

22 things you need to know about the latest residential permitted development rights

23 July 2020 by Michael Donnelly in Planning

The government has published two sets of regulations that introduce a series of new permitted development (PD) rights in relation to the demolition of buildings and their replacement with new housing and upward extensions to residential properties. Here are 22 things you need to know about the new rights.

1. One of the regulations enacts a new PD right to demolish vacant buildings and replace them with new residential units. The statutory instrument is [*The Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 3\) Order 2020*](#). An explanatory memorandum says the new right will apply to "vacant and redundant free-standing buildings" that are classed as offices, premises for research and development or light industrial processes, and "purpose-built residential blocks".
2. Buildings must have been "entirely vacant for at least six months prior to the date of the application for prior approval", it goes on to say, and built before 1 January 1990.
3. The new building cannot be larger than the footprint of the existing building and cannot exceed a maximum size of 1,000 square metres. However, it can be up to seven metres higher to accommodate up to two additional residential storeys, within a final overall maximum height of 18m, the note says.
- 4: The local authority must decide on an application for prior approval within eight weeks, after which the applicant has a right of appeal to the secretary of state.
- 5: Matters to be considered through prior approval include:
 - the transport and highways impacts,
 - contamination and flooding risks ,
 - the impact of noise on the future residents,
 - design and external appearance of the new building,
 - the adequacy of natural light in all habitable rooms of each new dwellinghouse,
 - the impact of the introduction of residential use into an area,
 - the impact of the development on the amenity of the new building and of neighbouring premises, including overlooking, privacy and light.
5. Taken together, demolition and replacement build must be completed within three years of the date of the grant of prior approval. The right does not allow for demolition without subsequent construction of a new residential building, nor for the construction of a new residential building on previously cleared land.
7. The local authority has to "notify any owners or occupiers adjoining the proposed development".
8. The developer must prepare a construction management plan, setting out how it intends to minimise adverse impacts on neighbouring premises.
9. A second regulation introduces a PD right allowing homeowners to extend their properties via upward extensions. [*The Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 2\) Order 2020*](#) introduces a permanent right to enabling existing houses that are

detached, semi-detached or in a terrace to be extended upwards to provide additional living space by constructing additional storeys.

10. An explanatory memorandum on the change says the right allows the construction of up to two additional storeys on the topmost storey of a detached house of two storeys or more, or one additional storey on a detached house of one storey, above ground level.

11. The memorandum says that, in a terrace of two or more houses (which includes semi-detached houses) the right "allows the construction of up to two additional storeys on the topmost storey of a house of two storeys or more, or one additional storey on a house of one storey above ground level".

12. "Existing accommodation in the roof space of the existing house, including a loft extension, is not considered as a storey for the purposes of this right," the memorandum says.

13. The right is "subject to a maximum height limit for the newly extended house of 18 metres, and where the house is in a terrace its height cannot be more than 3.5 metres higher than the next tallest house in the terrace", the explanatory memorandum says.

14. To prevent overlooking, the document says, a window "cannot be installed in a wall or roof slope of a side elevation of an additional storey built under this right".

15. The right is also subject to obtaining prior approval from the local authority, which will consider certain matters relating to the proposed construction of additional storeys. These include:

- consideration of the impact on the amenity of neighbouring premises, including overlooking, privacy and overshadowing;
- the design, including the architectural features of the principal elevation of the house, and of any side elevation which fronts a highway;
- the impacts a taller building may have on air traffic and defence assets and on protected vistas in London.

16. Four new PD rights allowing upward extensions are also introduced by the same statutory instrument, *The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020*. They are:

- Class AA "which permits construction of up to two new storeys of flats on top of detached buildings in commercial or mixed use, including where there is an element of residential use";
- Class AB which "permits the construction of new flats on top of terrace buildings (including semi-detached buildings) in commercial or mixed (including residential) use";
- Class AC which "permits the construction of new flats on top of terrace dwellinghouses (including semi-detached houses)";
- Class AD which "permits the construction of new flats on top of detached dwellinghouses.

17. In the new AA-AD use classes, "two storeys may be added if the existing building is two or more storeys tall, or one additional storey where the building consists of one storey", the notes say. The regulations stipulate that "storey" is defined "so as to exclude any storey below ground level, and any living space within the roof of the dwellinghouse".

18. The new PD rights are subject to a number of limitations and conditions, including a requirement for prior approval from the local planning authority in relation to certain matters. These relate to:

- the transport and highways impacts of the development;

- air traffic and defence asset impacts;
- contamination risks in relation to the building;
- flooding risks in relation to the building;
- the external appearance of the building, including the design and architectural features of the principal elevation and any side elevation that fronts a highway;
- the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- the impact on the amenity of neighbouring premises including overlooking, privacy and the loss of light;
- whether, because of the siting of the building, the development will impact on a protected views.

19. The new rights do not apply to buildings constructed before 1 July 1948 or after 5 March 2018.

20. Conversions would not be allowed if the floor to ceiling height of any additional storey, measured internally, would be lower than three metres or "the floor to ceiling height, measured internally, of any storey of the principal part" of the existing property.

21. None of the rights apply in conservation areas, national parks and the Norfolk Broads, areas of outstanding natural beauty, or sites of special scientific interest.

22. All of the above rights are due to come into effect on 31 August 2020.