



1. **PURPOSE OF REPORT**

To inform members of the amendments to the Town and Country Planning (General Permitted Development) Order 1995 brought about by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013.

2. **RECOMMENDATION**

To note the amendments in the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 (hereafter "the 2013 Order").

3. **BACKGROUND TO THE REPORT**

General

The 2013 Order amends the Town and Country Planning (General Permitted Development) Order 1995 ("the 1995 Order") in England only.

The 2013 Order came into effect on 30 May 2013.

Home extensions

Article 4 of the 2013 Order allows larger home extensions to be built until 30th May 2016.

Extensions up to 8 metres beyond the rear wall of the original house if detached and 6 metres for all other types of home and a limit of 4 metres in height.

This temporary permitted development right is subject to a new procedure:

- Before beginning the development the person relying on the right must notify the local planning authority with various details regarding the development and themselves
- The authority will then notify neighbouring properties (and a copy to the developer)
- If neighbours object to the proposed development the authority must consider whether the extension should be approved.
- The development may not be started until the authority has notified the person of their decision (or that the approval of the authority is not required if no objections received) **or until the expiry of 42 days without such a notification being issued.**
- Developer must serve a completion notice on the authority.

Minor operations

Article 5 of the 2013 Order allows schools to build a higher boundary fence or wall adjacent to a highway (2 metres), provided it does not create an obstruction which is likely to be a danger for highway users. "School" is defined as a state-funded school.

Amendments in relation to change of use

Article 6(2) of the 2013 Order creates a new permitted development right to change the use of offices within Use Class B1(a) to Class C3 (residential) with no restriction on the amount of floor space.

This new permitted development right is **temporary and will expire on 30th May 2016** but this does not mean that changes of use under this permitted development right will have to revert to the previous use, only that no further changes of use will qualify after that date. This new right does not apply on military sites, safety hazard areas and listed buildings.

This new permitted development right is subject to the developer applying to the Local Planning Authority for a determination whether the prior approval of the authority will be required as to Highways, contamination and flooding impacts of the development.

The procedure for the developer application is as follows:

- Developer must apply for determination with a description of the development, plan, developer's contact details **together with a fee**
- If:
 1. **in the opinion of the LPA** the development is likely to result in a material increase or change in traffic to consult County Highways and the Secretary of State for Transport with 21 days notice to respond
 2. the application relates to an area within Flood Zone 2/3 or is in Flood Zone 1 and the Environment Agency has notified the local planning authority of critical drainage problems in that area then the local planning authority must consult the Environment Agency, with 21 days notice to respond
- LPA to place a sign at the site for at least 21 days with the relevant information about the development
- Acquire any further reasonably required information from the developer.
- The LPA must determine the application with reference to any representations from consultees, NPPF (as if it were a planning application) and contamination risks.

The development shall not commence until one of the following:

1. Written notice from LPA that prior approval is not required
2. Written notice from LPA giving their approval (please note that conditions can not be imposed with such approval)
3. **The expiry of 56 days** from the date on which the application was received by the LPA without receiving a notice as outlined in 1 or 2 above.

Schools

Article 6(2) also creates a new permitted development right enabling various types of building to change use to a state-funded school, subject to the approval of the local planning authority regarding transport and highways, noise impacts and contamination. The 2013 Order also provides for a reversion back to the original use.

Article 7 inserts a new temporary permitted development right allowing any building to change use to a state-funded school for a single period of one academic year, provided the building has been approved for school use by the relevant Minister, the Secretary of State responsible for schools.

Agricultural Buildings

Article 6(2) also allows existing agricultural buildings to change use to a flexible use falling within use class A1 (shops), A2 (professional services), A3 (restaurants and cafes), B1 (general offices), B8 (storage), C1 (hotels) or D2 (assembly and leisure) in the Schedule to the Use Classes Order.

To qualify the building must have been solely in agricultural use since at least 3 July 2012, or if the use began later than that 3 July 2012, then to qualify the building must have been in agricultural use for a period of at least 10 years.

No more than 500 square metres of floor space in the building can be converted to a new use under the new right.

Before beginning the development the person relying on the right must notify the local planning authority.

If the change of use relates to more than 150 square metres of floor space the new permitted development right is subject to prior approval of the local planning authority in relation to transport and highways, noise impacts, contamination and flooding (please refer to the procedure under the heading "Amendments relating to change of use" above).

Temporary change of use

Article 7 also creates a new permitted development right allowing any building within use classes A1 (shops), A2 (professional services), A3 (restaurants and cafes), A4 (drinking establishments), A5 (hot foods), B1 (general offices), D1 (non-residential institutions) and D2 (assembly and leisure) in the Schedule to the Use Classes Order to change to a flexible use falling within either use class A1, A2, A3 or B1.

The new use may only be for a single continuous period of up to 2 years. The change of use may only relate to a floor space of no more than 150 square metres.

Amendments to existing permitted development rights

The 2013 Order makes the following amendments:

- Article 6(1) allows an increase in the size of floor space in business premises which may change use from use classes B1 (general offices) or B2 (general industrial) to use class B8 (storage and distribution), or from use classes B2 (general offices) or B8 (storage and distribution) to use class B1, from 235 square metres to 500 square metres. This change is not temporary.
- Article 8 permits an increase of the permitted development right to erect, extend or alter industrial and warehouse premises from 25% of gross floor space or 100 square metres (whichever is the lesser) to 50% or 200 square metres. The new permitted development right is temporary and will expire on 30th May 2016.
- Article 11 permits an increase to the permitted development right to extend or alter an office building from 25% of gross floor space or 50 square metres (whichever is the lesser) to 50% or 100 square metres (whichever is the lesser). The new permitted development right is temporary and will expire on 30th May 2016.
- Article 12 amends Part 42 of Schedule 2 to the 1995 Order to increase the permitted development right to extend or alter a shop, catering, professional or financial services establishment from 25% of gross floor space or 50 square metres (whichever is the lesser) to 50% or 100 square metres (whichever is the lesser). The new permitted development right is temporary and will expire on 30th May 2016. The

exclusion of development within 2 metres of the boundary of the curtilage is removed during the same period except in relation to premises which adjoin land or buildings in residential use.

Fees

With regard to fees that can be charged in relation to the above applications relating to the new rights, the **draft** legislation (The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013) quoted below, appears to place a cap of £80.00 on fees chargeable. Please note that this is still draft legislation.

This fee would be unlikely to cover the costs incurred by Hinckley & Bosworth Borough Council in fulfilling the obligations placed on LPAs by the 2013 Order.

“Amendment in relation to fees for certain applications under the General Permitted Development Order

6.—(1) Regulation 14 of the 2012 Regulations is amended as follows.

(2) In paragraph (1), before sub-paragraph (a) insert—

“(za) for an application under any Part of that Schedule relating to development which involves the making of any material change in the use of any buildings or other land, **£80;**”

(3) After paragraph (1), insert—

“(1A) This regulation shall not apply to impose a fee in relation to an application of a type described in paragraph (1)(za) (“the approval application”) where—

(a) a fee is payable under these Regulations for an application for planning permission made in respect of proposals for development of a site which includes buildings or other land which are the subject of the approval application, and

(b) that application for planning permission is made on the same date and by or on behalf of the same applicant as the approval application.”

Potential Impacts

The amendments under Article 6(2) allowing the change of use of offices within Use Class B1(a) to Class C3 (residential) will enable the creation of new residential dwellings without the need to meet infrastructure costs such as financial contributions towards play and open space. This will not only result in more pressure on such infrastructure but will also result in a reduced income to provide and maintain such infrastructure. Furthermore this amendment could result in the loss of the employment provision within the Borough.

Article 6(2) also allows existing agricultural buildings to change use to a flexible use falling within use class A1 (shops), A2 (professional services), A3 (restaurants and cafes), B1 (general offices), B8 (storage), C1 (hotels) or D2 (assembly and leisure) in the Schedule to the Use Classes Order. Whilst this only relates to buildings up to 500 square metres it could result in inappropriate uses being located in unsustainable locations and impacting upon urban and rural centres where such uses should be located.

Article 7 creates a new permitted development right allowing any building within use classes A1 (shops), A2 (professional services), A3 (restaurants and cafes), A4 (drinking establishments), A5 (hot foods), B1 (general offices), D1 (non-residential institutions) and D2 (assembly and leisure) in the Schedule to the Use Classes Order to change to a flexible use falling within either use class A1, A2, A3 or B1. Whilst this is only for a temporary period and relates only to buildings up to 150 square metres local policy in the form of the Town Centre Area Action Plan seeks to protect the vitality and retail integrity of the town through restricting uses in the primary shopping frontage to primarily A1. This new permitted development right could therefore allow A1 uses in the primary shopping frontage to change to A2, A3 or B1 which could impact adversely on the vitality and retail integrity of the town centre.

Currently if a developer or home owner is seeking the Local Planning Authorities opinion as to whether a development required planning permission a Certificate of Lawful Proposed Use is submitted with a fee of £86, this process does not require any consultation with neighbours. The proposed application process incurs either no fee or a fee of £80 depending upon the type of development and requires consultation. As such the new process not only results in a reduction of fee but also results in an increase on workload impacting upon resources.

The introduction of the amendments and new provisions is highly likely to result in an increased number of enforcement complaints. Where a complaint is received the enforcement officer will have to carry out a site visit in order to ascertain whether the works are permitted development or not resulting in pressure on the Local Planning Authority's Enforcement resource. Furthermore there will be an impact from the requirement for the Local Planning Authority to monitor the receipt of completion notices and a further impact upon enforcement should the required notices not be received.

4. FINANCIAL IMPLICATIONS [DMe]

The proposed draft amendments will allow the Council to charge a capped fee of £80.00 which would come into effect from October this year. This may result in a minimal amount of additional income to the Council. As stated in the report if the fee is capped at £80.00 it is unlikely to cover the costs incurred by the Council.

Furthermore, the amendments to permitted development applications to residential extensions would mean further loss of income as these will be on a no fee basis and previously these applications were chargeable to the householder.

The overall impact to the council for the amendments to the Town and Country Planning will be loss of fee income

5. LEGAL IMPLICATIONS [EC]

Contained within the body of the report.

6. CORPORATE PLAN IMPLICATIONS

None

7. CONSULTATION

Not applicable

8. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Loss of income from: <ul style="list-style-type: none"> • S106 contributions • reduction in application fee for Certificate applications. • Reduction in householder and small business applications 	Monitor impact on planning fee income and look at alternative funding where appropriate and level of resourcing given that the rules are proposed to be temporary	Tracy Miller
Pressure on enforcement section through additional complaints and monitoring throughout the time periods and particularly when time periods end	Monitor enforcement workloads and impact and address with additional resource if required	Tracy Miller
Loss of employment land	Monitor conversions and loss of employment premises and address through LDF reviews	Sally Smith
Loss of A1 retail units in the Town Centre	Monitor conversions and loss of A1 retail units and address through LDF reviews	Sally Smith

9. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

The report is for noting only and does not effect any group differently to any other.

The legislative change to allow changes of use within agricultural buildings will have a greater effect in the rural areas of the borough.

10. **CORPORATE IMPLICATIONS**

By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

Background papers: Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013

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