

Living at the office?

Spring 2016

As long working hours and low productivity continue to haunt the economy, many workers could be forgiven for feeling that their workspace is becoming their home.

Since 2013, however, the Government has taken steps to make that a more benign reality for some.

As a result of the 'permitted development' right to change from office to residential use, first introduced in 2013, Planning Minister Brandon Lewis claimed that from April 2014 to June 2015 there had already been four thousand such 'conversions'.

Further changes to the General Permitted Development Order 2016

On the 6 April 2016 the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 (GPDO 2016) introduced changes to permitted development rights to allow change of use of certain buildings to residential use.

Office-residential permitted development right

This article focuses on the change to permitted development rights that has attracted the most controversy in planning circles - the office-to-residential permitted development right (the Office/Residential PD Right) being made **permanent**.

The Office/Residential PD Right was initially introduced by the Government back in May 2013 (when it attracted some controversy - but at that time it was only intended to be **temporary**). It was due to expire in May 2016, and the requirement to have actually effected the 'change of use' by that date was casting a shadow over the market, as developers feared to begin conversion unless confident that they could reasonably finish by that date.

Temporary becomes permanent ...

Article 7 of the GPDO 2016 has made the Office/Residential PD Right permanent as of the 6 April 2016.

...But 'prior approval' from the local planning authority may still be required

Before the 6 April 2016 developers were only required to apply to the local planning authority for a determination as to whether the 'prior approval' of the authority will be required as to (i) transport and highways impacts of the proposed development, (ii) contamination risks on the site and (iii) flooding risks on the site.

The GPDO 2016 has introduced the further requirement for a developer to apply to the local planning authority for a determination as to whether prior approval is required as to the impact of noise from commercial premises on the intended occupiers of the development.

Implementation period following 'prior approval'

Article 7 of the GPDO 2016 has further introduced a replacement paragraph O.2 to Part 3 of Schedule 2 in Class O of the Town and County Planning (General Permitted Development) (England) Order 2015.

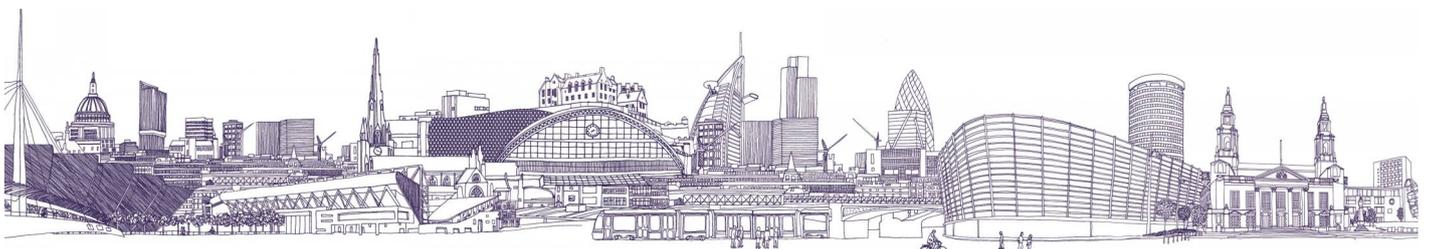
New paragraph O.2(2) confirms that any development that receives prior approval from the local planning authority must be completed within a period of three years, with the three year period running from the date of prior approval.

Where offices have **already** received prior approval the conversion must be completed within three years of the date of the prior approval. All office conversions under Class O are therefore now subject to a three year completion condition as of the 6 April 2016.

Exempt areas

To alleviate controversy when the Office/Residential PD Right was first introduced, a number of exempt areas were established. These include:

1. City of London.
2. London Central Activities Zone, which covers parts of the Boroughs of Camden, Islington, Hackney, Tower Hamlets, Southwark, Lambeth, Wandsworth, Westminster, Newham, and Kensington and Chelsea.



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3. Areas in the borough councils of Stevenage, and Ashford (Kent).
4. Areas in the district councils of Sevenoaks and East Hampshire.
5. Manchester City Centre.

Under the GPDO 2016 the Office/Residential PD Right continues not to be available - but they will only retain their exempted area protection until 31 May 2019.

Local authorities will need to have made an Article 4 direction by that date if they want the currently exempt areas to retain their exempt status.

Knock it down and start again?

In October 2015 Brandon Lewis indicated that to support the delivery of new homes, the Office/Residential PD Right would be extended to allow the demolition of office buildings and new building for residential use. The GPDO 2016 has not, however, introduced this change.

It is reported that the change is still being considered, with the Government still undecided on how best to introduce it. One suggestion is that the introduction of new powers under the Housing and Planning Bill will allow the Government to bring the change into force.

For and against

Those who were against making the Office/Residential PD Right permanent have raised concerns in relation to the right taking away employment opportunities in some areas, with many believing developers will take advantage of the right, resulting in a decrease in office space/employment in certain areas.

Those who welcomed the change pointed out that local authorities have a safeguard against the permitted development right in the form of Article 4 directions to remove the rights if local authorities choose to exercise their power to make such directions.

Future review

Importantly, although the permitted development rights have been made permanent, the Government has committed itself to periodical review of the rights, with the first review to take place by 2021.

Next in line: the new right to change from 'light industrial' to residential use

The perceived success of the Office/Residential PD Right has encouraged the Government to explore a similar approach with light industrial units.

Article 8 of the GPDO 2016 has created a temporary permitted development right to change a building in light industrial use to residential use.

The right is created for a period of three years, applying where the developer makes an application to the local planning authority to determine whether prior approval is required on, or after, 1 October 2017 and the prior approval date occurs on, or before, 30 September 2020.

The developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to:

1. Transport and highways impacts of the development;
2. Contamination risks in relation to the building;
3. Flooding risks in relation to the building; and
4. Where the authority considers the building to which the development relates is within an area that is important for providing industrial services or storage or distribution services, or a mix of those services (which includes, where the development relates to part of a building, services provided from any other part of the building), whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services.

Along with its application for prior approval the developer must submit a statement to the local planning authority setting out the evidence demonstrating that the building was used solely for light industrial use on the 19 March 2014. The development must also be completed within three years of the date of the prior approval.

Conclusion

Since the introduction of the temporary Office/Residential PD Right, some London Boroughs in particular have seen a high increase in office-residential developments. It is likely this trend will continue to grow given that the right is now permanent.

To protect office space/employment in certain areas, local authorities may well start making more and more Article 4 directions removing these permitted development rights in reaction to these changes.

The opportunities and threats which these permitted development rights present to the industry will no doubt become clearer over time, but the Office/Residential PD Right is now here to stay, and the encouragement to shift workspace into living space is something the Government seems intent on taking further. Future adjustment to the General Permitted Development Order can be expected accordingly.

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