** below).

(f) the development would lead to a reduction in the space available for the parking or turning of vehicles; or

The erection of a new building or the extension or alteration of an existing building is not permitted development if it would lead to a reduction in the space available for the parking and turning of vehicles - for example, if the development would mean that vehicles would have to turn around on a public highway as opposed to within the curtilage of the premises.

(g) the development would be within the curtilage of a listed building.

Development involving the erection, extension or alteration of a building within the curtilage of a listed building will require an application for planning permission.

Conditions

A.2 Development is permitted by Class A subject to the following conditions-

(a) the development must be within the curtilage of an existing industrial building or warehouse;

An application for planning permission will be required if any part of the development lies outside the curtilage of the building. Specifically, this requirement prevents new buildings being erected on plots of land where there is no existing original building.

- (b) any building as erected, extended or altered shall only be used-**
- (i) in the case of an industrial building, for the carrying out of an industrial process for the purposes of the undertaking, for research and development of products or processes, or the provision of employee facilities ancillary to the undertaking;**
 - ii) in the case of a warehouse, for storage or distribution for the purposes of the undertaking or the provision of employee facilities ancillary to the undertaking;**

These conditions have not been amended from the 1995 Order, except for the inclusion under **(i)** to make explicit permitted development rights under this part also apply to buildings used for research and development activities, as well as for industrial processes and the provision of employee facilities. Employee facilities are defined (in **A.3(c)**) as follows:

“employee facilities” means social, care or recreational facilities provided for employees of the undertaking, including crèche facilities provided for the children of such employees.

- (c) no building as erected, extended or altered shall be used to provide employee facilities-**
- (i) between 7.00 pm and 6.30 am, for employees other than those present at the premises of the undertaking for the purpose of their employment, or**
 - (ii) at all, if a notifiable quantity of a hazardous substance is present at the premises of the undertaking;**

These conditions are unchanged from the 1995 Order.

The effect of condition **(c) (i)** is to restrict the use of facilities overnight to their use by employees who are present at the site for work purposes - for example, canteen or refreshment facilities for night workers.

A “notifiable quantity of a hazardous substance is as set out in Schedule 1 to The Planning (Hazardous Substances) Regulations 1992 as amended⁵.

- (d) any new building erected shall, in the case of article 1(5) land, be constructed using materials which have a similar external appearance to those used for the existing industrial building or warehouse; and**

⁵ http://www.opsi.gov.uk/si/si1992/uksi_19920656_en_1

- (e) any extension or alteration shall, in the case of article 1(5) land, be constructed using materials which have a similar external appearance to those used for the building being extended or altered.**

These conditions are intended to ensure that any new buildings, or extensions or alterations in National Parks, the Broads, areas of outstanding natural beauty, conservation areas, and land within World Heritage Sites (article 1(5) land) result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those in the existing buildings, but does not mean that they need to be the same materials or be an exact match. For example:

- external walls should be constructed of materials that provide a similar visual appearance - for example, in terms of the colour and style of material used - to the materials that make up the walls of the existing industrial building or warehouse;
- pitched roofs should be clad in materials that give a similar visual appearance to those used on the existing roof. Again, colour and style will be important considerations. Flat roofs will not normally have any visual impact and so the need for materials of similar appearance should not apply;

Where there is more than one original building on a site, then any new building should normally be built in a manner to give a similar visual appearance to one of those original buildings. The materials used in extensions should give a similar visual appearance to the materials used in the building that is being extended from.

Interpretation of Class A

A.3 For the purposes of Class A-

- (a) where two or more original buildings are within the same curtilage and are used for the same undertaking, they are to be treated as a single original building in making any measurement;**
- (b) “original building” does not include any building erected at any time under Class A;**
- (c) “employee facilities” means social, care or recreational facilities provided for employees of the undertaking, including crèche facilities provided for the children of such employees;**
- (d) “industrial building” means a building used for the carrying out of an industrial process and includes a building used for the carrying out of such a process on land used as a dock, harbour or quay for the purposes of an industrial undertaking and land used for research and development of products or processes, but does not include a building on land in or adjacent to and occupied together with a mine; and**

- (e) ***“warehouse” means a building used for any purpose within Class B8 (storage or distribution) of the Schedule to the Use Classes Order but does not include a building on land in or adjacent to and occupied together with a mine.***

Class B

This provides permitted development rights for development carried out on industrial land for the purposes of an industrial process consisting of-

- (a) *the installation of additional or replacement plant or machinery,***
- (b) *the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus, or***
- (c) *the provision, rearrangement or replacement of a private way, private railway, siding or conveyor.***

B.1 *Development described in Class B(a) is not permitted if-*

- (a) *it would materially affect the external appearance of the premises of the undertaking concerned; or***
- (b) *any plant or machinery would exceed a height of 15 metres above ground level or the height of anything replaced, whichever is the greater.***

Interpretation of Class B

B.2 *In Class B, "industrial land" means land used for the carrying out of an industrial process, including land used for the purposes of an industrial undertaking as a dock, harbour or quay but does not include land in or adjacent to and occupied together with a mine.*

Class B has not been amended by the 2010 Order.

Class C

Class C provides permitted development rights for-

- (a) *the provision of a hard surface within the curtilage of an industrial building or warehouse to be used for the purpose of the undertaking concerned; or***
- (b) *the replacement in whole or in part of such a surface.***

Under Class C, the following limit and conditions apply:

C.1 *Development is not permitted by Class C if the development would be within the curtilage of a listed building.*

Conditions

C.2 *Development is permitted by Class C subject to the following conditions-*

- (a) *where there is a risk of groundwater contamination the hard surface shall not be made of porous materials;***
- (b) *in all other cases, either—***
 - (i) *the hard surface shall be made of porous materials, or***
 - (ii) *provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the industrial building or warehouse.***

Class C has been amended to require any hard surface laid as permitted development is made of porous materials or is laid in a manner that ensures run off from the hard surface is directed to an alternative permeable or porous area within the curtilage of the premises concerned. This provision is consistent with the Government's approach to reducing flood risk by ensuring that rain water and run-off is not blocked from draining into the ground. Guidance on permeable and impermeable surfacing has been produced by CLG. Although this deals specifically with the paving of front gardens, the same principles can be applied for hard surfaces associated with other developments. It is available online at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/pavingfrontgardens.pdf>

The exception to the use of porous materials is in situations where a porous hard surface would result in a risk of contamination to ground water. The extent of this risk will depend on the purpose for which the surface is to be used. For example, the

use of a hard surface for the ordinary parking of vehicles is likely to have a low risk of contamination. But the use of hard surface in connection with the maintenance and repair of vehicles could have a higher risk of contamination. Further advice on the risk of groundwater contamination in relation to particular uses of hard surfaces can be obtained from the Environment Agency⁶.

Interpretation of Class C:

C.3 In Class C-

“industrial building” means a building used for the carrying out of an industrial process and includes a building used for the carrying out of such a process on land used as a dock, harbour or quay for the purposes of an industrial undertaking and land used for research and development of products or processes, but does not include a building on land in or adjacent to and occupied together with a mine; and

“warehouse” means a building used for any purpose within Class B8 (storage or distribution) of the Schedule to the Use Classes Order but does not include a building on land in or adjacent to and occupied together with a mine.

⁶ enquiries@environment-agency.gov.uk

Class D

Class D provides permitted development rights for-

The deposit of waste material resulting from an industrial process on any land comprised in a site which was used for that purpose on 1st July 1948 whether or not the superficial area or the height of the deposit is extended as a result.

D.1 Development is not permitted by Class D if=-

- (a) the waste material is or includes material resulting from the winning and working of minerals; or***
- (b) the use on 1st July 1948 was for the deposit of material resulting from the winning and working of minerals.”***

Class D has not been amended by the 2010 Order.

Part 32: Schools, Colleges, Universities and Hospitals

Class A

This provides permitted development rights for the erection, extension or alteration of a school, college, university or hospital building.

The “erection” of a building will involve the establishment of a new building that is not physically joined to any wall of an existing building on the site.

An “extension” will be a development to an existing building that creates additional floor space in an enlargement that extends the footprint of the existing building.

“Alterations” will be any development to a building that does not involve the creation of additional floor space.

Under Class A, the following limits and conditions apply:

A.1 Development is not permitted by Class A-

(a) if the cumulative gross floor space of any buildings erected, extended or altered would exceed-

- (i) 25% of the gross floor space of the original school, college, university or hospital buildings; or***
- (ii) 100 square metres,***

whichever is the lesser;

The limits in **(a)** restrict the cumulative amount of permitted development that would be available for a particular site by reference to the “original” building. The original building is defined⁷ as a building as it existed on 1 July 1948 where it was built before that date, and as it was built, when built after that date. It does not, however, include any new building built as permitted development under this Class (see section **A.3 (b)** below).

The absolute limit to the total floor space of new or extended buildings is the lesser of 25% of the floor space of the original building or buildings, or 100 square metres.

There may be more than one original building within the curtilage of the premises. Where this is the case, and the buildings are used for the same undertaking (eg they all form part of the same school), they will be treated as a single original building for the purposes of measurement. Thus the gross floor space of the original building will be calculated on the basis of the gross floor space of every original building within the curtilage of the premises (see **A.3(a)** below).

⁷ Article 1(2) of the GPDO

(b) if any part of the development would be within five metres of a boundary of the curtilage of the premises;

If any part of the development is within 5 metres of any boundary of the curtilage of the premises, then development is not permitted and an application for planning permission will be required. The curtilage of premises will normally comprise the area of land surrounding the premises. It will, however, vary according to individual circumstances and in some cases, may not comprise all of the area of land in which the premises sit. Professional advice may therefore need to be sought on what defines the curtilage in a particular case.

(c) if, as a result of the development, any land used as a playing field at any time in the five years before the development commenced and remaining in this use could no longer be so used;

Permitted development rights for the erection or extension of a building are not available if the development would be on land that has been used as a playing field at any time in the last 5 years before the development commenced and is still in use as a playing field.

Playing field is defined in The Town and Country Planning (General Development Procedure) Order 1995 as amended in 1996 and subsequently in 2009⁸. A playing field comprises the whole of a site which includes at least one playing pitch. Playing pitches are marked out areas which together with any run-off area are 0.2 hectares or greater in size and which are used for sports listed in the Order. This definition should be used for the purposes of this restriction on permitted development rights.

(d) if the height of any new building erected would exceed five metres;

(e) if the height of the building as extended or altered would exceed-

- (i) if within ten metres of a boundary of the curtilage of the premises, five metres; or**
- (ii) in all other cases, the height of the building being extended or altered;**

If the height limits set out under (d) or (e) above are exceeded, then development is not permitted and an application for planning permission will be required.

When calculating the height of any building being erected, the measurement should be made to the highest part of the roof of the new building and should include any protrusions or other development above the roof.

Under (i) where an extended or altered building is within 10 metres of a boundary of the curtilage, the maximum height of that building when extended or altered is 5 metres. Again, this measurement should be made to the highest part of the roof of

⁸ http://www.opsi.gov.uk/si/si1996/Uksi_19961817_en_1.htm
and http://www.opsi.gov.uk/si/si2009/uksi_20090453_en_1

the extended or altered building and should include any protrusions or other development above the roof.

Under (ii) height is limited to the height of the building being extended or altered. That height should be calculated as the height of the ridge line of the **main** roof (even if there are roofs with ridge lines at a lower or higher level) or the height of the main roof where roofs on a building are flat or mono-pitched. Any protrusions or other development (such as chimneys, flues, plant and machinery and antennae) above the roof should not be taken into account when calculating the height of the building being extended or altered.

(f) if the development would be within the curtilage of a listed building;

Any new building, extension or alteration within the curtilage of a listed building will not be permitted development and will require an application for planning permission.

or

(g) unless-

(i) in the case of school, college or university buildings, the predominant use of the existing buildings on the premises is for the provision of education;

The main use of existing buildings on the premises must be for the provision of education. Where that is not the case (for example, the provision of a single room for training purposes within industrial, office, or retail premises) permitted development rights under Part 32 Class A will not exist. In such cases, permitted development rights may be available under other parts of the GPDO, or if not, an application for planning permission will be required.

(ii) in the case of hospital buildings, the predominant use of the existing buildings on the premises is for the provision of any medical or health services.

The principles under (i) also apply for the case of hospital buildings. Where the predominant use of the existing buildings on the premises is not the provision of medical or health services, then permitted development rights for new buildings, extensions, or alterations to buildings will not be available under Part 32 Class A - for example, where a private health clinic is located within a much larger office building.

Conditions

A.2 Development is permitted by Class A subject to the following conditions-

(a) the development must be within the curtilage of an existing school, college, university or hospital;

An application for planning permission will be required if any part of the development lies outside the curtilage of the existing school, college, university or hospital buildings. Specifically, this requirement prevents new buildings being erected on plots of land where there is no existing original building.

- (b) *the development shall only be used as part of, or for a purpose incidental to, the use of that school, college, university or hospital;***
- (c) *any new building erected shall, in the case of article 1(5) land, be constructed using materials which have a similar external appearance to those used for the original school, college, university or hospital buildings; and***
- (d) *any extension or alteration shall, in the case of article 1(5) land, be constructed using materials which have a similar external appearance to those used for the building being extended or altered.***

These conditions are intended to ensure that any new buildings, or extensions or alterations in National Parks, the Broads, areas of outstanding natural beauty, conservation areas, and land within World Heritage Sites result (article 1(5) land) in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those in the existing buildings, but does not mean that they need to be the same materials, be an exact match, or have similar technical properties. For example:

- external walls should be constructed of materials that provide a similar visual appearance- for example, in terms of the colour and style of material used - to the materials that make up the walls of the existing industrial building or warehouse;
- pitched roofs should be clad in materials that give a similar visual appearance to those used on the existing roof. Again, colour and style will be important considerations. Flat roofs will not normally have any visual impact and so the need for materials of similar appearance should not apply;

Where there is more than one original building on a site, then any new building should normally be built in a manner to give a similar visual appearance to one of those original buildings. The materials used in extensions should give a similar visual appearance to the materials used in the building that is being extended from.

Interpretation of Class A

A.3 *For the purposes of Class A-*

- (a) where two or more original buildings are within the same curtilage and are used for the same institution, they are to be treated as a single original building in making any measurement; and**
- (b) “original school, college, university or hospital building” means any original building which is a school, college, university or hospital building, as the case may be, other than any building erected at any time under Class A.**

Class B

Class B provides permitted development rights for development consisting of:

- (a) *the provision of a hard surface within the curtilage of any school, college, university or hospital to be used for the purposes of that school, college, university or hospital; or***
- (b) *the replacement in whole or in part of such a surface.***

Under Class B, the following limits and conditions apply:

B.1 Development is not permitted by Class B if-

- (a) *the cumulative area of ground covered by a hard surface within the curtilage of the site (other than hard surfaces already existing on 6th April 2010) would exceed 50 square metres;***

The total area of ground that can be covered by a new hard surface after 6 April 2010 is 50 square metres. This is an absolute limit and applies whether a single hard surface is laid or whether several such surfaces are laid over a period of time. If a hard surface exceeds this 50 square metres limit, or if a subsequent new hard surface would mean that more than 50 square metres would have been laid after 6 April 2010, then an application for planning permission would be required.

- (b) *as a result of the development, any land used as a playing field at any time in the five years before the development commenced and remaining in this use could no longer be so used; or***

See guidance on **A.1 (c)** above on how a playing field is defined.

- (c) *the development would be within the curtilage of a listed building.***

Hard surfaces are not permitted development within the curtilage of a listed building and an application for planning permission will be required.

Conditions

B.2 Development is permitted by Class B subject to the following conditions-

- (a) *where there is a risk of groundwater contamination the hard surface shall not be made of porous materials;***
- (b) *in all other cases, either-***

- (i) the hard surface shall be made of porous materials, or**
- (ii) provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the institution.”**

Class C has been amended to require any hard surface laid as permitted development is made of porous materials or is laid in a manner that ensures run off from the hard surface is directed to an alternative permeable or porous area within the curtilage of the premises concerned. This provision is consistent with the Government’s approach to reducing flood risk by ensuring that rain water and run-off is not blocked from draining into the ground. Guidance on permeable and impermeable surfacing has been produced by CLG. Although this deals specifically with the paving of front gardens, the same principles can be applied for hard surfaces associated with other developments. It is available online at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/pavingfrontgardens.pdf>

The exception to the use of porous materials is in situations where a porous hard surface would result in a risk of contamination to ground water. The extent of this risk will depend on the purpose for which the surface is to be used. For example, the provision of a hard surface to provide a walkway to link two buildings is likely to have a low risk of contamination. But other uses could have a higher risk, for example, uses that could result in the possibility of spillage or leakage of materials such as oils or wastes. Further advice on the risk of groundwater contamination in relation to particular uses of hard surfaces can be obtained from the Environment Agency⁹.

⁹ enquiries@environment-agency.gov.uk

Part 41: Office Buildings

Class A

This provides permitted development rights for the extension or alteration of an office building,

An 'extension' is development on an existing building that creates additional floor space (enlarging the footprint of the building being extended)

'Alterations' are any development that does not involve the creation of additional floor space.

Under Class A, the following limits and conditions apply:

A.1 *Development is not permitted by Class A if-*

(a) *the gross floor space of the original building would be exceeded by more than-*

- (i) *25%; or***
- (ii) *50 square metres,***

whichever is the lesser;

These limits restrict the cumulative amount of permitted development that would be available for a particular site by reference to the "original" building. 'Original building' is defined¹⁰ as a building as it existed on 1 July 1948 where it was built before that date, and as it was built when built after that date.

The absolute limit to the total floor space of extended buildings is the lesser of 25% of the floor space of the original building or buildings, or 50 square metres.

There may be instances where more than one original building exists within the curtilage (see guidance under **A.1 (b)** below for an explanation of what is the "curtilage") of the premises. Where this is the case (and the buildings are used for the same undertaking) they will be treated as a single original building for the purposes of measurement. Thus the gross floor space of the original building will be calculated on the basis of the gross floor space of every original building within the curtilage of the premises (see A.3(a) below).

(b) *the height of the building as extended would exceed-*

- (i) *if within ten metres of a boundary of the curtilage of the premises, five metres; or***
- (ii) *in all other cases, the height of the building being extended;***

¹⁰ Article 1(2) of the GPDO

If the height limits set out under (b) are exceeded then development is not permitted and an application for planning permission will be required.

The curtilage of premises will normally comprise the area of land surrounding the premises. The definition of curtilage may not, however, comprise all of the area of land in which premises sit- professional advice may therefore need to be sought on what defines the curtilage in a particular case.

Under (i) where an extended building is within 10 metres of a boundary of the curtilage, the maximum height of that building when extended under permitted development rights is 5 metres. This measurement should be made to the highest part of the roof of the extended building and should include any protrusions or other development above the roof.

Under (ii) height is limited to the height of the building being extended. That height should be calculated as the height of the ridge line of the **main** roof (even if there are roofs with ridge lines at a lower or higher level) or the height of the main roof where roofs on a building are flat or mono-pitched. Any protrusions or other development (such as chimneys, flues, plant and machinery and antennae) above the roof of the original building should not be taken into account when calculating the height of the building being extended.

(c) any part of the development, other than an alteration, would be within five metres of any boundary of the curtilage of the premises;

Only alterations are allowed as permitted development within 5 metres of any boundary of the curtilage of the premises. Any extensions that are within 5 metres of any boundary of the curtilage will require an application for planning permission.

(d) any alteration would be on article 1(5) land; or

(e) the development would be within the curtilage of a listed building.

Alterations to office buildings are not permitted development in National Parks, Areas of Outstanding Beauty, Conservation Areas, the Broads, and World Heritage Sites¹¹. They will therefore require an application for planning permission unless the alterations benefit from permitted development rights under another Part of the GPDO or are not considered to comprise “development” as defined in the Town and Country Planning Act 1990¹².

The alteration or extension to offices within the curtilage of listed buildings are not permitted development and will require an application for planning permission.

Conditions

¹¹ as defined by article 1(5) of the GPDO as amended

¹² See section 55 of the 1990 Act at : http://www.opsi.gov.uk/acts/acts1990/Ukpga_19900008_en_1

A.2 Development is permitted by Class A subject to the following conditions-

- (a) any office building as extended or altered shall only be used as part of, or for a purpose incidental to, the use of that office building;**

Permitted development rights for extensions or alterations to office buildings can only be used for purposes incidental to the use as an office building. Permitted development rights cannot be used to accommodate another use within an office building, for example, the extension of an office to provide space for a ground-floor shop.

- (b) any extension shall, in the case of article 1(5) land, be constructed using materials which have a similar external appearance to those used for the building being extended; and**

This condition is intended to ensure that any extensions in National Parks, the Broads, areas of outstanding natural beauty, conservation areas, and land within World Heritage Sites (article 1(5) land) result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those in the existing buildings, but does not mean that they need to be the same materials, be an exact match, or have similar technical properties. For example:

- external walls should be constructed of materials that provide a similar visual appearance - for example, in terms of the colour and style of material used - to the materials that make up the walls of the existing industrial building or warehouse;
- pitched roofs should be clad in materials that give a similar visual appearance to those used on the existing roof. Again, colour and style will be important considerations. Flat roofs will not normally have any visual impact and so the need for materials of similar appearance should not apply;

The materials used in extensions should give a similar visual appearance to the materials used in the building that is being extended from.

- (c) any alteration shall be at ground floor level only.**

Alterations to an office building on floors other than the ground floor will require an application for planning permission unless the alterations are not considered to comprise “development” as defined in the Town and Country Planning Act 1990¹³.

Interpretation of Class A

A.3 For the purposes of Class A-

¹³ See section 55 of the 1990 Act at : http://www.opsi.gov.uk/acts/acts1990/Ukpga_19900008_en_1

- (a) where two or more original buildings are within the same curtilage and are used for the same undertaking, they are to be treated as a single original building in making any measurement; and**
- (b) “office building” means a building used for any purpose within Class B1(a) of the Schedule to the Use Classes Order.**

Class B

This provides permitted development rights for development consisting of:

- (a) *the provision of a hard surface within the curtilage of an office building to be used for the purpose of the office concerned; or***
- (b) *the replacement in whole or in part of such a surface***

Under Class B, the following limits and conditions apply:

B.1 Development is not permitted by Class B if-

- (a) *the cumulative area of ground covered by a hard surface within the curtilage (excluding hard surfaces already existing on 6th April 2010) would exceed 50 square metres;***

The total area of ground that can be covered by a new hard surface after 6 April 2010 is 50 square metres. This is an absolute limit and applies whether a single hard surface is laid or whether several such surfaces are laid over a period of time. If a hard surface exceeds this 50 square metres limit, or if a subsequent new hard surface would mean that more than 50 square metres would have been laid after 6 April 2010, then an application for planning permission would be required.

- (b) *the development would be within the curtilage of a listed building.***

Hard surfaces are not permitted development within the curtilage of a listed building and an application for planning permission will therefore be required.

B.2 Development is permitted by Class B subject to the following conditions-

- (a) *where there is a risk of groundwater contamination the hard surface shall not be made of porous materials;***
- (b) *in all other cases, either-***
 - (i) *the hard surface shall be made of porous materials, or***
 - (ii) *provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the institution.***

Class C has been amended to require any hard surface laid as permitted development is made of porous materials or is laid in a manner that ensures run off from the hard surface is directed to an alternative permeable or porous area within the curtilage of the premises concerned. This provision is consistent with the Government's approach to reducing flood risk by ensuring that rain water and run-off

is not blocked from draining into the ground. Guidance on permeable and impermeable surfacing has been produced by CLG. Although this deals specifically with the paving of front gardens, the same principles can be applied for hard surfaces associated with other developments. It is available online at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/pavingfrontgardens.pdf>

The exception to the use of porous materials is in situations where a porous hard surface would result in a risk of contamination to ground water. The extent of this risk will depend on the purpose for which the surface is to be used. For example, the provision of a hard surface to provide a walkway to link two buildings is likely to have a low risk of contamination. But other uses could have a higher risk, for example, uses that could result in the possibility of spillage or leakage of materials such as oils or wastes. Further advice on the risk of groundwater contamination in relation to particular uses of hard surfaces can be obtained from the Environment Agency¹⁴.

Interpretation of Class B

B.3 *For the purposes of Class B “office building” means a building used for any purpose within Class B1(a) of the Schedule to the Use Classes Order.*

¹⁴ enquiries@environment-agency.gov.uk

Part 42: Shops or Catering, Financial or Professional Services Establishments

Class A

This provides permitted development rights for the extension or alteration of a shop or catering, financial or professional services establishment.

An ‘extension’ is development on an existing building that creates additional floor space (enlarging the footprint of the building being extended)

‘Alterations’ are any development that does not involve the creation of additional floor space.

Under Class A, the following limits and conditions apply:

A.1 Development is not permitted by Class A if-

- (a) the gross floor space of the original building would be exceeded by more than-***
 - (i) 25%; or***
 - (ii) 50 square metres,***
- whichever is the lesser;***

These limits restrict the cumulative amount of permitted development that would be available for a particular site by reference to the “original” building. ‘Original building’ is defined¹⁵ as a building as it existed on 1 July 1948 where it was built before that date, and as it was built when built after that date.

The absolute limit to the total floor space of extended buildings is the lesser of 25% of the floor space of the original building or buildings, or 50 square metres.

There may be instances where more than one original building exists within the curtilage (see guidance under **A.1(c) below** for an explanation of what is the “curtilage”) of the premises. Where this is the case (and the buildings are used for the same undertaking) they will be treated as a single original building for the purposes of measurement. Thus the gross floor space of the original building will be calculated on the basis of the gross floor space of every original building within the curtilage of the premises (see A.3(a) below).

- (b) the height of the building as extended would exceed four metres;***

Any extension which is more than 4 metres high will not be permitted development and will require an application for planning permission. The calculation of the height

¹⁵ Article 1(2) of the GPDO

of the extension should be based on the highest part of the extension and must include any protrusions or other development above the roof.

(c) any part of the development, other than an alteration, would be within two metres of any boundary of the curtilage of the premises;

Only alterations are allowed as permitted development within 2 metres of any boundary of the curtilage of the premises. Any extensions that are within 2 metres of any boundary of the curtilage will require an application for planning permission.

The curtilage of premises will normally comprise the area of land surrounding the premises. It will, however, vary according to individual circumstances and in some cases, may not comprise all of the area of land in which the premises sit. Professional advice may therefore need to be sought on what defines the curtilage in a particular case.

(d) the development would be within the curtilage of a listed building;

(e) any alteration would be on article 1(5) land;

Alterations to shops or catering, financial or professional establishment are not permitted development in National Parks, Areas of Outstanding Beauty, Conservation Areas, the Broads, and World Heritage Sites¹⁶. They will therefore require an application for planning permission unless they benefit from permitted development rights under another Part of the GPDO or the alterations are not considered to comprise “development” as defined in the Town and Country Planning Act 1990¹⁷.

The alteration or extension to offices within the curtilage of listed buildings are not permitted development and will require an application for planning permission.

(f) the development would consist of or include the construction or provision of a veranda, balcony or raised platform;

Verandas, balconies and raised platforms are not permitted development and will require planning permission

A veranda is usually defined as a gallery, platform, or balcony, usually roofed and often partly enclosed, extending along the outside of a building at ground level.

A balcony is defined as a platform with a rail, balustrade or parapet projecting outside an upper storey of a building. A “Juliet” balcony, where there is no platform, but simply railings in front of a window, and no external access would normally be permitted development.

¹⁶ as defined by article 1(5) of the GPDO as amended

¹⁷ See section 55 of the 1990 Act at : http://www.opsi.gov.uk/acts/acts1990/Ukpga_19900008_en_1

A raised platform is any platform with a height greater than 300 millimetres and will include roof terraces.

(g) any part of the development would extend beyond an existing shop front;

If any part of a proposed extension would extend beyond an existing shop front, then it will require an application for planning permission. In this context, extending beyond a shop front will also include any extension at the side of the shop if any part of it lies in front of a line drawn either side of the shop front to the boundary of the curtilage of the property.

(h) the development would involve the insertion or creation of a new shop front or the alteration or replacement of an existing shop front; or

(i) the development would involve the installation or replacement of a security grill or shutter on a shop front.

These developments are not permitted development and will require an application for planning permission unless the works undertaken are not considered to comprise “development” as defined in the Town and Country Planning Act 1990¹⁸. or they benefit from permitted development rights under another Part of the GPDO.

Conditions

A.2 Development is permitted by Class A subject to the following conditions-

(a) any alteration shall be at ground floor level only;

Any alterations on floors above or below a shop or catering, financial or professional services establishment will not be permitted development unless the alterations are not considered to comprise “development” as defined in the Town and Country Planning Act 1990, or they benefit from permitted development rights under another Part of the GPDO.

(b) any extension shall, in the case of article 1(5) land, be constructed using materials which have a similar external appearance to those used for the building being extended;

This condition is intended to ensure that any extensions in National Parks, the Broads, areas of outstanding natural beauty, conservation areas, and land within World Heritage Sites (article 1(5) land) result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those in the existing buildings, but

¹⁸ See section 55 of the 1990 Act at : http://www.opsi.gov.uk/acts/acts1990/Ukpga_19900008_en_1

does not mean that they need to be the same materials, be an exact match, or have similar technical properties. For example:

- external walls should be constructed of materials that provide a similar visual appearance - for example, in terms of the colour and style of material used - to the materials that make up the walls of the existing industrial building or warehouse;
- pitched roofs should be clad in materials that give a similar visual appearance to those used on the existing roof. Again, colour and style will be important considerations. Flat roofs will not normally have any visual impact and so the need for materials of similar appearance should not apply;

The materials used in extensions should give a similar visual appearance to the materials used in the building that is being extended from.

- (c) any extension or alteration shall only be used as part of, or for a purpose incidental to, the use of the shop or financial or professional services establishment.**

Extensions or alterations cannot be used to accommodate another use within the curtilage of the shop, financial or professional services establishment. Permitted development rights could, for example, be used to create an extension to a shop to provide an office for a shop manager (that use as an office would be incidental) to the shop. Conversely, however, an extension to create office space for an entirely separate concern unrelated to the shop would not be permitted development and would require an application for planning permission.

Interpretation of Class A

A.3 For the purposes of Class A-

- (a) where two or more original buildings are within the same curtilage and are used for the same undertaking, they are to be treated as a single original building in making any measurement;**
- (b) “raised platform” means a platform with a height greater than 300 millimetres; and**
- (c) “shop or financial or professional services establishment” means a building, or part of a building, used for any purpose within Classes A1 or A2 of the Schedule to the Use Classes Order and includes buildings with other uses in other parts as long as the other uses are not within the parts being altered or extended.**

(c) allows for alterations and extensions to shops and financial and professional services to be undertaken even if these uses are within a larger building containing

other uses, provided that any alterations and extensions relate solely to the shop or financial services use (rather than the other uses within that building).

Conversely, no other uses have permitted development rights under this Class, even if they are co-located in a larger building with shops and financial and professional services (although they may have permitted development rights under other Parts of the GPDO). In the example of a parade with ground floor shops with flats above, permitted development rights under Class A will exist for the shops, but no permitted development rights would be available for flats (which currently do not have any permitted development rights).

Class B

This provides permitted development rights for the erection or construction of a trolley store within the curtilage of a shop.

Under Class B, the following limits and conditions apply:

B.1 *Development is not permitted by Class B if-*

- (a) the gross floor space of the building or enclosure erected would exceed 20 square metres;**

Gross floor space should be measured using the external dimensions of the building or enclosure.

- (b) any part of the building or enclosure erected would be-**

(i) within 20 metres of any boundary of the curtilage of; or

(ii) above or below,

any building used for any purpose within Part C of the Schedule to the Use Classes Order or as a hostel;

Trolley stores are not permitted development if any part of them is located within 20 metres of the boundary of the curtilage of a Class C use or hostel, or if located above or below such uses. Class C of the Use Classes Order covers predominantly residential type uses - more details are on the Planning Portal¹⁹

- (c) the height of the building or enclosure would exceed 2.5 metres;**

The maximum height of any part of a trolley store is 2.5 metres.

- (d) the development would be within the curtilage of a listed building; or**

Trolley stores within the curtilage of listed buildings are not permitted development and an application for planning permission will therefore be required.

- (e) the development would be between a shop front and a highway where the distance between the shop front and the boundary of the curtilage of the premises is less than five metres.**

Trolley stores located between a shop front and the highway are only permitted development if the distance between the shop front and the boundary of the curtilage

¹⁹ see: <http://www.planningportal.gov.uk/england/public/planning/smallbusiness/bg13commontypesofapplication/bg138changeofuse/>

facing the shop front is at least 5 metres. Where it is less than 5 metres, an application for planning permission will be required.

Condition

B.2 *Development is permitted by Class B subject to the condition that the building or enclosure is only used for the storage of shopping trolleys.*

Interpretation of Class B

“shop” means a building used for any purpose within Class A1 of the Schedule to the Use Classes Order; and

“trolley store” means a building or enclosure designed to be used for the storage of shopping trolleys.

Class C

This provides permitted development rights for development consisting of:

- (a) *the provision of a hard surface within the curtilage of a shop or catering, financial or professional services establishment; or***
- (b) *the replacement in whole or in part of such a surface.***

Under Class C, the following limits and conditions apply:

C.1 *Development is not permitted by Class C if-*

- (a) *the cumulative area of ground covered by a hard surface within the curtilage (excluding hard surfaces already existing on 6th April 2010) would exceed 50 square metres;***

The total area of ground that can be covered by a new hard surface after 6 April 2010 is 50 square metres. This is an absolute limit and applies whether a single hard surface is laid or whether several such surfaces are laid over a period of time. If a hard surface exceeds this 50 square metres limit, or if a subsequent new hard surface would mean that more than 50 square metres would have been laid after 6 April 2010, then an application for planning permission would be required.

- (b) *the development would be within the curtilage of a listed building.***

Hard surfaces are not permitted development within the curtilage of a listed building and an application for planning permission will therefore be required.

Conditions

C.2 *Development is permitted by Class C subject to the following conditions-*

- (a) *where there is a risk of groundwater contamination the hard surface shall not be made of porous materials;***
- (b) *in all other cases, either-***
 - (i) *the hard surface shall be made of porous materials, or***
 - (ii) *provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the institution."***

Class C has been amended to require any hard surface laid as permitted development is made of porous materials or is laid in a manner that ensures run off from the hard surface is directed to an alternative permeable or porous area within

the curtilage of the premises concerned. This provision is consistent with the Government's approach to reducing flood risk by ensuring that rain water and run-off is not blocked from draining into the ground. Guidance on permeable and impermeable surfacing has been produced by CLG. Although this deals specifically with the paving of front gardens, the same principles can be applied for hard surfaces associated with other developments. It is available online at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/pavingfrontgardens.pdf>

The exception to the use of porous materials is in situations where a porous hard surface would result in a risk of contamination to ground water. The extent of this risk will depend on the purpose for which the surface is to be used. For example, the provision of a hard surface to provide a walkway to link two buildings is likely to have a low risk of contamination. But other uses could have a higher risk, for example, uses that could result in the possibility of spillage or leakage of materials such as oils or wastes. Further advice on the risk of groundwater contamination in relation to particular uses of hard surfaces can be obtained from the Environment Agency²⁰.

Interpretation of Class C

“shop or catering, financial or professional services establishment” means a building used for any purpose within Classes A1 to A5 of the Schedule to the Use Classes Order.”

²⁰ enquiries@environment-agency.gov.uk