

Why now is a good time to revisit office to residential permitted development rights

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The Housing Secretary, Michael Gove, has announced legislation to relax the rules around permitted development rights.

New flexibilities in the permitted development right regime coming into force on 5 March 2024 have been introduced to support the conversion of commercial buildings to new homes.

The new flexibilities in the permitted development right regime is part a series of measures the Government announced today to ensure a brownfield first approach to the delivery of new homes, with Gove stating that:

"Today marks another important step forward in our Long-Term Plan for Housing, taking a brownfield first approach to deliver thousands of new homes where people want to live and work, without concreting over the countryside."

The new flexibilities are likely to be welcomed by developers as they bring back into focus the ability for redundant and under-used commercial space to support the sustainable delivery of new homes.

PDR amendments in 2021

To understand the new changes announced today, Savills first looks back to August 2021 when the Class MA permitted development right was brought in which enables Commercial, Business and Service uses within Use Class E (which includes offices) to convert to residential uses within Use Class C3 subject to the 'Prior Approval' application process and certain restrictions.

Class MA was an effective replacement of an earlier Class O permitted development right that had enabled office to residential conversions. It was brought in to reflect the Use Classes Order that had been updated the year before. However, Class MA added a requirement that the floorspace of the Class E building be vacant for 3 months prior to the submission of an application for Prior Approval, and curtailed the amount of space that is permitted to be converted under permitted development rights to 1,500 sq. m.

These restrictions had not previously existed and created to pursuing the Class MA route. However, as a result of the new legislation announced today, those two barriers have now been removed with the complete removal of both the requirement for a building to be vacant before an application can be made and a limit on the amount of floorspace that is permitted to be converted under an application.

The Benefits of PDR

Whilst there had previously been criticism of some office to residential conversions, in the main delivery was of a good quality and, importantly, contributed to a healthy residential supply, with 73,575 new homes delivered through office conversions from 2015 to the summer of 2022. Importantly, by law, the permitted development right requires that:

1. new dwellings meet Nationally Described Space Standards
2. the impacts of noise from commercial premises on intended occupiers is considered
3. there is the provision of adequate natural light in all habitable rooms

These requirements and others will all still remain under the new permitted development regime alongside the Prior Approval application process^[1]. Further, there still remains restrictions on certain buildings and locations that cannot benefit from the permitted development right, including Listed Buildings, that ensures that appropriate regulatory matters can still be considered.

Assisting with Brownfield Delivery

The biggest impact of the new legislation is that it will bring back into play meaningful conversions of office buildings to provide new homes. Matthew Sobic (Planning Director) comments:

“With the structural changes in the office sector that may see some locations experience more limited demand, the change is likely to be welcomed as it is tried and tested that surplus office stock can make a valuable contribution to residential supply”.

“A large proportion of office buildings are located in sustainable town centre locations that have benefited from significant investment in infrastructure and contain extensive services and employment opportunities. There is therefore a strong land use planning case for alternative use provision in obsolete office stock”.

The Government intends that the changes to the permitted development regime supports residential delivery in a sustainable way through the conversion of previously developed buildings – often improving their energy performance – and in locations that can be highly accessible.

Savills also notes that the delivery of new homes through the conversion of existing buildings presents a good opportunity to minimise the pressure on natural resources and supports combatting climate change and reaching net zero targets. This, in partnership with the delivery of new homes on sustainable

greenfield and brownfield sites through traditional planning routes, will provide the opportunity to help to deliver new a significant number of new homes over the coming years.

Moving forward, Savills considers that there will be a need for updated reviews of office stock, to see whether it now meets the revised criteria for potential residential conversion.

[1] Notes: The Prior Approval process is typically an eight week application process to assess focused matters including transport impacts, contamination risks, flooding risks, impact of noise from commercial premises, impacts of ground floor changes on a Conservation Area, the provision of adequate natural light, the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses and the impact on local provision of registered nurseries and health centres where such provision would be lost by a proposal.