

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ECONOMIC GROWTH & NEIGHBOURHOOD SERVICES

TO:	PLANNING APPLICATIONS COMMITTEE		
DATE:	12 AUGUST 2020		
TITLE:	CHANGES TO THE GPDO AND GDMO (SI 2020 755, 756 & 757)		
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1. PURPOSE AND SUMMARY OF REPORT

- 1.1 To advise Committee of further important changes to the General Permitted Development Order (the GPDO) and the Use Classes Order (the UCO) as announced recently by Government:

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 (SI 2020 No. 755);
The Town and Country Planning (General Permitted Development) (England) (Amendment) (No3) Order 2020 (SI 2020 No.756), and
The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020 No.757);

- 1.2 Committee is also asked to support officers investigating the implications of these changes on our ability to apply our recently adopted local plan policies.

2. RECOMMENDED ACTION

- 2.1 That you note the report;
- 2.2 That you support officers investigating how the local planning authority should respond to the changes described.

2. BACKGROUND

- 2.1 The current General Permitted Development Order 2015 (as amended) grants planning permission to many different types of development or uses of land set out in Schedules broken up in to different parts to categorise the types of development, such as for changes to dwellings (Part 1) or changes of use (Part 3) or development by local authorities (Part 12) an so on.

- 2.2 The Use Classes Order puts uses of land and buildings into categories or “Use Classes” and generally, within those classes, new development or changes of use can occur without needing planning permission subject to conditions being satisfied. In some cases, prior approval is needed to confirm that the new building works or change can take place. The current Use Classes Order is the Town and Country Planning (Use Classes) Order 1997 (as amended). Appendix A provides a summary of the current Use Classes.

2.3 Changes to the Use Classes Order and the General Permitted Development Order used to happen very rarely but already this year, partly due to responding to economic pressure associated with the Covid-19 outbreak and ongoing situation, we are seeing more changes and those changes are more radical. There follows a review of the latest changes.

3. NEW PERMITTED DEVELOPMENT - UPWARD EXTENSIONS

3.1 Members will recall it being reported that new permitted development rights are being introduced to allow upward extensions to qualifying buildings in order to create new homes and living spaces. Those regulations, introduced on 24 June 2020, allow purpose-built freestanding blocks of flats of three storeys or more to extend upwards by up to two additional storeys to create new homes, up to a height of 30m. This right came into force on 1 August 2020.

3.2 A second phase of new permitted development rights has been announced to build upwards on existing dwellings in the release of The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 (SI 2020 No.755). They permit such extensions on buildings in a terrace (of two or more buildings) in certain commercial uses. They also allow up to two additional storeys on existing houses, detached or in a terrace, to create new self-contained homes or additional living space up to a height of 18 metres. Bungalows will be able to add one additional storey. There are conditions to these allowances and a number of prior approval submissions are required, for instance external appearance of the proposed development and its impact on the amenity of neighbours to be assessed. These regulations come into force on 31 August 2020.

3.3 Schedule 2 Part 1 is to be amended with a new Class AA to allow dwelling houses to be extended upwards to provide more accommodation. This will be different to changes to the roof shape or adding dormer extensions (Class B) as will involve the eaves of the main house being extended upward. The new permitted development rights will allow the construction of up to two additional storeys to dwelling houses consisting of at least two storeys, and one additional storey to bungalows. The new storeys must be 'immediately above' the topmost storey.

3.4 There is a long list for definitions and criteria confirming that the permitted development right does not apply if - such as:

- The existing dwelling gained permission via a prior approval change of use;
- The dwelling lies in Article 2(3) land (includes Conservation Areas, AONB, the Broads; National Parks; and World Heritage Sites);
- the dwelling was constructed before 1st July 1948 or after 28th October 2018;
- the dwellinghouse has already been enlarged by the addition of one or more storeys above the original dwellinghouse;

3.5 There are other limits on height depending on whether detached or in a terrace, which will require guidance and interpretation. *Interestingly being a listed building is not included in the criteria for when this right will not apply to a householder. It might be an unintended omission as it is in the criteria for other upward extensions but in either case the usual requirement for Listed Building Consent remains.*

3.6 It is welcomed that the right does not apply if the development would rely on visible support structures on or attached to the exterior of the dwellinghouse or would include any engineering operations other than works within the curtilage of the dwellinghouse to strengthen its existing walls or existing foundations. It is also welcomed that Class B (alterations to a roof) is to be amended to make clear that

the right to make changes to the roof will not extend to a dwellinghouse that has been enlarged using the new Class AA.

3.7 Prior Approval is required to confirm that the extension can proceed and will allow neighbours to comment on the proposal and a construction methods statement required.

3.8 Schedule 2 Part 20, only introduced last month, is to be amended to add four new classes and these are:

- Class AA - permits construction of up to two new storeys of flats on top of detached buildings in commercial or mixed-use
- Class AB - permits the construction of new flats on top of terraced or semi-detached buildings in commercial or mixed-use
- Class AC - permits the construction of new flats on top of terraced dwellinghouses
- Class AD - permits the construction of new flats on top of detached dwellinghouses.

3.9 As with the earlier phase of permitted development rights affecting blocks of flats, approval is not automatic and such works require the “prior approval” of the LPA in relation to overlooking and light levels to adjoining premise, external appearance, and air traffic and defence asset impacts and certain protected views. A construction management plan is also required allowing the LPA to consider the hours of operation and how adverse impacts of noise, dust, vibration and traffic will be mitigated. Neighbour notifications and consultation of certain third parties are required, giving the opportunity for representations to be made which must be taken into account. The development cannot begin until prior approval is received (which may be conditional) and with these provisions, there is no deemed approval provision and prior approval can be refused if the LPA thinks that the proposal does not comply with the Regulations or insufficient information has been provided.

3.10 There are restrictions that apply, including:

- The existing building must have been constructed after 1st July 1948 and before 5th March 2018;
- The rights do not apply to buildings already converted to residential under permitted development rights;
- The additional dwellinghouses created must be flats;
- The additional storeys must be constructed on the principal part of the building.
- There is a maximum roof height of 18 metres
- The rights do not apply to listed buildings or scheduled monuments or buildings in conservation areas (article 2(3) land.

4. NEW PD RIGHT - demolition of buildings to construct new dwellinghouses

4.1 Another PD right introduced by the Government allows for vacant commercial and residential buildings to be demolished to redevelop the site for new housing. This change will come into effect on 31st August 2020. Planning permission will not be needed to demolish and rebuild vacant and redundant commercial or residential buildings if they are re-built as homes. The limitations are that the building must:

- have a footprint of no larger than 1,000m² and be no higher than 18m;
- have been either been in office, research and development or light industrial use or a free-standing purpose built residential block of flats;

- have been built before 1990;
 - not be within a conservation area, national park, area of outstanding natural beauty or a site of special scientific interest; and
 - have been vacant for at least 6 months before the date of the application for prior approval.
- 4.2 The right provides consent for works for the construction of a new building that can be up to two storeys higher than the old building with a maximum overall height of 18 metres.
- 4.3 The developer must apply for the Council's prior approval of certain aspects of the proposed development. These include transport and highways impacts, contamination and flooding risks, the design and external appearance, the provision of natural light and impact of noise, business and local amenity. The position and dimensions of windows, doors and walls and the dimensions of each room must also be submitted to the Council. This is a further safeguard to ensure that the dwellings provided are of a high quality.
- 4.4 The demolition and subsequent construction must be completed within three years of the date of the grant of prior approval and a report for the management and construction of the development must also be provided to the Council before beginning the development. This is to include the method of demolition, proposed hours of operation and how any adverse impact of noise, dust, vibration and traffic is to be mitigated.

5. NEW USE CLASSES

- 5.1 The changes that have been announced are intended simplify the existing UCO to make it easier for premises to change use without the need for a planning application. The new UCO will create a new broader category of '**commercial, business and service**' uses to allow commercial, business/light industrial, retail and the majority of leisure uses greater freedom to adapt to changing circumstances and respond to the needs of the local community in which they are based.
- 5.2 A new '**community and learning**' class will cover community facilities and infrastructure. Uses such as pubs, theatres, takeaways and betting shops will be classified as *sui generis* (unique uses) and thus protected from any change of use without the required planning permission.
- 5.3 The changes in effect divide the present Use Class Order (UCO) into Schedule 1 (those original uses still retained) and Schedule 2 (the new use classes created).
- 5.4 Class A (broadly retail uses) and D (non-residential institutions and assembly and leisure) of the original UCO have been deleted. These are to be replaced by new Use Classes in Schedule 2 of the regulations, except for those uses listed below that have now become Sui-Generis uses. Class B1 (business: a, b & c) is also abolished and is to be subsumed within a new Use Class E in Schedule 2. Use Classes B2 and B8 (General Industrial, and Storage and Distribution) however, will remain. Appendix B provides a summary of the new Use Classes.

6. OFFICER COMMENTARY ON THE CHANGES

Phase 2 of upward extensions

- 6.1 The construction of up to two additional storeys to dwelling houses will not apply to large parts of the town centre or any terrace row built pre-1948. There will of course be examples of qualifying buildings within which these rights are applicable. But as with other classes within the GDPO, the prior approval process allows the LPA to consider the impact of various aspects which would originally have formed part of a full planning application. These include the amenity of any adjoining premises and the external appearance of the dwelling house (including the design and architectural features). Officers will continue to consider such matters in accordance with material planning considerations, including the Local Plan, bearing in mind that the PA process accepts the principle of the development.
- 6.2 As with the new right to build on top flats the LPA will not be able to seek S106 contributions towards affordable housing or other infrastructure improvements not covered by CIL, however the new dwellings will be CIL liable.
- 6.3 We have not listed all the restrictions or conditions here that are set out on the regulations but there will be a need for some early guidance and examples of when a property would qualify to make use of the new permitted rights to go upwards. This ambiguity was one of the key objections when the upwards extensions were being consulted on. There is a mantra for approving planning permission which is that each proposal to develop on a site must be considered against the merits of that site. Set against these changes to allow householder extensions and other properties to extend upwards by so much will have a radical impact on neighbouring properties and our streetscapes with only limited intervention, if neighbours object, by officers applying adopted local plan policies.

New right to demolish to redevelop for housing

- 6.4 We have carefully considered the documents and while many restrictions apply it does not appear to be a restriction in the case of vacant employment buildings for the property to lie in an identified employment area. This could potentially undermine our local plan policies that seek to protect our core employment areas. Officers are considering what steps might be needed to protect these areas from these random incursions of residential use, which could lead to other vulnerable employment uses to seek to turn their property to residential use. You are asked to support officers undertaking further analysis of options available.

Use class reform

- 6.5 The most significant effect of this reform to the Use Classes is the larger range of uses encompassed in the use classes, meaning that changes of use within the classes will not amount to development which requires a planning application submission. In theory, this should reduce the need for businesses to have to apply for planning permission, reducing investment uncertainty and hopefully maintaining a wide and flexible range of uses in places such as retail streets. However, there may be confusion as to where some uses sit within these broad classes and also where there may previously have been controls to protect neighbour amenity - and in some cases, contained within an extant planning permission - it needs to be clarified if these will still be controllable via planning conditions.

7. ENVIRONMENTAL AND CLIMATE IMPLICATIONS

- 7.1 The Council declared a Climate Emergency at its meeting on 26 February 2019 (Minute 48 refers).

7.2 The reform of the use classes order will allow flexibility of land use. This will not affect the physical construction of buildings or their environmental performance although where a planning application may have sought to control intensification of use or energy aspects of a development, this will no longer be possible. Similarly, in terms of the additional upward extensions, it remains to be seen if the intensification of use achieves environmental protection and improvement objectives, particularly as planning policies, for instance those requiring energy standards, cannot be applied. However, it is noted that these relaxations seek to maximise development potential in urban areas which are inherently accessible, thereby potentially diverting development pressure from less accessible, greenfield sites.

8. CONTRIBUTION TO STRATEGIC AIMS

8.1 The reforms to the UCO will contribute to the following strategic aims:

- Provide support and flexibility to existing businesses on the high street, within the town centre and within economic areas of the town;
- Reduce the level of vacancy within such areas;
- It will also complement the Council's approach to the recovery from the Covid Pandemic (as reported to Policy Committee 22 June 2020).

8.2 Additional upward extensions to buildings through the prior approval process described above will not be subject to the Council's adopted policies and Supplementary Planning Documents. Whilst likely to result is the submission of some prior approvals on qualifying buildings, the pre-1948 nature of much of Reading's existing housing stock means that the contribution such development would make to meeting the borough's housing need is unknown at this stage. It is therefore not possible to confirm the extent to which these changes will contribute to the strategic aims of the Council.

9. COMMUNITY ENGAGEMENT AND INFORMATION

9.1 There is no requirement or facility for community engagement or public consultation for any change of use. The Statutory consultation takes place in connection with applications for prior-approval as specified in the Order and as discussed above.

10. EQUALITY IMPACT ASSESSMENT

10.1 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.

10.2 There are no direct implications arising from the topics in this report.

11. LEGAL IMPLICATIONS

- 11.1 No direct legal implications. However, there may be other restrictions on the use of land (such as charters or covenants) so interested parties will need to seek their own legal advice before exercising any change of use or implementing changes which affect the roof of a building. For prior approval applications legal advice is sometimes needed to verify that a property meets the criteria for benefitting from the approval being applied for.
- 11.2 More guidance is needed on the implications for extant planning permissions where changes of use have been restricted.
- 12. FINANCIAL IMPLICATIONS**
- 12.1 It is not known at this stage what the financial implications will be for the Council arising from the reform to the UCO, but a reduction in planning fees through fewer change of use applications is likely.
- 12.2 Prior approval applications for new development were introduced in May 2013 in place of applications for full planning permission. Since then, officers have been providing an estimate of the loss of fee income and affordable housing contributions assuming that full planning applications might have been submitted if the prior approval regime did not exist, through your regular Part 1 reports.
- 12.3 We have now been advised in a letter from the interim Chief Planner that they are amending the fees regulations to provide for a prior approval fee for homes constructed under the rights to build upwards to create new homes, and to the right for demolition and rebuild. The prior approval fee is set at £334 per new dwelling up to 50 units, and a fixed fee of £16,525 plus £100 for each dwelling in excess of 50. However, these amendments are subject to Parliamentary approval.

Background papers:

- SI 2020 No. 757 - The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 <https://www.legislation.gov.uk/uksi/2020/757/made>
- SI 2020 No. 755 - The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 <https://www.legislation.gov.uk/uksi/2020/755/made>
- Business & Planning Bill - <https://services.parliament.uk/Bills/2019-21/businessandplanning.html>

USE CLASSES ORDER 2015 (As Amended) and Permitted Changes of Use

From	To
A1 (shops)	<p>A2</p> <p>A3 up to 150m² and subject to Prior Approval</p> <p>B1 up to 500m² and subject to Prior Approval</p> <p>C3 up to 150m² and subject to Prior Approval</p> <p>D2 up to 200m² and subject to Prior Approval and only if the premises was in A1 use on 5th December 2013</p> <p>A mixed use comprising an A1 or A2 use and up to two flats may also be permitted subject to meeting certain conditions</p>
A2 (professional and financial services) when premises have a display window at ground level, but excluding betting offices or pay day loan shops	<p>A1</p> <p>A3 up to 150m² and subject to Prior Approval</p> <p>B1 up to 500m² and subject to Prior Approval</p> <p>C3 up to 150m² and subject to Prior Approval</p> <p>D2 subject to Prior Approval and only if the premises was in A2 use on 5th December 2013</p> <p>A mixed use comprising an A1 or A2 use and up to two flats may also be permitted subject to meeting certain conditions</p>
A3 (restaurants and cafes)	A1 or A2
A4 (drinking establishments)	A4 drinking establishment with A3 (restaurants and cafes)
A4 (drinking establishment) with A3 (restaurants and cafes)	A4 (drinking establishments)
A5 (hot food takeaways)	<p>A1 or A2 or A3</p> <p>B1 up to 500m² and subject to Prior Approval</p> <p>C3</p>
B1 (business)	B8 up to 500m ²
B2 (general industrial)	<p>B1</p> <p>B8 up to 500m²</p>
B8 (storage and distribution)	<p>B1 up to 500m²</p> <p>C3 (subject to prior approval)</p>
C3 (dwellinghouses)	C4 (small houses in multiple occupation)
C4 (small houses in multiple occupation)	C3 (dwellinghouses)
Sui Generis (casinos)	D2

	<p>A3 only if existing building is under 150m² and subject to Prior Approval</p> <p>C3 up to 150m² and subject to Prior Approval.</p>
<p>Sui Generis (betting offices and pay day loan shops)</p>	<p>A1</p> <p>A2</p> <p>A3 up to 150m² and subject to Prior Approval</p> <p>B1 up to 500m² and subject to Prior Approval</p> <p>C3 up to 150m² and subject to Prior Approval</p> <p>A mixed use comprising a betting office or a pay day loan shop, or an A1 or A2 use and up to two flats may also be permitted subject to meeting certain conditions.</p> <p>D2</p>

USE CLASSES ORDER As of September 2020 and Permitted Changes of Use**SCHEDULE 1 - Continues to contain the following Use Classes**

CLASS B: Class B2. General industrial and Class B8. Storage or distribution

CLASS C [residential-related]. This part is not affected by the amendment regulations, and so does not require any summary. Use Classes C1, C2, C2A, C3 and C4 therefore remain unchanged.

SCHEDULE 2	
From	To use or part use as any of the following
<p>CLASS E - COMMERCIAL, BUSINESS AND SERVICE</p> <p>(a) <u>for the display or retail sale of goods</u>, other than hot food, principally to visiting members of the public [formerly A1], (b) <u>for the sale of food and drink</u> [formerly A3], (c) <u>financial and professional services</u>: [formerly within A2] [formerly within A2] (d) <u>for indoor sport, recreation or fitness</u> [formerly within D2(e)]. (e) <u>for the provision of medical or health services</u> [formerly D1(a)], (f) <u>for a crèche, day nursery or day centre</u> [formerly D1(b)], (g) <u>an office</u> [formerly B1(a)], <u>R&D</u> [formerly B1 (b)], or <u>any [light] industrial process</u> [formerly B1(c)],</p>	<p>(a) <u>for the display or retail sale of goods</u>, other than hot food, principally to visiting members of the public [formerly A1], (b) <u>for the sale of food and drink</u> [formerly A3], (c) <u>financial and professional services</u>: [formerly within A2] (d) <u>for indoor sport, recreation or fitness</u> [formerly within D2(e)]. (e) <u>for the provision of medical or health services</u> [formerly D1(a)], (f) <u>for a crèche, day nursery or day centre</u> [formerly D1(b)], (g) <u>an office</u> [formerly B1(a)], <u>R&D</u> [formerly B1 (b)], or <u>any [light] industrial process</u> [formerly B1(c)],</p>
<p>CLASS F.1 - LEARNING AND NON-RESIDENTIAL INSTITUTIONS</p> <p>Any use not including residential use— (a) for the provision of <u>education</u> [formerly D1(c)], (b) for the <u>display of works of art</u> (otherwise than for sale or hire) [formerly D1(d)], (c) as a <u>museum</u> [formerly D1(e)], (d) as a <u>public library</u> or public reading room [formerly D1(f)], (e) as a <u>public hall or exhibition hall</u> [formerly D1(g)], (f) for, or in connection with, <u>public worship or religious instruction</u> [formerly D1(h)], (g) as a <u>law court</u> [formerly D1(i)].</p>	<p>(a) for the provision of <u>education</u> [formerly D1(c)], (b) for the <u>display of works of art</u> (otherwise than for sale or hire) [formerly D1(d)], (c) as a <u>museum</u> [formerly D1(e)], (d) as a <u>public library</u> or public reading room [formerly D1(f)], (e) as a <u>public hall or exhibition hall</u> [formerly D1(g)], (f) for, or in connection with, <u>public worship or religious instruction</u> [formerly D1(h)], (g) as a <u>law court</u> [formerly D1(i)].</p>
<p>CLASS F.2 - LOCAL COMMUNITY</p>	<p>(a) <u>a shop mostly selling essential goods, including food</u>, to visiting members of the public in circumstances where—</p>

Use as–

(a) a shop mostly selling essential goods, including food, to visiting members of the public in circumstances where–

(i) the shop's premises cover an area not more than 280 metres square, and

(ii) there is no other such facility within 1000 metre radius of the shop's location,

(b) a hall or meeting place for the principal use of the local community,

(c) an area or place for outdoor sport or recreation, not involving motorised vehicles or firearms [formerly within D2(e)],

(d) an indoor or outdoor swimming pool or skating rink [also formerly within D2(e)]

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(c) an area or place for outdoor sport or recreation, not involving motorised vehicles or firearms [formerly within D2(e)],

(d) an indoor or outdoor swimming pool or skating rink [also formerly within D2(e)]

Sui Generis (drinking establishments previously A4)

Sui Generis (hot food takeaways previously A5)