

Proposed new PD rights - Commercial, Business and Service use class to residential

Open Consultation Summary

Consultation

As announced in a Press Release published on 03 December 2020, the Government is now consulting on the potential introduction of a new permitted development right (PDR) to allow for the change of use from any use, or mix of uses, from the Commercial, Business and Service use class (Class E) to residential uses (Class C3) in England.

This consultation is open to all and invites all those individuals or parties interested to provide their responses by 28 January 2021.

What are Commercial, Business and Service uses?

The Commercial, Business and Services uses came into force on the 1st September 2020 (*Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020*) to 'amend and simplify' the existing use class system in England by creating a new broad Class E.

This new use which is considered to better reflect the diversity of uses generally found on high streets and within town centres now encompasses A1, A2, A3, B1, B2, D1 and D2 uses. This new use class allows for a mix of uses to reflect changing retail and business models, and provides greater flexibility to move between such uses without the need for full planning permission.

What are the proposed new Permitted Development Rights?

Current PDR's already provide for shops, financial and professional services, and offices to change to residential use, and these will continue to apply until 31 July 2021. The proposed new PDR would allow for the change of use from any use, or mix of uses, within the Commercial, Business and Service use class (Class E) to residential use (Class C3) in England.

Key points:

- The new rights would 'go significantly beyond' existing rights, allowing for restaurants, indoor sports, and creches etc to benefit from the change use to residential under permitted development rights for the first time.
- Protections in respect of pubs, theatres, and live music venues (which fall outside of Class E) continue to apply.
- In order to benefit from the right premises must have been in the Commercial, Business and Service use class on 01 September 2020 when the new use classes came into effect.
- The proposed rights do not require the unit to be vacant.
- There would be no size limit on the building that would be able to benefit from this new PDR.
- Like with other similar existing PDR's, this new right would not apply to properties located within: SSSI's, listed buildings and land within their curtilage; sites that are or contain scheduled monuments; safety hazard areas; military explosive storage areas and sites subject to an agricultural tenancy.
- The new right would not apply in sensitive article 2 (3) land such as national parks and areas of outstanding natural beauty, but it would apply in conservation areas.

Similar to other PDR's seeking the change of use to residential, prior approval matters include flooding, transport, contamination, noise, natural light. Fire safety is also added to this list along with location (specifically relating to the introduction of residential uses in areas authorities consider important for heavy industry and waste management). In conservation areas only, the right would require prior approval of the impact of the loss of ground floor use to residential. As of the 6 April 2021, all new dwellings delivered through PDR's in England will be required to meet the Nationally Described Space Standards (2015).

The introduction of the new Class E use has already had major implications for our high street. These proposed PD rights are equally as radical and it will be interesting to see the outcome of the consultation.