

# PERMITTED DEVELOPMENT RIGHTS USE CLASS E TO RESIDENTIAL

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Following the Government's changes to the Use Classes Order in England, which were brought into effect on 1 September 2020, it has now confirmed the permitted development rights which are to apply to the new Class E use. The new permitted development rights are applicable from 1 August 2021, and provide for greater certainty and flexibility in respect of the re-use of commercial floorspace for residential purposes.



This is to be achieved by allowing commercial floorspace within Use Class E to be converted to residential use without the requirement for formal planning permission.

The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 indicates that the permitted development right exists only where all of the following apply:

- the building has been **vacant** for a continuous period of **at least three months** immediately prior to the date of application for prior approval;
- the building has been in **Class E Use** for **at least two years** prior to the date of application for prior approval;
- the cumulative floorspace which is the subject of change of use is **below 1,500 sq.m.**

An application for prior approval will be required in order that the local planning authority can consider matters relating to **transport impacts, contamination, flood risk, noise**, the provision of **natural light**, and the potential effect of providing **residential accommodation within an industrial area**.

Where a change of use is **within a Conservation Area** and relates to ground floor of a building, the determining authority can also consider the **impact of change on that Conservation Area**.

A further provision relates to the **loss of registered nurseries and health centres**, where there is a requirement to consider the **impact of the loss** of such services.

Prior approval applications will be subject to an eight week determination process which is consistent with established provisions for such applications.

The permitted development rights do not apply where the land forms part of a site of special scientific interest, listed building, scheduled monument, safety hazard area, or military explosives storage area; or the building is within an area of outstanding natural beauty, an area specified by the Secretary of State for the purposes of Section 41(3) of the Wildlife and Countryside Act 1981, the Broads, a National Park, or a World Heritage Site.

The Government will also be automatically extending Article 4 directions which currently prevent office to residential permitted development changes from 31 July 2021 until 31 July 2022. This will allow local planning authorities time to review Article 4 directions and their ongoing relevance in the context of proposed revisions to the National Planning Policy Framework, which seek to generally limit the use of such directions.

Whilst the above revisions seek to simplify and expedite the re-use of commercial property to help revitalise England's high streets, a number of professional institutions (including the RTPI) have immediately raised concerns about the format of development which could be supported by the changes. Whilst the 1,500 sq.m limit seeks to address this to some degree, it is evident that the permitted development rights will support residential developments which may have struggled to secure planning permission in the past.

In light of the possible local political objections to such permitted development rights, local planning authorities are likely to carefully assess any residential developments brought forward for prior approval (and consider the case for Article 4 directions).

Please get in touch with one of our team to discuss the implications of the changes in practice.

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