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PERMITTED DEVELOPMENT RIGHTS & ARTICLE 4 DIRECTIONS

Class E to Residential Permitted Development Rights come into force

1. Prior approval applications for change of use from Class E (business, service and commercial) use to residential under the new 'Class MA' Permitted Development Right ('PDR') can be submitted as of 1 August 2021.
2. The previous 'Class O' office-to-residential PDR has now expired. Applications for prior approval under Class O can no longer be submitted. The Article 4 Directions which removed the office to residential PDR which previously existed for certain locations (including Central London) have been extended (in relation to office-to-residential change of use only) and remain in place until 31 July 2022.
3. Change of use of other, non-office, Class E space to residential is now permitted.
4. Use of the new right is subject to prior approval on a range of factors including unit size and availability of natural light.
5. The right is only applicable for up to 1,500 sq m of floorspace and does not apply to listed buildings. Within conservation areas, when the change of use of ground floor units is proposed, LPAs will additionally be able to consider the effect of that change on the vitality of the conservation area.

Article 4 Directions

6. Central London boroughs including Camden, City of London, Hammersmith and Fulham, Kensington and Chelsea, Lambeth, Southwark, Tower Hamlets and Westminster have now made non-immediate Article 4 Directions to remove Class MA permitted development rights from July 2022 in parts of their areas.
7. The City of London's relates to all of the City, Westminster's to the Central Activities Zone.
8. These directions, if confirmed, would continue to protect office space after July next year by requiring the submission of a planning application for office to residential changes of use. They would also widen the protection of office space to other, non-office, Class E uses, again requiring a planning application to be submitted for their change of use.
9. These directions will not have effect until July next year.

NPPF changes

10. These new Article 4 directions are subject to approval by the Secretary of State.
11. In July 2021, the Government made changes to the National Planning Policy Framework ('NPPF'), to limit the circumstances in which LPAs can introduce Article 4 directions to remove PDRs at a local level, primarily by ensuring Article 4 exemptions apply to the minimum geographic area required to allow them to be effective, and to prevent **"wholly unacceptable adverse impacts."**
12. This could lead the Secretary of State to challenge these new directions. The extent of the Secretary of State's willingness to intervene on these matters is not clear.
13. The Planning Practice Guidance has also been amended to reflect this, as well as to introduce a requirement for a Fire Statement for permitted development applications where the 18m "Planning Gateway 1" height threshold would be exceeded.
16. There is also an extensive range of exemptions (which removes their application to much of central London). The new homes must be flats [not houses], the new rights only apply to buildings constructed between 1948 and 2018 and do not apply to listed buildings or in conservation areas.

Further information

For more information and guidance on these changes to PDR, and how they might impact your development proposals, please contact one of our team.

Refresher: Other Permitted Development Rights now in force

14. Other PDR for the following developments were brought into force almost a year ago in August 2020:
 - a. The upward extension of up to two storeys for existing blocks of flats;
 - b. The upward extension of up to two storeys on existing dwelling houses;
 - c. The upward extension of up to two storeys of flats on top of detached buildings in commercial or mixed use, including where there is an element of residential use;
 - d. The construction of new flats on top of terraced buildings, terraced houses, semi-detached and detached houses; and
 - e. The demolition of existing blocks of flats or office building, and reconstruction as residential
15. Prior approval is, again, required from the local authority in relation to development using these new rights.

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