

**READING BOROUGH COUNCIL  
REPORT BY DIRECTOR OF ECONOMIC GROWTH & NEIGHBOURHOOD SERVICES**

<b>TO:</b>	<b>PLANNING APPLICATIONS COMMITTEE</b>		
<b>DATE:</b>	<b>3rd June 2020</b>		
<b>TITLE:</b>	<b>RELAXATION OF PLANNING REGULATIONS DUE TO CORONAVIRUS: THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (CORONAVIRUS) (ENGLAND) (AMENDMENT) ORDER 2020.</b>		
	<b>COUNCILLOR MCKENNA</b>	<b>PORTFOLIO:</b>	<b>CHAIR, PLANNING APPLICATIONS COMMITTEE</b>
<b>SERVICE:</b>	<b>PLANNING</b>	<b>WARD:</b>	<b>ALL</b>
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## **1. PURPOSE AND SUMMARY OF REPORT**

- 1.1 Members may be aware of various relaxations that the Government has been introducing to existing Permitted Development rights, in response to the Coronavirus pandemic, in order to allow changes of use or developments to take place without having to apply for planning permission first.
- 1.2 This report will explain these changes to the General Permitted Development Order (the GPDO) which have already come into effect and also discuss the recent Ministerial Statement encouraging a flexible approach from Local Authorities to requests to extend working hours on construction sites.

## **2.0 RECOMMENDED ACTION**

- 2.1 That the Committee notes the report.

## **3. THE CHANGES**

### **Changes to Permitted Development Rights**

- 3.1 Permitted Development (PD) rights are basically rights to make certain changes to a building without the need to apply for planning permission. They derive from a general planning permission granted by Parliament, rather than from permission

granted by the local planning authority (LPA). There are many forms of minor development or changes of use where submitting a planning application to the LPA to permit the change would be overly onerous. These rights are set out using criteria to specify in what circumstances a development or use would not benefit from being “permitted development” and sometimes conditions are applied. PD is available to a wide range of development types, including domestic, offices, industrial, retail, agriculture, hospitals, schools and local authority works. These Regulations are set out in the current GPDO and it is this document which has been amended to allow local planning authorities in England to apply a wider discretion for some schemes/works which may become necessary as a result of Coronavirus.

- 3.2 On 17 March 2020, the Government announced that it would relax planning rules to allow pubs and restaurants to operate as hot food takeaways during the coronavirus outbreak. This change to permitted development rights was introduced in *The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2020* (SI 2020/330) and applies between 24 March 2020 and 23 March 2021.
- 3.3 The changes allow the temporary change of use of a pub (A4 - drinking establishment) or a restaurant (A3 - restaurants and cafes) to a hot-food take away for a period of up to 12 months only - to 23 March 2021. While this change did not consider those premises where restrictive conditions might apply prohibiting take-away use to guidance offered has been for LPA.s to exercise restraint in enforcing compliance with the condition. This change was brought in to help these, often, small businesses to carry on working.
- 3.4 The other change came into effect on 9 April 2020 to introduce a new class of Permitted Development: ‘New PART 12A: Development by Local Authorities and Health Service Bodies’.

Class A is defined as:

‘Development by or on behalf of a local authority or health service body on land owned, leased, occupied or maintained by it for the purposes of—

- (a) preventing an emergency;
- (b) reducing, controlling or mitigating the effects of an emergency; or
- (c) taking other action in connection with an emergency’.

- 3.5 There are numerous stipulations as provided below:
  - (a) the land in question must not be a military explosives area or an SSSI [none in Reading Borough]
  - (b) the land or building must not contain a Scheduled Monument
  - (c) no part of the development must be within 5 metres of any boundary of a (dwelling) house
  - (d) the height of any new building cannot exceed 6 metres (where any part is within 10 metres of the boundary of the land); otherwise the development may be the height of the highest part of the roof of the original building or 18 metres in height (whichever is greater), where any part of the altered building is within 10 metres of the boundary of the original building.
  - (e) if involving any building which is to be altered: the structure must not exceed the highest part of the roof of the original building, or a height of 6 metres (whichever is greater), where any part of the enlarged, improved or altered building is within 10 metres of any boundary of the curtilage of the original building; or the

height of the highest part of the roof of the original building, or a height of 18 metres above the ground (whichever is greater); or

(f) any moveable structure, works, plant or machinery required temporarily and in connection with and for the duration of the development would be located in a position; so long as it is not within 10 metres of any boundary of the curtilage of a dwellinghouse, or within 5 metres of any boundary of the land.

3.6 There are also conditions requiring that development permitted under this new class must cease on or before 31st December 2020 and all parts of the development removed. This date may subsequently need to be extended by further Regulations but if it is not and the structure/building/extension/use is required to be retained, than submission of a full planning application for retrospective planning permission would be required to be submitted.

3.7 Definitions are provided to help LPA deal with enquiries - such as:

- “emergency” means ‘an event or situation which threatens serious damage to human welfare in a place in the United Kingdom’. This is sufficiently general to allow a wide range of activities to qualify.
- A “health service body” can mean any such function in the broadest sense and 14 are listed, so this is much wider than the Health Trusts which run NHS hospitals.
- an ‘event or situation [which] threatens serious damage to human welfare’ would be if it involves, causes or may cause the loss of human life; human illness or injury; homelessness; damage to property; disruption of a supply of money, food, water, energy, or fuel; disruption of a system of communication; or disruption of facilities for transport; or disruption of services relating to health.

3.8 As can be seen from this list, these are circumstances when this relaxation might apply are wide-ranging and it would be prudent for any body seeking to carry out works under this PD to get in touch with the LPA at the earliest opportunity, for officers to confirm whether or not the proposed emergency undertaking would be likely to be PD under New Class 12A or whether a formal determination would be advisable (see discussion on determinations below).

4. Flexible Construction hours

4.1 On 13 May the Housing secretary Robert Jenrick announced changes to the planning system to allowing developers to agree more flexible construction site working hours. The argument given that by extending the working day to within daylight hours construction workers could follow public health guidance onsite and stagger builders’ arrival times, it would make public transport less busy and so reducing the risk of infection. The statement had the expectation that local planning authorities would grant temporary changes to construction working hours until 9pm or later, six days a week, wherever possible and where construction working hours are controlled by planning condition.

**5. OFFICER COMMENTARY ON THE CHANGES**

5.1 The temporary relaxation of pd rights as described above for take-away use came in very quickly after the lockdown began and at a time when small businesses like pubs and restaurants were told to close at short notice. Officers were contacted by concerned neighbours at Christchurch Road about such activities in that parade but this was some time ago and no complaints received since then. Clearly a balance has to be struck between livelihoods and residential amenity but it would appear

that if owners are taking advantage of the change it has not led to significant nuisance being caused.

- 5.2 There have been a few enquiries linked to the new Class 12A - mainly from other Council officers seeking guidance on changes at Reading Crematorium, the use of hotels for caring for people being discharged from hospital and accommodating homeless people. Royal Berkshire Hospital Trust also sought advice on the temporary setting up of nurse's quarters. The early change to PD rights was welcomed as it underlined the pragmatic approach that officers were applying to these requests to deal with this very unusual situation.
- 5.3 It may well come to pass that the timeframes will change if the situation continues and applicants can seek a formal determination from the LPA as to whether a development is indeed PD, by submitting an application for a Certificate of Lawful Proposed Use or Development (a 'CLOPUD' application). To date no such applications have been received so it is not possible to confirm how many pubs, restaurants or emergency facilities have made use of these changes.
- 5.3 Any other emergency installations (for instance, emergency provisions on land which is not in the control of the local authority or health service body) would require the submission of a planning application and in such situations, officers would give priority to determining such an application.
- 5.4 A couple of requests to relax construction hours where conditions have specified times had already been sent in to the LPA before the Ministerial Statement. Our standard construction hours condition already includes a provision for some flexibility, for example to deal with an unusual large bit of plant being delivered on a Sunday to avoid traffic congestion. But these are normally for a short timeframe or a specified activity.
- 5.5 In the responses provided so far officers have ensured that Environmental Protection officers are aware and had suggested to developers that we might support a different set of times for internal and external works: Such as allowing outside work up to 7pm and internal works up to 8pm. In these few cases we have also advised the developer to carry out a mail drop to all nearby local residents and to notify local Ward Councillors at least 5 working days in advance of the first works under the changed times taking place.
- 5.6 However, following the Ministerial Statement, officers in Environmental Services and Planning are working on a joint procedure to manage and record these requests to ensure ward councillors are notified and any neighbours as appropriate are informed with a proportionate fee charged for processing the request.

## **6. CONTRIBUTION TO STRATEGIC AIMS**

- 6.1 The Planning Service contributes to the Council's strategic aims in terms of:
- Seeking to meet the 2019 Corporate Plan objectives for "Keeping the town clean, safe, green and active."
  - Seeking to meet the 2019 Corporate Plan objectives for "Providing homes for those in most need."
  - Seeking to meet the 2019 Corporate Plan objectives for "Providing infrastructure to support the economy."

## **7. COMMUNITY ENGAGEMENT AND INFORMATION**

7.1 There is no requirement or facility for community engagement or public consultation for works which are carried out as PD. Requests for later working hours on construction sites however may require public engagement.

## **8. EQUALITY IMPACT ASSESSMENT**

8.1 Where appropriate the Council must have regard to its duties under the Equality Act 2010, Section 149, to have due regard to the need to—

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.2 There are no direct implications arising from this report.

## **9. LEGAL IMPLICATIONS**

9.1 There are none arising from the report. In cases of doubt regarding PD determinations, the Council's Planning Solicitor may be involved, but this is part of normal Planning Service functions.

## **10. FINANCIAL IMPLICATIONS**

10.1 There are no direct financial implications resulting from this report. It is unlikely that the fees charged for processing requests to extend working hours will amount to a significant fee income.

Back ground

<http://www.legislation.gov.uk/uksi/2020/412/contents/made>