
SURREY PROPERTY EXCHANGE – PLANNING CLINIC

PLANNING SYSTEM - PD CASE STUDIES AND EXAMPLES

BY

JAMES HUTCHISON BA MA MRTPI

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Chartered Town Planner



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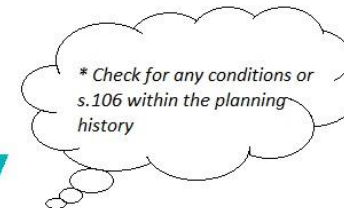
New Permitted Development Legislation :

Class E of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

Use	Use Class up to 31 August 2020	Use Class from 1 September 2020
Shop not more than 280sqm mostly selling essential goods, including food and at least 1km from another similar shop	A1	E.2
Shop	A1	E
Financial and professional services (not medical)	A2	E
Café or restaurant	A3	E
Office other than a use within Class A2	B1a	E
Research and development of products or processes	B1b	E
For any industrial process (which can be carried out in any residential area without causing detriment to the amenity of the area)	B1c	E
Clinics, health centres, creches, day centre day nurseries,	D1	E
Gymnasiums, indoor recreations not involving motorised vehicles or firearms	D2	E



No planning permission required to change between all uses now within Class E



Check for existing and proposed Article 4 directions



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New Permitted Development Legislation :

Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

The following policy is typical of those found within Local Plans. They have historically been used to protect shops, and they require extensive work and marketing to free such properties from their established retail use.

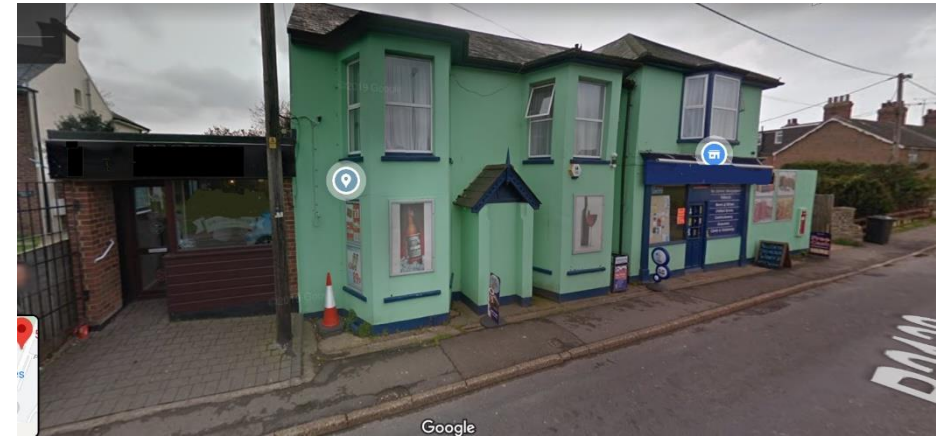
DM15: Shops outside designated centres

Change of use of isolated shops

Where proposals fall outside the remit of permitted development rights, the change of use of isolated shops to residential will be permitted provided that they comply with policies of the Development Plan and:

- (i) it is shown the premises have been unsuccessfully marketed for A1 or A2 purposes for a period of at least 12 months;
- (ii) there is alternative provision of shops that serve the day-to-day needs of the occupiers in the local area;
- (iii) the traffic impacts of the proposal are considered acceptable.

Other uses may be permitted provided there is no adverse effect on the amenity of the area and the proposal complies with other relevant policies of the Development Plan.



The new PD rights now circumvent these policies and allow buildings (such as the one above) to be used for any purpose within Class E.. a gym?.. An office?



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Policy DM15 of the Woking Council DMPD used for example purposes only

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Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

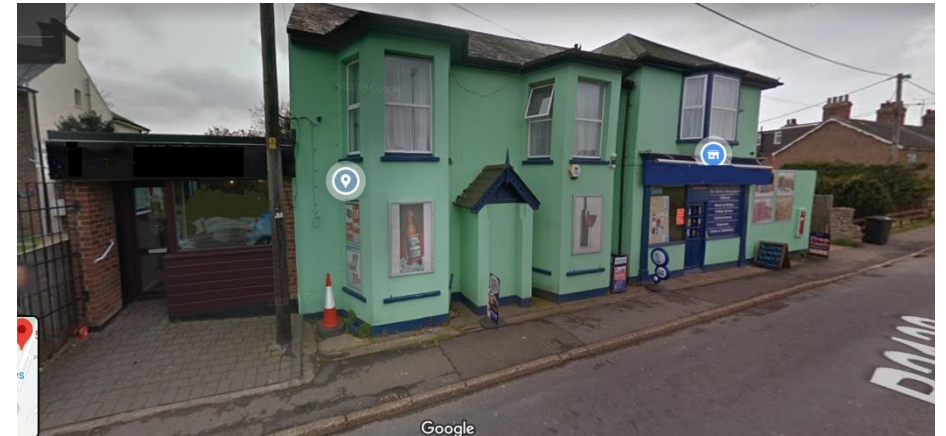
Future Uses?

Once the property has been taken out of its protected retail use, it can inter-change between any of the uses within Class E without needing permission.

Protectionist policies such as DM15 are therefore not relevant to any onward conversion of the building from say, a café or a gym, into a C3 residential use.

Until such time as new Local Plans are adopted to deal with the new inter-changeable Class E use class, there is the opportunity for many formerly protected uses to become freed from their long-held policy protection.

This could be a useful means by which to change the use of A1 retail units, and avoiding the need for compliance with the development plan policies, and any prior approval requirements or aspirations held by the Local Planning Authority.



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New Permitted Development Legislation :

Class AA, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020

Policy 51

LB Bromley

Dwellings in the Green Belt or on Metropolitan Open Land

Extensions or alterations to dwellinghouses in the Green Belt or Metropolitan Open Land (MOL) will only be permitted if:

- a -The net increase in the floor area over that of the original dwellinghouse is no more than 10%, as ascertained by external measurement; and
- b -Their size, siting, materials and design do not harm visual amenities or the open or rural character of the locality; and
- c - The development does not result in a significant detrimental change in the overall form, bulk or character of the original dwellinghouse.

Bromley's Local Plan requires that applications seeking permission for extensions cannot exceed 10% of the original floor area of the dwelling house within Green Belt locations



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New PD rights allow for upward extensions, including one whole new storey above a bungalow, and on the principal part of the dwelling house (a 100% increase on the original floor space!)

This represents a significant increase over what could otherwise be possible under a planning application

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New Permitted Development Legislation :

Classes AA to AD, Part 20, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) No.2) Order 2020

Class AB - new dwelling houses on terrace buildings in commercial or mixed use

An additional two storeys of residential on the principal parts of existing buildings

Can apply to a building in a commercial use or a mixed commercial / residential use

NDSS floor space standards are not applied, therefore allowing for significant increases in density

No affordable housing contribution requirements



In this example in East London, the client estimates that the new PD rights will achieve an additional seven units on each new floor (14 in total)



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New Permitted Development Legislation :

Part 20, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) No.2) Order 2020

- *Similar permitted development rights (to Class AB) under Part 20 brought in for the following:*
 - *Class AA – new dwelling houses on **detached buildings in commercial or mixed use***
 - *Class AC - new dwelling houses on **terrace buildings in use as dwelling houses***
 - *Class AD - new dwelling houses on **detached buildings in use as dwelling houses***

All subject to buildings built between 1948 and 2018, not in a protected area, and subject to a detailed and extensive prior approval process.

Beware of incoming Article 4 Directions!



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New Permitted Development Legislation :

Class ZA, Part 20, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) No.2) Order 2020

- *New permitted development rights under Part 20 brought in to enable:*
 - *The demolition of a purpose built detached block of flats or single building in a B1(a), B1(b) or B1(c) use (and their replacement on the same footprint with a building up to two storeys higher)*



A detached building within a light industrial use or a two storey detached flatted block (such as those shown here), could be demolished and replaced within their existing footprints with a three or four storey building (respectively) comprising of residential flats



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Beware of incoming Article 4 Directions!

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Judicial Review Challenge:

The permitted development rights referred to within this presentation are currently in force and would apply to any project carried out today.

You should be aware that as of week commencing 01 September 2020, the High Court (Holgate, J) accepted a judicial review brought about by Rights: Community: Action Ltd against the Secretary of State in respect of the aforesaid legislation. Hearings are scheduled to take place in the High Court at the beginning of October 2020.

If the action is defeated, then the legislation will remain in force. If the action is upheld then the effect of the decision will be that the legislation would be quashed and the Secretary of State will be forced to either ask for leave to take the matter to the Court of Appeal, or would have to abandon / revise the legislation following the direction of the High Court.

The timing and result of this judgement may have implications for your project.



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ADVICE OF SIGNIFICANT IMPORTANCE IF USING THESE PD RIGHTS

The information contained within this presentation was correct at the time that the information was presented.

Permitted development legislation and government guidance is subject to frequent review and changes, and there may be regular high court judgements that set precedents for new interpretations of the relevant legislation.

These rights have only just come into force (most of them at the beginning of September 2020) and are widely held to be quite controversial, particularly with local planning authorities and interest groups. They will likely be (and already are) the subject of considerable forthcoming litigation in terms of their use and application.

You should always check the criteria applicable to each permitted development right (this presentation is only a brief overview and is not exhaustive). You should also always check the planning constraints for your site, the planning history (including all previous conditional permissions and those subject to legal obligations), and you should always confirm the position in respect of any existing or forthcoming Article 4 Directions.

The new permitted development rights are subject to a detailed Prior Approval process that needs to be completed and approved before any works can take place on the implementation of these rights.



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DISCLAIMER

The information contained within this presentation was correct at the time that the information was presented

Permitted development legislation and government guidance is subject to frequent review and changes, and there may be high court judgements that set precedents for new interpretations of the relevant legislation.

Your rights to carry out building works under permitted development do not affect other requirements of legislation such as those imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990.

No action should be taken on the basis of the aforementioned advice contained within this presentation without seeking prior professional advice in respect of your specific property, and at the appropriate time for when you will be looking to make an application and/or carry out works.



RTPI

Chartered Town Planner



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Contact Details:

Contact: James Hutchison

Telephone: 07517 980 401

E-Mail: james.hutchison@corbil.co.uk

Website: www.corbilplanning.co.uk

Office Address: Office 39, Bizspace, Courtwick Lane, Littlehampton, West Sussex, BN17 7TL

