

## EXPLANATORY MEMORANDUM TO

### THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT ETC.) (ENGLAND) (AMENDMENT) ORDER 2024

2024 No. 579

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

#### 2. Declaration

- 2.1 Lee Rowley, Minister of State at the Department for Levelling Up, Housing and Communities confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Lucy Hargreaves, Deputy Director for Planning – Development Management, at the Department for Levelling Up, Housing and Communities confirms that this Explanatory Memorandum meets the required standard.

#### 3. Contact

- 3.1 Stuart Moseley at the Department for Levelling Up, Housing and Communities, Telephone: 0303 444 6697 or email: [stuart.moseley@levellingup.gov.uk](mailto:stuart.moseley@levellingup.gov.uk) can be contacted with any queries regarding the instrument.

### **Part One: Explanation, and context, of the Instrument**

#### 4. Overview of the Instrument

##### *What does the legislation do?*

- 4.1 This Order makes changes to permitted development rights that allow for agricultural development and the change of use of agricultural buildings to flexible commercial uses and dwellinghouses. The changes will provide greater planning flexibility to encourage rural growth, housing delivery and support the agricultural sector.

##### *Where does the legislation extend to, and apply?*

- 4.2 The extent of this instrument is England and Wales
- 4.3 The application of this instrument is England.

#### 5. Policy Context

##### *What is being done and why?*

- 5.1 Permitted development rights have an important role to play in the planning system. They are a tool to support growth, by providing certainty and removing the time and money needed to submit a planning application. Permitted development rights can incentivise certain forms of development and provide flexibilities and planning freedoms to different users, including businesses and local authorities.

- 5.2 Permitted development rights are set out in Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, (“General Permitted Development Order”). Individual permitted development rights are subject to conditions and limitations to control impacts and to protect local amenity. In some cases, the permitted development right may also require prior approval from the local planning authority in relation to specified planning matters.
- 5.3 The government is seeking to support farmers, the agricultural sector, rural communities and rural housing. The overarching aim is to ensure that the planning system is efficient, effective, and responsive.
- 5.4 This Order amends four existing permitted development rights that allow for agricultural development and the change of use of agricultural buildings. The changes will support the agricultural sector and rural communities by providing further flexibility for farmers to undertake works on their agricultural units, enable development of former agricultural buildings, farm diversification and deliver new homes without having to submit a planning application.
- 5.5 Class Q of Part 3 of the General Permitted Development Order allows agricultural buildings to change use to dwellinghouses. Article 3 of this Order substitutes an amended version of Class Q that will allow a building on an existing established agricultural unit and former agricultural buildings that were previously part of an established agricultural unit to change use to dwellinghouses. The right allows up to a total of 10 dwellinghouses to be delivered and 1,000 square metres of floorspace to change use (an increase from the previous 5 units and 865 square metres). The provisions for larger and smaller dwellinghouses are replaced by a maximum floorspace per dwellinghouse of 150 square metres. The amended right also permits, as part of the change of use, the erection of a single storey rear extension that does not extend beyond the rear wall of the existing building by more than 4 metres and is on land covered by an existing hard surface. The extension must be developed at the same time as the change of use, and cannot for example be added to an existing dwellinghouse that has previously been developed under Class Q. Where an extension is incorporated as part of the change of use, a determination as to prior approval as to the impact of the proposed extension on the amenity of any adjoining premises is additionally required. To support operations for the change of use, the right allows protrusions to the external dimensions of the building of up to 0.2 metres to accommodate fixtures and fittings, such as window sills and guttering. In addition, the amended right requires that the existing building (pre-development) must be capable of complying with the nationally described space standards and have existing suitable access to a public highway in order to benefit from the right.
- 5.6 Article 10 provides transitional arrangements so that any development that was permitted under Class Q immediately before this Order comes into force but is no longer permitted as a result of this Order will continue to be permitted for a further 12 months. This will allow time for any applications for prior approval prepared under the existing right’s conditions and limitations to be submitted and decided under those conditions and limitations. This includes for example the delivery of larger and smaller homes, but does not include the requirement for suitable existing access to a public highway. Those homes must be delivered within three years of the prior approval date. However, it should be noted that any additional flexibilities being introduced – such as the ability to erect an extension as part of the change of use – will not be applicable to any scheme that delivers dwellinghouses with a floorspace over 150 square metres for this transitional period.

- 5.7 Article 5 of this Order makes changes to the prior approval process in Paragraph W in respect of Class Q.
- 5.8 Class R of Part 3 of Schedule 2 of the General Permitted Development Order permits the change of use of agricultural buildings to a range of commercial uses.
- 5.9 Article 4 of this Order amends this permitted development right to increase the amount of floorspace that can change use from 500 square metres to 1,000 square metres. This will enable farmers to make the best use of their agricultural buildings.
- 5.10 Article 4 of this Order also expands the range of changes of use in relation to an agricultural building and any land within its curtilage. These new changes of use include general industrial purposes, the provision of agricultural training, and use as an area or place for outdoor sports or recreation. The expansion of this right to allow a greater breadth of flexible commercial uses will support the rural economy by providing more options for farm diversification.
- 5.11 Where a site is to be used for general industrial purposes, it must only be used for the processing of raw goods (excluding livestock) which, other than ancillary goods, are produced on the site and are to be sold on the site. Ancillary goods are minor components or materials used during the production of the final product.
- 5.12 Class A of Part 6 of the General Permitted Development Order allows for development on agricultural units of 5 hectares or more, including the erection, extension and alteration of agricultural buildings. To provide farmers with more flexibility to erect and develop buildings suited to modern agricultural practices, Article 7 of this Order increases the ground area which may be covered by any building erected, extended or altered by virtue of Class A from 1,000 to 1,500 square metres. It also removes the ability to erect new buildings and extensions on a site that is or is within the curtilage of a scheduled monument. Any development that was permitted under Class A immediately before this Order comes into force but is no longer permitted as a result of this Order (for example, the ability to erect or extend a building on land or a building that is a scheduled monument) will continue to be permitted for a further 12 months.
- 5.13 Class B of Part 6 of the General Permitted Development Order allows for development on agricultural units of less than 5 hectares and permits the extension or alteration of existing buildings (but not the erection of new buildings), amongst other works. To provide farmers with greater flexibility, Article 8 of this Order increases the limit on the maximum cubic content by which a building may be increased under Class B from 20% to 25% and increases the limit on the ground area of any building extended under Class B from 1,000 square metres to 1,250 square metres. It also removes the ability to extend a building on sites designated as a scheduled monument, so that a planning application will need to be submitted when such works could impact on a nationally important archaeological site. Any development that was permitted under Class B immediately before this Order comes into force but is no longer permitted as a result of this Order (for example, the ability to extend a building that is a scheduled monument) will continue to be permitted for a further 12 months.

## **6. Legislative and Legal Context**

### *How has the law changed?*

- 6.1 This Order amends the General Permitted Development Order to make changes to four permitted development rights, including the right that allows agricultural buildings to change to residential use, the right which allow agricultural buildings to

change to commercial uses, and the rights which enable farmers to carry out development in relation to agriculture. This Order also makes consequential amendments to the Town and Country Planning (Compensation)(England) Regulations 2015.

*Why was this approach taken to change the law?*

- 6.2 This is the only possible approach to make the necessary changes. All development requires planning permission. A permitted development right is a national grant of planning permission for specified development. Permitted development rights are set out in the General Permitted Development Order. Amendments to the General Permitted Development Order are made via secondary legislation.

**7. Consultation**

*Summary of consultation outcome and methodology*

- 7.1 The consultation on additional flexibilities to support housing delivery, the agricultural sector, businesses, high streets and open prisons; and a call for evidence on nature-based solutions, farm efficiency projects and diversification (“the consultation”) ran from 24 July 2023 to 25 September 2023.
- 7.2 977 consultation responses were received. The Government response to the consultation will be published in due course. A summary of responses to the relevant questions is provided below.

*Agricultural buildings to dwellinghouses (Class O of Part 3)*

- 7.3 The consultation sought views on allowing up to 10 homes, each with a maximum floorspace of 150 square metres, within an overall limit of 1,000 square metres, to be delivered per agricultural unit. Those that supported the proposal thought that it would encourage the delivery of smaller homes and improve viability. Those that did not support the proposal generally thought that the existing right worked well in practice, or that housing should not be delivered through permitted development rights. Some did raise concerns over the scale of development and that the proposals could result in new unplanned communities being created in unsustainable locations.
- 7.4 The consultation sought views on allowing extensions to be erected as part of the change of use, introducing a new prior approval to assess an extension’s impact on neighbouring amenity, and whether any changes were required to the scope of the building operations permitted by the right. Those that supported the extension proposal thought that it would make development more viable, allowing otherwise unviable schemes to come forward, increasing housing supply. Those that did not support the proposal, raised concerns about new structures in rural settings and the practicalities of controlling where and when an extension may be suitable. It was also brought to our attention that restrictions in the right currently do not allow for modest increases to the dimension of the building to accommodate the installation of ancillary additions, such as window sills or guttering, which this Statutory Instrument also addresses.
- 7.5 The consultation sought views on introducing new conditions, requiring that existing buildings have a floorspace of at least 37 square metres and an existing suitable access to a public highway in order to benefit from the right. Those that supported the proposals thought the conditions would provide additional safeguards, so that only buildings that would successfully function as a dwellinghouse could change use. Those that did not support the proposal were split between those that thought the

proposed conditions did not go far enough, and those that thought they would stop viable development from coming forward.

- 7.6 The consultation sought views on applying the right in certain protected landscapes, including National Parks, The Broads and Areas of Outstanding Natural Beauty. Those that did not support the proposal thought that development could undermine the significance of these landscapes, and that decisions should be made through the submission of a planning application on a case by case basis. Those that supported the proposal thought it would support housing and growth in these protected landscapes.
- 7.7 The consultation sought views on allowing other buildings on agricultural units, building no longer on an agricultural unit and buildings in other predominantly rural land uses, such as forestry or equestrian uses, to benefit from the right. Some thought that this would promote the reuse of empty buildings and buildings that may have been used for unsuccessful farm diversification projects. Those that did not support the proposal were concerned about unsuitable buildings changing use to housing and the long term impacts on rural employment opportunities.
- 7.8 Most proposals are being implemented as consulted on, with the exception of applying the right in certain protected landscapes and allowing buildings in other predominantly rural land uses to benefit from the right.

*Agricultural buildings to a flexible commercial use (Class R of Part 3)*

- 7.9 The consultation sought views on whether the right should be expanded to allow for outdoor sports, recreation or fitness uses within the curtilage of an agricultural building. Those that supported the proposal welcomed the additional flexibilities that would help farmers diversity and benefit local communities. Those that did not thought that decisions were better made under a planning application and raised concerns over environmental impacts.
- 7.10 Views were sought on amending the right to allow buildings to change use to permit the processing and sale of raw goods produced on a site (excluding livestock). Those that supported the proposal welcomed the flexibility. Those that did not support the proposal raised concern over potential negative impacts from noise and additional traffic. The rights are subject to prior approval by the local planning authority which enables the consideration of key planning matters such as noise and transport in consultation with the local community.
- 7.11 The consultation also sought views on increasing the total amount of floorspace that can change use from 500 square metres to 1,000 square metres. Those that supported the proposals felt that the increase was proportionate and would help facilitate rural economic growth. Those that did not support the proposal believed that development of this nature should be considered on a case by case basis through a planning application.

*Agricultural development on units of 5 hectares or more (Class A of Part 6)*

- 7.12 The consultation sought views on increasing the footprint of new buildings and extensions from 1,000 square metres to 1,500 square metres. Those that supported the proposal considered it a proportionate increase that would increase flexibility for farmers and help facilitate rural economic growth. Those that did not support the proposal believed that larger buildings should be considered through a planning application on a case by case basis.

*Agricultural development on units of less than 5 hectares (Class B of Part 6)*

- 7.13 The consultation sought views on increasing the ground area limit of extensions to existing buildings from 1,000 square metres to 1,250 square metres and increasing the limit of the maximum cubic content from 20% to 25% above the existing building. Those that supported the proposals saw them as proportionate, while those that did not believed the changes would lead to overly large buildings on relatively small agricultural sites.

**8. Applicable Guidance**

- 8.1 There are no plans to issue specific guidance for this instrument.

**Part Two: Impact and the Better Regulation Framework**

**9. Impact Assessment**

- 9.1 A full Impact Assessment has not been prepared for this instrument, as no, or no significant, impact on the private, voluntary or public sector is foreseen.

*Impact on businesses, charities and voluntary bodies*

- 9.2 The amended permitted development rights are largely deregulatory in effect, reducing bureaucracy and planning costs.
- 9.3 There will be a small decrease in cost and time burdens to businesses in no longer having to submit a planning application for the change of use of an existing building to residential use, diversify their businesses, or erect larger agricultural buildings. Businesses are expected to save approximately £334 in fees and £1,300 in non-fee costs per application.
- 9.4 Businesses will incur one-off costs in order to familiarise themselves with the new regulations. These costs are estimated to be £0.12m.
- 9.5 There is no significant impact on charities or voluntary bodies.
- 9.6 There is no significant impact on the public sector. The impact on local planning authorities is largely a reduction in administrative cost and time of processing planning applications, where the development would otherwise have come forward through a planning application.

**10. Monitoring and review**

*What is the approach to monitoring and reviewing this legislation?*

- 10.1 The Department for Levelling Up, Housing and Communities will continue to monitor permitted development rights with changes made accordingly to ensure intended outcomes are achieved. A statutory review clause has not therefore been included for this instrument.

### **Part Three: Statements and Matters of Particular Interest to Parliament**

#### **11. Matters of special interest to Parliament**

11.1 None.

#### **12. European Convention on Human Rights**

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

#### **13. The Relevant European Union Acts**

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).