

CHANGE OF USE TO RESIDENTIAL FROM COMMERCIAL, BUSINESS AND SERVICE USES (NEW GPDO CLASS MA)

Summary

Regulations have been laid in the House of Commons to introduce, on the 01/08/21, a new permitted development right to allow changes of use to take place to Residential use (class C3) from the new class E (commercial business and service). Class E comprises the previous use classes of:

- A1 (shops)
- A2 (financial and professional services)
- A3 (café or restaurant)
- B1 (offices/r&d/light industrial)
- D1 (medical and health services/creches/day nurseries)
- D2 (gyms and indoor recreation [excluding swimming pools and skating rinks])

There are some provisos that limit the scope of the new class, the main ones being that:

- the building had to be in continuous use of the above uses for at least 2 years prior to the date of submission of the prior approval application (PAA)
- the building has been vacant for a continuous period of 3 months prior to the date of submission of the PAA
- the floorspace subject of the PAA doesn't exceed 1,500 square metres (i.e. 16,145 square feet)

Local Planning Authorities scope in consideration whether to grant or refuse a PAA is limited to:

- a) transport impacts (particularly safe access)
- b) contamination risks
- c) flooding risks
- d) noise impacts (upon intended occupiers)
- e) in a conservation area (CA) only, the impact upon character or sustainability of the CA

- f) the provision of adequate natural light to all habitable rooms that will be created
- g) the impact (on intended users) of the introduction of the residential use in an area the LPA considers important for general or heavy industry, waste management, storage and distribution (or a mix of these uses)
- h) the impact of loss of a registered nursery or a health centre maintained under Section 2 or 3 of the National Health Service Act 2006(2)

Development must be completed within 3 years of the prior approval date.

Comment

We appreciate that value differentials between these uses may mean that such changes of use may be attractive to some property owners.

We are concerned that it might not be as easy to effect such changes of uses as first appears. LPA's may seek to resist these changes, particularly in town centres and shopping areas, so care will need to be taken in the preparation, submission and monitoring/negotiation of PAA (please note that for some consideration criteria (a-h) there are some areas of opinion, and there appears scope for LPAs to seek a degree of supporting information to be submitted with the PAA), for example:

- How effective the size limit will be in practice should be monitored. There may be scope to subdivide buildings prior to submission?
- Will noise and light assessments need to be supported by reports? (i.e. will LPA refuse to register PAA without such supporting information?)
- Will a 'safe access assessment' be sought?
- Precisely what is meant by 'sustainability of a CA'? (since CA aren't designated for that reason - it'll be interesting to see how this one fares in practice)
- And the drafting of g) is interesting. We have our opinion of what we consider it means, and how LPA's will interpret it, but we think that LPA's may find it difficult to sustain refusals based on the impact upon '*intended occupiers of the development*'.

So, in conclusion, much like the CIL regulations, expect some further clarifying amendments in due course. We'd also point out that there's currently some significant lobbying of Government going on so we'd suggest that if anyone is thinking of using this new use class then it may be prudent to proceed before further change is effected/considered.

If you'd like any assistance with the preparation and submission of PAA please don't hesitate to get in touch with any of our consultants:

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