

Development Control Committee report



Changes to the General Permitted Development Order (GPDO)

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Executive summary

A report to present on the updates to the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) as amended and came into effect on 1st August and 31st August 2020.

1. Decision/s to be made

That the Committee notes the updates to GPDO and the potential impact on the Development Management Service.

2. Why is the decision needed?

Central Government has enacted reforms to the Planning System. One element of this was for further amendments to secondary legislation to allow for development, including upwards extensions on certain buildings for use as dwellinghouses, to be undertaken without the requirement for planning permission to be granted by the local planning authority but allowed under changes to the GPDO.

Whilst this potentially allows for substantial development without the former need for planning permission, these amendments are subject to a considerable number of conditions and limitations.

In addition, as is often the case with amendments to secondary legislation, there is scope for misinterpretation leading to potential confusion, disappointment and resultant Corporate and/or service complaints and potential increases in Planning Enforcement activity.

To maintain a good service, the local planning authority should be able to demonstrate clear understanding of the rights, conditions and limitations of the said legislative changes and be able to make decisions and advise its customers and stakeholders accordingly.

3. Background

The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 came into effect on 1st August 2020. This introduced a new Part 20 into the GPDO to allow the upwards extension of up to two storeys to purpose-built blocks of flats. As a consequence, the presence of Part 20 not being included in development permitted was required to be inserted in relation to those parts of the GPDO concerning dwellinghouses. In addition, the description of a habitable room is clarified and there is an additional requirement for the provision of adequate natural light for these allowances:

In addition, as part of the Prior Approval Process it is now required to submit a floor plan indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses and where the application relates to prior approval as to adequate natural light. The local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses.

Amendments in relation to Part 4 (temporary uses) of the GPDO allow for the temporary use of land of up to 4 out of 28 days (before the end of 31st December 2020) for uses inter alia; the holding of a market; motor car and motorcycle racing including trials of speed, and practising for these activities, and the provision on the land of any moveable structure for the purposes of the permitted use. This right does not extend to listed buildings or their curtilage, or land within a site of special scientific interest (SSSI) or certain uses of the land.

Amendments in relation to Part 12 (development by local authorities) allows the use of the land up to 31st March 2020 for the holding of a market by, or on behalf of, a local authority and the provision on the land of any moveable structure (apart from an SSSI).

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 755) and The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 756) Order 2020 extended the permitted development rights for upwards extensions of up to two storeys above the topmost storey (limited to one storey where building one storey) for dwellinghouses, detached buildings and properties in mixed commercial use and the demolition of detached buildings and erection of dwelling houses in their place. All of these came into effect on 31st August 2020.

4. The New Allowances under the Revisions to the GPDO

These are set out below:

Part 1

Class AA - enlargement of a dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction.

The table below illustrates this and the insertions into the other parts of Part 1 of the GPDO:

New Allowances	Changes to existing Part 1 of GPDO
<p><i>Part 1 :Class AA - enlargement of a dwellinghouse by construction of additional storeys</i></p> <p>The enlargement of a dwellinghouse consisting of the construction of—</p> <p>(a) up to two additional storeys, where the existing dwellinghouse consists of two or more storeys; or</p> <p>(b) one additional storey, where the existing dwellinghouse consists of one storey, immediately above the topmost storey of the dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction.</p>	<p>Development Not allowed if:</p> <p>Paragraphs A1(l), B1(g) and C1(e): The dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).</p> <p>Paragraph B.1 (h): the existing dwellinghouse has been enlarged in reliance on the permission granted by Class AA (enlargement of a dwellinghouse by construction of additional storeys).</p>

New Part 20

- Class AA - new dwellinghouses on detached buildings in commercial or mixed use including 'reasonably necessary' works:
- Class AB - new dwellinghouses on terrace buildings in commercial or mixed use, including 'reasonably necessary' works:

- Class AC - new dwellinghouses on terrace buildings in use as dwellinghouses, including 'reasonably necessary' works
- Class AD - new dwellinghouses on detached buildings in use as dwellinghouses, including 'reasonably necessary' works

This part of the New Part 20 is set out below:

New Part 20 of GPDO: New Allowances
<p>Class AA - new dwellinghouses on detached buildings in commercial or mixed use</p> <p>(1) Development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building to which sub-paragraph (2) applies, together with any or all—</p> <p>(a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;</p> <p>(b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;</p> <p>(c) works for the construction of appropriate and safe access to and egress from the new dwellinghouses and existing premises in the building, including means of escape from fire, via additional external doors or external staircases;</p> <p>(d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.</p> <p>(2) This sub-paragraph applies to a building which is—</p> <p>(a) used for any purpose within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1(a) (offices) of the Schedule to the Use Classes Order, or as a betting office, pay day loan shop or launderette;</p> <p>(b) in a mixed use combining—</p> <p>(i) two or more uses within paragraph (a); or</p> <p>(ii) a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, together with one or more uses within paragraph (a).</p>
<p>Class AB - new dwellinghouses on terrace buildings in commercial or mixed use</p> <p>(1) Development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a terrace building to which sub-paragraph(2) applies, where that development comprises—</p> <p>(a) up to two additional storeys, in the case of an existing building consisting of two or more storeys;</p> <p>(b) one additional storey, in the case of an existing building consisting of one storey, together with any development under sub-paragraph (3).</p> <p>(2) This sub-paragraph applies to a building which is—</p> <p>(a) used for any purpose within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1(a) (offices) of the Schedule to the Use Classes Order, or as a betting office, pay day loan shop or launderette;</p> <p>(b) in a mixed use combining—</p> <p>(i) two or more uses within paragraph (a); or</p> <p>(ii) a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, together with one or more uses within paragraph (a).</p> <p>(3) Development consisting of any or all—</p> <p>(a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;</p> <p>(b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;</p>

(c)works for the construction of appropriate and safe access to and egress from the new dwellinghouses and existing premises, including means of escape from fire, via additional external doors or external staircases;
(d)works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses

Class AC - new dwellinghouses on terrace buildings in use as dwellinghouses

(1) Development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a terrace building in use as a single dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order, where the development comprises—

(a)up to two additional storeys, in the case of an existing dwellinghouse consisting of two or more storeys;
(b)one additional storey, in the case of an existing dwellinghouse consisting of one storey,
together with any development under sub-paragraph (2).

(2) Development consisting of any or all—

(a)engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
(b)works for the construction of appropriate and safe access to and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;
(c)works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

Class AD - new dwellinghouses on detached buildings in use as dwellinghouses

(1) Development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a detached building in use as a single dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order, where the development comprises—

(a)up to two additional storeys, in the case of an existing dwellinghouse consisting of two or more storeys;
(b)one additional storey, in the case of an existing dwellinghouse consisting of one storey,
together with any development under sub-paragraph (2).

(2) Development consisting of any or all—

(a)engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
(b)works for the construction of appropriate and safe access to and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;
(c)works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

Finally, Part 20 Class ZA - Demolition of buildings and construction of new dwellinghouses in their place, consisting of works for the demolition of one or other of—

- (a) any building comprising a single purpose-built detached block of flats, and
- (b) any other single detached building, comprising premises established for use falling within Class B1 (a,b,c) existing on 12 March 2020, together with its replacement by a single building comprising of:
 - (a) a purpose-built detached block of flats, or
 - (b) a purpose-built detached dwellinghouse.

The table below shows this and the related allowed operations in more detail

Class ZA. Demolition of buildings and construction of new dwellinghouses in their place

(1) Development consisting of works for the demolition of one or other of—

(a) any building comprising a single purpose-built detached block of flats, and

(b) any other single detached building, comprising premises established—

(i) for office use falling within Class B1(a) of the Schedule to the 1987 Order,

(ii) for research and development falling within Class B1(b) of the Schedule to the 1987 Order, or

(iii) for an industrial process falling within Class B1(c) of the Schedule to the 1987 Order, or for any combination of them, existing on 12 March 2020, together with its replacement by a single building covered by sub-paragraph (2), involving operations listed in sub-paragraph (3).

(2) The building in question is to comprise one or other of—

(a) a purpose-built detached block of flats, or

(b) a purpose-built detached dwellinghouse.

(3) The operations in question are—

(a) operations reasonably necessary for the demolition and construction, which may include the installation of a basement or cellar in the new building, whether or not there is one in the old building;

(b) works for the removal of plant servicing the old building;

(c) works for the disconnection of services from the old building;

(d) works for the removal of any means of access to and egress from the old building;

(e) works for the removal of storage and waste from the old building;

(f) works for the installation of plant to service the new building;

(g) works for the installation of services to be connected to the new building;

(h) works to enable access to and egress from the new building, including means of escape from fire;

(i) works for the construction, within the new building, of storage, waste or other ancillary facilities to support the new building;

(j) the use of scaffolding and other temporary structures to support the operations listed in paragraphs (a) to (i) over a period—

(i) starting with their installation no earlier than one month before the beginning of those operations, and

(ii) ending with their removal no later than one month after the completion of those operations.

Conditions and Limitations

Similar to previous changes to the GPDO, the new permitted development allowances come with a number of conditions and limitations. Permission is not allowed if:

- The land is a Listed Building or within the curtilage of a listed building, contains a Scheduled Monument, is situated within a Conservation Area or in a site of special scientific interest and any additional storey created other than the principal part of the house.
- For all but Class ZA the subject dwelling has to have been constructed before 1st July 1948 or after either 5th or 20th October 2018
- For all but Part 1 Class AA, the land in question is safety hazard area, military explosives area or is within 3km of the perimeter of an aerodrome.

- All permitted development must be completed within 3 years after the decision date and the applicant shall notify the LPA on completion of the development as 'soon as practicable' after completion of the development.

Further restrictions do not allow these permitted development rights for Classes AA, AB, AC and AD of Part 20 where if on 5th March 2018 the building was in a use other than that prescribed in relation to the allowed uses/mixed uses set out above, nor if the proposed development extends beyond the curtilage of the existing building, if the new dwellings are not flats and the highest part of the roof would exceed 18 metres or by more than 3.5 metre if the highest part of the roof is one storey and 7 metres if more than one storey.

For Part 20 Classes A and ZA permitted development rights are not bestowed if the land is occupied in any part under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained.

Given the scope of development allowed under Class ZA of Part 20, it is perhaps not surprising that further restrictions to these rights apply if inter alia:

- If the old building was constructed after 31 December 1989;
- If the footprint of the old building exceeds 1,000 square metres;
- If the old building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the old building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support (and for this purpose keeping the old building vacant does not of itself count as action or inaction)

Prior Approval Procedure

The Prior Approval procedure will be different from those for earlier amendments to the GPDO as a scale plan showing the existing and proposed elevations of the dwelling house and the position and dimensions of the proposed windows will be required

In addition, the applicant will be required to provide some or all of the following information:

- transport and highways impacts of the development;
- air traffic and defence asset impacts of the development;
- contamination risks in relation to the building;

- impact of noise, dust, vibration and traffic on adjoining owners or occupiers will be mitigated;
- flooding risks in relation to the building;
- the external appearance of the building, including—
 - the design and architectural features of—
 - the principal elevation; and
 - any side elevation that fronts a highway; and
 - the impact of any related work
- the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;
- Before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on adjoining owners or occupiers will be mitigated

For Part 20 Class ZA additional information will be required:

- the impact on business and new residents of the development's introduction of, or increase in, residential use in the area in which the development is to take place;
- the impact of the development on heritage and archaeology;
- the method of demolition of the old building;
- the plans for landscaping of the development, including the planting and maintenance of shrubs and trees

Fees Applicable

The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2020 have inserted the relevant fees into the 2012 Fee Regulations in relation of these new PD allowances and come into force on 3rd September 2020.

For an application under Part 20 where the number of proposed dwellings is 50 or fewer £334 for each new dwellinghouse. Where more than 50 dwellings are proposed, £16,525, and an additional £100 for each new dwellinghouse in excess of 50, subject to a maximum in total of £300,000

Unlike previous amendments to the GPDO, the applicant will be entitled to a 'free-go' for a resubmission in much the same way as would be the case if a full planning permission was applied for.

Financial	X	Human rights, equalities, diversity	
Legal	x	Policies or Council Plan	X
Communication	X	Procurement	
Energy Efficiency		Workforce	

4. Implications

a) Financial implications

In terms of officer workload- processing applications and advice will be met within the current budget. However, there are potential implications for lower planning fees with the fee set at c70% of the same fee for an additional dwelling if full planning permission is sought.

Such allowances notwithstanding the conditions and limitations they are subject to may lead to larger developments not being subject to S106 contributions as applications for full planning permission would be.

However, it is difficult to ascertain the degree of applications seeking to take advantage of these new permitted development allowances versus the traditional route of applying for full planning permission from the Local Planning Authority.

The conditions and limitations may result in an application for full planning permission in the normal way, with its opportunity to work with the Local Planning Authority remaining a more attractive option for applicants.

b) Legal implications

Changes to the Town and Country Planning (GPDO) 2015 may have a potentially significant impact on the caseload and customer service requirements of the Development Management Service. Given the complexity of the new permitted development rights and the degree of conditions and limitations, it is anticipated that the service will need on occasion for related Legal Advice. This would include the potential for additional planning enforcement work and appeals against the related decisions to refuse under the Prior approval procedure by the Local Planning Authority to the Planning Inspectorate will consequently arise.

c) Communication

These changes to the GPDO are significant and complex and should be communicated through updated customer service such as the related pages of the Council website as well as internally. It is considered essential that stakeholders, in particular ward members, Parish Councillors and planning agents are informed of the DM Service's understanding and interpretation of these changes.

d) Policies and Local Plan

The adopted Local Plan, Plan:MK (2019) seeks to bring new vitality to the city centre and the cultural life of the Borough. Regeneration of the most challenged estates, new housing, both in the city centre and in the urban and rural areas and the high standards of design and community facilities and accessibility of the original principles will continue with improved access to all supporting the living and working in all parts of the borough

Along with the incoming changes to the Use Classes Order, certain policies will be potentially more affected by others:

- Policy HN1 for Housing mix and density for schemes of 11 or more dwellings
- Policy HN2 for affordable housing for scheme of 11 or more dwellings
- Policy HN9 (b) and its presumption against loss of bungalows or their conversion to two or more storeys
- Policy INF1 for delivering infrastructure where a new development creates such a demand

e) Other implications

None

5. Alternatives

These changes are already in force and the Council must understand, interpret and apply them efficiently going forward.

6. Timetable for implementation

To be noted going forward by the Development Control Committee.

List of background papers

Amendments to Permitted Development from 1st August 2020;
<https://www.legislation.gov.uk/uksi/2020/632/contents/made>

Amendments to the GPDO form 31st August 2020:
<https://www.legislation.gov.uk/uksi/2020/755/contents/made>
<https://www.legislation.gov.uk/uksi/2020/756/contents/made>