

<p>Title: The Town and Country Planning (General Permitted Development) (England) Order 2015</p> <p>Lead department or agency: Department for Levelling Up, Housing and Communities</p> <p>Other departments or agencies: N/A</p> <p>Contact for enquiries: Maria Darby</p>	Post Implementation Review
	Date: 29/10/2021
	Type of regulation: Domestic
	Type of review: Statutory
	Date measure came into force: 15/04/2015
	Recommendation: Keep
	RPC Opinion: N/A

1. What were the policy objectives of the measure? (Maximum 5 lines)

Planning permission may be granted on application or by Order. The Town and Country Planning (General Permitted Development) (England) Order 2015 S.I 2015/596 (“the GPDO”), as amended, sets out national permitted development rights as they apply in England. The Order grants permission for specified development, subject to limitations and conditions as set out in the legislation.

The rights remove the need for an application for planning permission in more cases, reducing the planning burden on business, developers, local planning authorities and householders. These permitted development rights support householders, business, agriculture, and statutory undertakers in the discharge of their duties.

The 2015 Order was a consolidation of the 1995 Order and 22 amendments. It has subsequently been amended to add new rights, and a new Part, and to amend existing rights. It has increasingly been amended to provide for the change of use of existing buildings to create homes, and to support high streets and the wider economy.

2. What evidence has informed the PIR? (Maximum 5 lines)

The PIR has been informed by experience of the operation of the existing rights, application and net additional dwellings statistics, and the results of independent research commissioned by the Department on the quality standards of homes delivered through the change of use to residential.

3. To what extent have the policy objectives been achieved? (Maximum 5 lines)

The GPDO has achieved the objective of granting permission for specified development. That government continues to add new rights testifies to the role such rights play in the planning system in enabling development while reducing planning bureaucracy. The rights reduce the need for a planning application in more cases for householders, business, and statutory undertakers. The rights continue to support government priorities, such as housing and high streets.

Sign-off for Post Implementation Review:

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: *Christopher Pincher*

Dated: *20th January 2022*

Further information sheet

Please provide additional evidence in subsequent sheets, as required: See additional supporting evidence.

4. What were the original assumptions? (Maximum 5 lines)

The consolidated GPDO would provide clarity compared with the 1995 Order and 22 amendments. That the GPDO would continue to provide permission for specified types of development without the need for a planning application. This would provide greater planning certainty, and reduced costs and delay for householders, business, farmers, and statutory bodies.

5. Were there any unintended consequences? (Maximum 5 lines)

In relation to permitted development rights for change of use to residential, independent research commissioned by the Department into the quality standard of the homes delivered under such rights found differences in some respects compared with those for a planning application. A higher number were below the space standards, a small number lacked adequate natural light and some were in unsuitable locations. The Government has subsequently introduced legislation to require that new homes delivered meet the nationally described space standards and provide for adequate natural light in all habitable rooms.

6. Has the evidence identified any opportunities for reducing the burden on business? (Maximum 5 lines)

The Order has the effect of being deregulatory, reducing the planning burden for business by granting permission for specified types of development subject to limitations and conditions, including any specified matters for prior approval. It therefore removes the need for a planning application in more cases. Since the 2015 consolidation, the government has introduced new and expanded permitted development rights to support business including: the change of use between high street use, the temporary changes of use, larger extensions for agricultural buildings, support for telecoms etc. Most recently the government introduced a range of temporary rights to support business in managing the impacts of the Covid 19 epidemic and associated restrictions.

Experience of the rights for change of use, and in particular their contribution to housing delivery and the greater planning certainty they provide for developers, led government to introduce further permitted development rights for the change of use of other types of buildings, and more recently for the construction of new homes through extending buildings upwards. The government has now introduced a new permitted development right for the change of use from the Commercial, Business and Service use class to residential, within which offices now fall. This broader Class MA right has replaced the right for the change of use from offices from 1 August 2021.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements? (Maximum 5 lines)

This measure applies to England only. Planning is a devolved matter.

Post Implementation Review of the Town and Country Planning (General Permitted Development) (England) Order 2015 (2015/596) as amended: Additional supporting evidence

1. Planning permission may be granted following a planning application or by Order. The Secretary of State has powers to grant permission set out in an Order. The Town and Country Planning (General Permitted Development) (England) Order 2015 S.I 2015/596 (“the GPDO”), as amended, sets out national permitted development rights.
2. In line with the requirements of article 7A of the GPDO, we have reviewed the above legislation to consider the objectives intended to be delivered by the GPDO, the extent to which those objectives are being achieved and whether those objectives remain appropriate, and if so, the extent to which they could be delivered through a system that imposes less regulation.
3. The permitted development right for the change of use from office to residential, made permanent by SI 2016/332 is not considered by this Post Implementation Review (PIR). As set out in the impact assessment at the time, this right is a significant measure and has therefore been considered in a separate PIR to be published alongside the legislation.

The objectives of the legislation

4. The objective of the GPDO is to grant a national planning permission to specified land and buildings, subject to any limitations and conditions as set out in legislation without the requirement for a planning application to be made under Part 3 of the Town and Country Planning Act 1990. This has the effect of deregulating aspects of the planning system, by removing or simplifying the planning process for specified development so that any process is less onerous than a planning application.
5. Schedule 2 of the GPDO sets out permitted development rights in detail, including any limitations for example in respect of size limits or exclusions, and conditions such as matters for prior approval, and where appropriate, the process for applying for prior approval. Prior approval provides a light touch planning process, allowing for consideration by the local planning authority of specified planning matters. The majority of the (circa 150 rights) allow for small scale development that has limited impact, such as to erect a porch, modification of a shop loading bay, or hard surface for an office.
6. Individual rights serve a number of important purposes:
 - Reducing planning regulation by removing approval for minor development, such as for householders, from the planning system;
 - Streamlining the planning process to support key government agendas such as housing, high streets and growth, for example through rights enabling the change of use;
 - Reducing cost and delay to business;
 - Supporting statutory undertakers in the discharge of their duties, for example for local authorities, sewerage undertakers, or the Environment Agency;
 - Supporting infrastructure such as for telecoms, ports and airports.
7. Articles 1 to 7ZA set a framework for the rights within the GPDO, setting out:
 - a) in article 2, the interpretation of terms used within the Order;

- b) in article 3 and in Schedule 2 the grant of planning permission, subject to conditions and limitations for the development. Article 3 places restrictions where the development in question is EIA development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (S.I. 2011/1824), or subject to regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490);
- c) in article 4 and Schedule 3, the directions which may be issued by the Local Planning Authority or Secretary of State to restrict the permitted development rights and their procedure;
- d) in article 5, the directions which may be issued by a mineral planning authority restricting certain mineral permitted development;
- e) in article 6, general provision about directions;
- f) in article 7, the time periods for decisions on whether the Local Planning Authorities must first approve an application (prior approval) and if so, their decision;
- g) in article 7ZA, the procedure in respect of call-in by the Secretary of State (introduced by SI 2018/343).

The legislation

8. The 2015 GPDO was a consolidation, for England, bringing together the Town and Country Planning (General Permitted Development) Order 1995 (“the 1995 Order”) and 22 amending statutory instruments. The GPDO then included over 140 individual permitted development rights across 19 Parts (157 pages). Through the consolidation, individual Parts of the 1995 Order were re-ordered, and text and formatting standardised across the GPDO to make it clearer and more consistent.

9. At the same time, new permitted development rights were introduced, and some existing permitted development rights were amended to support government agendas, business, and statutory undertakers following the outcome of the 2014 consultation on ‘*Reducing planning regulations to support housing, high streets and growth*’¹:
 - For a three year period, to allow storage or distribution buildings to change use to residential
 - Amusement arcades/centres and casinos, to change use to residential
 - Extend the time limited right for larger householder rear extensions for a further 3 year period until 30th May 2019
 - Allow the change of use from shops to financial and professional services
 - Allow the change of use from shops, financial and professional services, betting offices, pay day loan shops and casinos to restaurants and cafés
 - Allow the change of use from shops and financial and professional services to assembly and leisure uses
 - Make permanent the time limited permitted development right introduced in May 2013 for larger extensions to shops, offices, industrial and warehouse buildings
 - Allow retailers to modify the size of their existing shop loading bay by up to 20% in any dimension
 - Allow retailers to erect click and collect facilities within the curtilage of their existing shop
 - Allow the installation, alteration or replacement of Solar Photovoltaics (PV) on the roofs of nondomestic buildings
 - Allow for temporary filming and the associated operational development for the sole purpose of commercial filmmaking

¹ Government response to this consultation –

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/523379/160513_Govt_report_on_responses_PDRs.pdf

- Allow waste operators of waste management facilities to replace any plant or machinery and buildings on land within the curtilage of a waste management facility
- Allow sewerage undertakers to install a pumping station, valve house, control panel housing or switch-gear house in a sewerage system

Considerations

10. As required by article 7A of the GPDO we have considered articles 1-7ZA to take a view on; the extent to which they achieve the objectives of the legislation, whether these objectives remain appropriate and the extent to which they could be achieved by a system that imposes less regulation.
11. Articles 1-7ZA set out the operating framework of the GPDO, supporting the effective operation of the individual permitted development rights set out in Schedule 2. The system they establish continues to work effectively. Where the need for amendment has been identified to improve the operation of the GPDO we have done so, with updates in 2016 to add article 7A to embed the requirement for a 5 yearly review and 7ZA in 2018 to make clear the procedure in respect of call-in of applications for prior approval. In addition, article 3 was amended in 2020 to require that from 6 April 2021 all homes delivered under the GPDO must meet the nationally described space standards.
12. The GPDO, as a consolidating instrument, standardised the formatting and terminology of individual rights, providing clarity and consistency. The approach has proved successful and has been continued in subsequent amending SIs.
13. The existing rights in the 1995 Order, and the new and amended rights set out in paragraph 8 above continue to benefit businesses, statutory undertakers, and householders. These rights simplify or remove such development from the planning application process, therefore achieving the objectives of the legislation and remaining appropriate.
14. Ongoing planning policy development provides an opportunity for consideration of the effectiveness of the legislation, and scope for further amendment to further deregulate the planning system. Allied to this, consideration is given to any comments received on the rights, either through the Courts, raised by MPs or through correspondence. The 2018 consultation² *Planning Reform: Supporting the high street and increasing the delivery of new homes* provided a broader opportunity to comment on specific proposed changes to rights. The 2020 consultation³ *Supporting housing delivery and public service infrastructure* provided an opportunity to comment on proposed new and amended rights and help to shape the final legislation.
15. Since the GPDO was made in 2015, further secondary legislation has amended the Order to introduce new and amended rights, and a new Part⁴:

S.I. 2016/332

- Made permanent the right for the change of use from office to residential
- Allowed the change of use from launderettes and light industrial to residential
- Provided for the drilling of boreholes for groundwater and seismic monitoring in preparation for petroleum exploration.

² <https://www.gov.uk/government/consultations/planning-reform-supporting-the-high-street-and-increasing-the-delivery-of-new-homes>

³ <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure>

⁴ Other instruments which made technical or consequential amendments to the GPDO include: S.I. 2016/765; S.I. 2016/772; S.I. 2016/1154; S.I. 2017/571; S.I. 2017/1011; S.I. 2017/1012; S.I. 2018/772, S.I. 2018/695.

S.I. 2016/1040

- Provided for taller telecoms masts and small cell systems.

S.I. 2017/391

- Extended from one to two school years the period for which buildings in all use classes will be able to temporarily convert to a state-funded school.
- Provided for temporary state-funded schools for up to three school years.

S.I. 2017/619

- Removed existing permitted development rights for change of use or demolition of drinking establishments, including pubs.

S.I. 2018/119

- Technical amendments relating to local authority consultations so that, for the purpose of calculating the minimum consultation period, any day which is a public holiday must be disregarded.

S.I. 2018/343

- Extended the right for the change of use from warehouse to residential until June 2019.
- Made changes to the existing right for the change of use from agricultural to residential to allow for up to five dwellinghouses.
- Provided for larger agricultural development.
- Removed the requirement for prior approval in protected areas for the installation of fixed-line broadband.

S.I. 2019/ 907

- Made permanent the time limited increase for single story rear extensions to dwellinghouses.
- Provided for the change of use from hot food takeaway to residential.
- Provided for the change of use from retail etc. to offices.
- Allowed for the temporary change of use from high street uses to public library, exhibition hall, museum, art gallery, clinic or health centre, and extend the time period from two years to three.
- Increased the height limit for installation of free-standing electric vehicle charging points.
- Removed the right for the installation of public call boxes.

S.I. 2020/330

- Introduced a time-limited national permitted development right to enable A3 restaurants and cafes, and A4 drinking establishments use class, such as pubs and including those with an expanded food offer under Class AA, to be able to provide a food takeaway and delivery service beyond that which would be considered to be ancillary.

S.I. 2020/412

- Introduced a new temporary right until 31 December 2020 to allow local authorities and health service bodies to carry out development required in undertaking their roles to respond to the spread of coronavirus.

S.I. 2020/632

- Inserted a new Part 20 in Schedule 3 of the GPDO and introduced a new right to construct homes by extending buildings upwards.
- Amended existing permitted development rights to ensure that new homes developed through permitted development rights provide adequate natural light.

- Provided an additional allowance for the temporary use of land from 1st July 2020 to 31st December 2020.
- Introduced a temporary new permitted development right to allow a local authority to hold a market for an unlimited number of days.

S.I. 2020/755

- Introduced four further new Part 20 rights to construct dwellinghouses by extending a wider range of buildings upwards.
- Introduced a new Part 1 right to extend dwellinghouses upwards to create additional living space.

S.I. 2020/756

- Introduced a new right for the demolition of certain buildings and rebuild as residential.

S.I. 2020/1243

- Amended article 3 to require that from 6 April 2021 all homes delivered under the GPDO must meet the nationally described space standards.
- Amended temporary rights to support recovery from the Covid 19 pandemic:
 - allowing additional days for the temporary use of land between 1 January 2021 and 31 December 2021,
 - allowing local planning authorities to use land for a market for any number of days until 23 March 2022.
 - extending the existing right for restaurants and pubs etc to provide a takeaway service until 23 March 2022.
 - extending an existing right to enable local authorities and health service bodies to carry out development to respond to the spread of coronavirus to 31 December 2021.
- Amended the existing right for demolition to exempt concert halls, theatres and live music venues.
- Amended the right for Crown development relating to an emergency to extend the period for development from 6 months to 12 months.
- Introduced a new additional right for development for up to 12 months by the Crown in the case of a pandemic.

S.I. 2020/1459

- Amended two existing rights to extend building upwards to require evidence of external wall construction of the existing building complies with building regulations in respect of fire safety.

S.I. 2021/428

- Introduced a new permitted development right for the change of use from the Commercial, Business and Service use class to residential.
- Amended an existing right to allow for larger extensions to schools and hospitals etc, and for the first time to apply it to prisons
- Amended an existing right to align the rights for ports with that for airports
- Removed the right for demolition or removal of statues and monuments etc to allow for local consideration.

S.I. 2021/467

- Introduced a time-limited right for moveable structures within the curtilage of certain types of premises.

S.I. 2021/814

- Amended existing permitted development rights following changes to the Use Classes Order.
- Amended existing rights to provide for consideration of the fire safety impact on residents of buildings in scope.

16. The above changes are incorporated into and therefore form part of the GPDO. This frequent amendment provides an opportunity for ongoing consideration and review of the effectiveness of the GPDO and demonstrates that the legislation has been amended where necessary.
17. Moreover, the effectiveness of achieving the policy aims of the rights to enable particular types of development without the need for a full planning application has been demonstrated through take-up of the rights where data is available. That government continues to seek opportunities for further new and amended rights to support its priorities, for example, in respect of housing, high streets and infrastructure recognises the value placed on the role of such rights. New and amended rights have been brought forward at pace to great effect to support the effective response to, and recovery from, the Covid-19 pandemic.
18. We consider that this first report provides a proportionate review which satisfies the review requirements for the 2015 GPDO and subsequent amendments. As noted above, the permitted development right for the change of use from office to residential, made permanent by SI 2016/332, is the subject of a separate Post Implementation Review.
19. The Town and Country Planning Act 1990 recognises the need for a degree of regulation on development and requires permission either on application or by Order. The objectives of the GPDO, to grant permission for specified development, remain appropriate. The government continues to look for opportunities to reduce planning bureaucracy where appropriate while ensuring appropriate safeguards. The GPDO has the effect of being deregulatory: removing the need for a planning application in specified cases, thereby reducing the costs and providing greater planning certainty including for business.
20. The operation of the planning process is set out in legislation, and it is therefore not possible to achieve the same deregulatory effect through non legislative measures. Permitted development rights may only be introduced or amended through secondary legislation. The GPDO provides an established and well used planning process that supports development while providing for necessary local consideration on specific matters. The prior approval process provides an opportunity for the local community to comment on specific planning matters. The right for larger householder extensions provides a neighbour notification process.
21. Article 4 of the GPDO provides a mechanism for local planning authorities to consult on removing a right in line with policy set out in the National Planning Policy Framework. Where an Article 4 Direction is in place, an application for planning permission is required for development in scope of the Direction, providing for determination in accordance with the local plan. There are over 500 Article 4 Directions in England covering a broad range of generally minor permitted development rights, such as householder rights for porches etc. Other Directions have been used to remove the permitted development right for the change of use from a dwellinghouse to a small House of Multiple Occupation where it is necessary

to protect the amenity or wellbeing of the area. From July 2021, national policy was amended so that Article 4 Directions in respect of the change of use to residential are targeted and evidence-based and apply to the smallest geographical area possible, to ensure that any protections do not unnecessarily restrict the ability for flexibility of high street uses where this is appropriate.

22. The Courts have held that the exceptions form part of the definition for permitted development in each Part of Schedule 2. If any development exceeds that permitted by the GPDO the whole of the development, and not just the excess, is in breach of planning control and may be subject to enforcement including demolition. This encourages compliance by developers.

23. We consider therefore that it is neither possible nor appropriate to frame alternative legislation that achieves the same objectives, nor to deliver these through a non-legislative approach.

October 2021
Department for Levelling Up, Housing and Communities